

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

APRIL 20, 2017 - 6:00 P.M.

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

SGVCOG Officers

President
Cynthia Sternquist

1st Vice President
Margaret Clark

2nd Vice President
Vacant

3rd Vice President
Vacant

Members

Alhambra

Arcadia

Azusa

Baldwin Park

Bradbury

Claremont

Covina

Diamond Bar

Duarte

El Monte

Glendora

Industry

Irwindale

La Cañada Flintridge

La Puente

La Verne

Monrovia

Montebello

Monterey Park

Pasadena

Pomona

Rosemead

San Dimas

San Gabriel

San Marino

Sierra Madre

South El Monte

South Pasadena

Temple City

Walnut

West Covina

*First District, LA County
Unincorporated Communities*

*Fourth District, LA County
Unincorporated Communities*

*Fifth District, LA County
Unincorporated Communities*

SGV Water Districts

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

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

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

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

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

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

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



PRELIMINARY BUSINESS

5 MINUTES

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

PRESENTATIONS

20 MINUTES

6. Recognition of Former President Gene Murabito and Former Vice-President Kevin Stapleton
7. Impact of Proposition 64 (Legalization of Recreational Marijuana) (Page 1)

CONSENT CALENDAR

10 MINUTES

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

8. Governing Board Meeting Minutes (Page 8)
Recommended Action: Adopt Governing Board minutes.
9. Monthly Cash Disbursements/Balances/Transfers (Page 12)
Recommended Action: Approve Monthly Cash Disbursements/Balances/Transfers.
10. ACE Board of Directors Minutes (Page 14)
Recommended Action: Receive and file.
11. ACE Monthly Report (Page 18)
Recommended Action: Receive and file.
12. Committee Attendance (Page 19)
Recommended Action: Receive and file.
13. SGVCOG Bylaws (Page 33)
Recommended Action: Adopt 8th Amended and Restated Bylaws
14. Letter of No Prejudice for Lemon Avenue/ SR-60 Project (Page 52)
Recommended Action: Request that the Metropolitan Transportation Authority (Metro) issue a "Letter of No Prejudice" for the early construction of a Measure M eligible project for new ramps at State Route 60 and Lemon Avenue.
15. SB 541 (Allen) (Page 56)
Recommended Action: Adopt Resolution 17-06 in support of SB 541 (Allen)
16. AB 1180 (Holden) (Page 62)
Recommended Action: Adopt Resolution 17-07 in support of AB 1180 (Holden).
17. AB 346 (Daly & Brough) (Page 76)
Recommended Action: Adopt Resolution 17-08 in support of AB 346 (Daly & Brough).
18. SB 633 (Portantino) (Page 89)
Recommended Action: Adopt Resolution 17-09 in support of SB 633 (Portantino).

ACTION ITEMS

30 MINUTES

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

19. Measure H Guiding Principles (Page 95)
Recommended Actions: Adopt Resolution 17-10 approving Measure H Guiding Principles.
20. Measure M Draft Guidelines (Page 100)
Recommended Action: Recommend Governing Board send comment letter regarding draft guidelines.

21. SB 231 (Hertzberg) (Page 105)
Recommended Action: Discuss and provide direction to staff.

PRESIDENT'S REPORT **5 MINUTES**

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

22. Oral Report
Recommended Action: For information.
23. Call for Nominations
Recommended Action: For information.

EXECUTIVE DIRECTOR'S REPORT **15 MINUTES**

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

24. Oral Report
Recommended Action: For information.
25. Draft FY 17-18 Budget (Page 120)
Recommended Action: For information.
26. Caltrans Audit (Page 152)
Recommended Action: For information.

GENERAL COUNSEL'S REPORT

COMMITTEE REPORTS **15 MINUTES**

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

PROJECT REPORTS **10 MINUTES**

The ACE Project
San Gabriel Valley Energy Wise Partnership

LIAISON REPORTS **10 MINUTES**

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

BOARD MEMBER ITEMS

ANNOUNCEMENTS

ADJOURN

PROPOSITION 64 THE ADULT USE OF MARIJUANA ACT

April 20, 2017

- ## Summary: Proposition 64 The Adult Use of Marijuana Act (AUMA)
- Legalizes the nonmedical use of marijuana by persons 21 years of age and over and the personal cultivation of six marijuana plants
 - Creates state regulatory and licensing system for the commercial cultivation, testing, and distribution of nonmedical marijuana, and the manufacturing of nonmedical marijuana products
 - Allows local governments to prohibit or regulate and license commercial nonmedical marijuana
 - Took effect November 9, 2016

- ## Federal Controlled Substances Act
- Comprehensive Drug Abuse Prevention and Control Act of 1970
 - Comprehensive regime to conquer drug abuse and to control the legitimate and illegitimate traffic in controlled substances
 - Title II of the Act is the CSA (21 U.S.C. § 801 et seq.)
 - It is unlawful to manufacture, distribute, dispense, or possess any controlled substance except in a manner authorized by the CSA
 - Marijuana - schedule I controlled substance

- ## California Controlled Substances Act
- Health and Safety Code Division 10, Uniform Controlled Substances Act (§ 11000 et seq.)
 - Chapter 6 – Offenses and Punishments
 - Article 2 – Marijuana
 - Provides prohibitions and punishments for marijuana possession, cultivation, transportation, and distribution

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Compassionate Use Act

- Proposition 215, November 1996
- Amended Article 2 (Marijuana) by adding § 11362.5
- Broad Objectives/Limited Exceptions
- Doctors cannot be punished for recommending marijuana to a patient for medical purposes
- Immunizes patients and primary caregivers from prosecution for marijuana possession (§ 11357) and cultivation (§ 11358) upon a doctor's recommendation

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Medical Marijuana Program

- SB 420, Added Article 2.5 to H&S Code Chapter 6 (Offenses and Punishments)
- Broad Objectives/Limited Steps
- Created a voluntary identification card program to be administered by the counties
- Expanded immunities for patients/caregivers, including the immunity from state criminal sanctions for collective and cooperative cultivation (§ 11362.775)

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AB 243, AB 266, and SB 643

- A package of 2015 bills intended to change the way medical marijuana is cultivated, processed, and distributed to patients and caregivers
- Taken together, the bills create a broad state regulatory and licensing system governing the cultivation, testing, and distribution of medical marijuana, the manufacturing of marijuana products, physician recommendations for medical marijuana, and provide immunity to marijuana businesses operating with both a state license and a local permit

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Key Differences: MMRSA and AUMA

Medical Marijuana Regulation & Safety Act (MMRSA) v Adult Use of Marijuana Act (AUMA)

	Medical Marijuana Regulation & Safety Act (MMRSA)	Adult Use of Marijuana Act (AUMA)
Focus	Regulates medical marijuana	Regulates nonmedical marijuana
Taxation	Authorizes counties to impose excise taxes	<ul style="list-style-type: none"> • Exempts medical marijuana from state/local sales tax • Imposes state taxes on purchase and cultivation of marijuana • Local taxation is not pre-empted, except for sales tax.
Local Regulations	Local governments may allow, regulate, or prohibit commercial marijuana businesses within their jurisdictions. This should be reflected in an ordinance that contains express language.	
Personal Cultivation	Does not alter local authority to prohibit all personal cultivation	<ul style="list-style-type: none"> • Locals can reasonably regulate but cannot ban indoor cultivation of 6 plants or less for personal use. • Local government may still regulate or prohibit commercial indoor cultivation.

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Personal Use

- AGE: 21 years of age or older
- POSSESSION: May possess, process, transport, purchase, obtain, or give away
 - 28.5 grams of non-concentrated non-medical marijuana, or
 - 8 grams of concentrated marijuana products
- USE: May smoke or ingest marijuana or marijuana products
- CULTIVATION: May possess, plant, cultivate, harvest, dry or process up to 6 plants per residence for personal use

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Restrictions on Personal Use

- No smoking/ingesting marijuana in a public place (except where authorized locally)
- No smoking where smoking tobacco is prohibited
- No smoking within 1,000 feet of a school, day care center or youth center while children are present, unless on the grounds of a private residence and the smoke is not detectable
- No smoking while driving or riding in a vehicle
- Cities may prohibit smoking and possession in buildings owned, leased, or occupied by the City
- Employers may maintain drug-free workplaces

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Personal Cultivation

- Local governments may “reasonably regulate” but not prohibit personal indoor cultivation of up to six marijuana plants within a private residence.
- Includes cultivation within a greenhouse or other structure on the same parcel of property that is not visible from a public space.
- Local governments may regulate or prohibit personal outdoor cultivation.

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State Licensing of Commercial Operations

- All nonmedical marijuana businesses must have a state license.
- State license cannot be issued to an applicant whose operations would violate the provisions of any local ordinance or regulations.
- State license will be valid for one year.

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Local Regulation/Prohibition of Commercial Operations

- **Cities may regulate or completely prohibit state-licensed marijuana businesses (recreational and medical)**
 - but may not prohibit use of public roads for deliveries in another jurisdiction
- **State standards are minimum standards**

Cities may establish additional standards, regulations re: health & safety, environmental protection, testing, security, food safety, and worker protections

Federal Issues

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Options Regarding Marijuana Land Uses

1. Express prohibition on all or some marijuana businesses
2. A regulatory scheme (ordinance) for commercial marijuana businesses

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Options for Commercial Marijuana Activities

1. Prohibit all commercial marijuana businesses throughout the City
2. Allow some or all marijuana businesses under a new regulatory scheme
 - What type of restrictions should apply to marijuana land uses?
 - What type of permits will be required?
 - How will the City process marijuana land use applications?
 - What type of local taxes should the City impose?

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Options for Cultivation

1. Prohibit cultivation, except for private indoor cultivation of six plants or less
2. Allow marijuana cultivation
 - What types of conditions to impose?
 - Security
 - Odor restrictions
 - Setbacks and visibility

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Options for Marijuana Deliveries

1. Prohibit marijuana deliveries that begin or end in the City's boundaries
 - Can't prohibit delivery service from passing through City
2. Same as above, but allow limited deliveries of medical marijuana to qualified patients
3. Allow marijuana deliveries
 - Develop a regulatory scheme
 - State is developing regulations which will be minimum standards

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Excise Taxes, Sales & Use Taxes

- **Excise Tax:** All taxes are either property taxes or excise taxes.
 - Property tax = tax on ownership of (real or personal) property
 - is triggered by the mere ownership of property
 - Excise tax = tax on the *privilege* of using, doing something with property
 - Examples of local excise taxes:
 - ✓ business license tax ✓ transient occupancy tax ✓ parcel tax
- **State and Local Sales and Use Tax**
 - The sales tax is a tax on the "privilege of selling tangible personal property at retail" (Calif Rev & Tax Code §6051).
 - The use tax is imposed on the storage, use or other consumption of tangible personal property purchased from a retailer (R&T Code § 6201).

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Prop. 64 and Taxation of Marijuana

- Adds state excise tax of 15% on the privilege of purchasing marijuana at retail (Section 34011(a)). *Effective January 1, 2018*
- Adds excise tax of \$9.25/dry-weight ounce (flowers) and \$2.75/dry-weight ounce leaves on the privilege of cultivating marijuana. *Effective January 1, 2018*
- Prop. 64 does not affect local governments' authority to impose taxes on medical or non-medical marijuana.
- Exemptions:
 - Marijuana cultivated for personal use is exempt from cultivation tax.
 - Medical marijuana is exempt from state/local *sales tax* but NOT other state or local taxes. *Effective November 9, 2016*

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Taxes and Fees on Marijuana Under Proposition 64

Applies to non-medical only

Sales and Use Tax

Effective November 9, 2016

Applies to medical and non-medical

<p>State Marijuana Excise Tax</p> <p style="text-align: center; background-color: #4a7ebb; color: white; padding: 10px;">15% gross receipts of retail sale</p> <p style="text-align: right; font-size: small;"><i>Effective January 1, 2018</i></p>	<p>State Cultivation Taxes</p> <p style="text-align: center; background-color: #4a7ebb; color: white; padding: 10px;">\$9.25/oz flowers \$2.75/oz leaves</p>
<p>City* Marijuana Excise Tax <i>if enacted/approved by voters</i></p> <p style="text-align: center; background-color: #e69d00; color: white; padding: 10px;">XX% gross receipts or other basis <i>(not a sales tax)</i></p>	<p>City* Marijuana Business Regulatory Fee <i>if enacted</i></p> <p style="text-align: center; background-color: #e69d00; color: white; padding: 10px;">To pay for regulation. Limited to cost recovery.</p>

20 *county if in unincorporated county

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Allocation* of State Excise Taxes on Marijuana under Proposition 64

*may be altered by majority vote of the Legislature after 2027

60%

youth programs, substance abuse education, prevention and treatment

20%

environmental cleanup, remediation

20%

Reduce DUI, reduce negative health impacts re: marijuana legalization

➤ A city (or county) that bans cultivation, including outside personal cultivation, or the retail sale of marijuana, is not eligible for some grants.

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Local Taxes and Fees on Marijuana Taxes vs. Fees

- **Business License Taxes** allow revenue to be appropriated for any municipal purpose unless the tax has been approved as a “special tax” for a specific purpose.
- **Business Regulatory Fees** may recover the reasonable regulatory costs for issuing licenses and permits, performing investigations, inspections, and audits and enforcing these regulations – and should be scaled appropriately.

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Exemptions from Taxation of Marijuana

Proposition 64 exempts:

- marijuana cultivated for personal use from the new state cultivation tax
- medical marijuana from state/local sales tax
... but not state or local excise taxes.

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Marijuana Advertising

- AUMA REQUIREMENTS/RESTRICTIONS
 - TV, Radio, Print & Digital Ads: At least 71.6% of audience must “reasonably expected” to be 21 years of age or older based on audience composition data
 - Direct, individualized advertising/marketing must have mechanism to verify recipient’s age
 - “All advertising shall be truthful and appropriately substantiated.”

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Marijuana Advertising

- AUMA Requirements/Restrictions (cont.)
 - Licensees may not advertise or market in a false, untrue, or misleading manner
 - Licensees must avoid advertising/marketing that would appeal to those under 21 or would encourage those under 21 to consume marijuana
 - No marijuana advertising/marketing signs within 1,000 feet of a day care center, K-12 school, playground, or youth center
 - No marijuana billboards on Interstate Highway or State Highway which crosses any state border

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Marijuana Advertising

- Local Restrictions?
 - Content Neutral (*Reed v. Town of Gilbert*)
 - Size, height, number, location, physical attributes
 - Billboards – Cities may prohibit off-site advertising billboards

Contact Information

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SGVCOG Governing Board Unapproved Minutes

Date: March 16, 2017

Time: 6:00 PM

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

PRELIMINARY BUSINESS

1. Call to Order

President Gene Murabito called the meeting to order at 6:13 p.m.

2. Pledge of Allegiance

Kevin Stapleton led the pledge of allegiance.

3. Roll Call

A quorum was in attendance.

Governing Board Members Present

Alhambra	Barbara Messina
Azusa	Angel Carillo
Claremont	Sam Pedroza
Covina	Kevin Stapleton
Duarte	John Fasana
El Monte	Victoria Martinez
Glendora	Gene Murabito
La Canada Flintridge	Terry Walker
La Verne	Tim Hepburn
La Puente	Dan Holloway
Monrovia	Becky Shevlin
Pasadena	Terry Tornek
Pomona	Tim Sandoval
Rosemead	Margaret Clark
San Gabriel	Juli Costanzo
Sierra Madre	John Capoccia
South Pasadena	Diana Mahmud
Temple City	Cynthia Sternquist
West Covina	James Toma
LA County District 1	Rachel Barbosa
LA County District 4	Lauren Yokomizo
San Gabriel Water Districts	Anthony Fellow

Absent

Arcadia
 Baldwin Park
 Bradbury
 Diamond Bar
 Industry
 Irwindale
 Montebello
 Monterey Park
 San Dimas
 San Marino
 South El Monte
 Walnut
 LA County District 5

SGVCOG Staff

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

4. Public Comment

No public comment

5. Changes to Agenda Order

CONSENT CALENDAR

- 6. Governing Board Meeting Minutes
Recommended Action: Adopt Governing Board minutes.
- 7. Monthly Cash Disbursements/Balances/Transfers
Recommended Action: Approve Monthly Cash Disbursements/Balances/Transfers.
- 8. ACE Board of Directors Minutes
Recommended Action: Receive and file.
- 9. ACE Monthly Report
Recommended Action: Receive and file.
- 10. Committee Attendance
Recommended Action: Receive and file.
- 11. Treasurers' Report
Recommended Action: Receive and File

There was a motion to approve consent calendar items 6-11 (M/S: S. Pedroza/J. Fasana).

[Motion Passed]

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

ACTION ITEMS

- 12. FY 2015-16 Financial Audit

There was a motion to Receive and file FY 2015-16 Financial Audit. (M/S: D.Mahmud/J. Fasana).

[Motion Passed]

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

- 13. FY 2017-18 Strategic Plan Update

There was a motion to Adopt Resolution 17-04 updating the SGVCOG Strategic Plan for FY 2017-18. (M/S: T. Hepburn/V. Martinez).

[Motion Passed]

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

14. Measure M Guiding Principals

There was a motion to Adopt Resolution 17-05 approving Measure M Guiding Principles. (M/S: J.Fasana/K.Stapleton).

[Motion Passed]

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

14a. SB 589 (Hernandez)

There was a motion to Adopt Resolution 17-06 supporting SB 589 (Hernandez). (M/S: T.Hepburn/J. Capoccia).

[Motion Passed]

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

PRESIDENT’S REPORT

15. Oral Report

G. Murabito reported on the Washington D.C trip by COG members.

EXECUTIVE DIRECTOR’S REPORT

16. Oral Report

P. Hawkey reported on this item and highlighted the contributions made by Gene Murabito and Kevin Stapleton to the SGVCOG.

17. Measure M – Next Steps

No report given.

GENERAL COUNSEL’S REPORT

18. SGVCOG Bylaws

There was a motion to approve proposed revision to SGVCOG bylaws regarding Executive Committee membership. (M/S: T. Hepburn/V. Martinez).

[Motion Passed]

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

COMMITTEE REPORTS

Transportation Committee

J. Fasana reported on this item.

Homelessness Committee

B. Shevlin reported on this item.

Energy, Environment and Natural Resources Committee

No report given.

Water Committee

D. Mahmud reported on this item.

ACE / Large Capital Projects Ad Hoc Committee

J. Fasana reported on this item.

Ad Hoc Legislative Committee

K. Stapleton reported on this item.

PROJECT REPORTS

The ACE Project

No report given.

San Gabriel Valley Energy Wise Partnership

M. Creter reported on this item.

LIAISON REPORTS

Gold Line Foothill Extension Construction Authority

No report given.

San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy

No report given.

Southern California Association of Government

No report given.

San Gabriel Valley Economic Partnership

No report given.

South Coast Air Quality Management District

R. Yeung reported on this item.

BOARD MEMBER ITEMS

ANNOUNCEMENTS

ADJOURN

President Gene Murabito adjourned at 7:33 p.m.

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

Account Name	Balance 2/28/2017	Increase	Decrease	Net Change	Balance 3/31/17
CBB - Checking	\$ 671,547.67	\$ 8,058.76	\$ 99,747.98	\$ (91,689.22)	\$ 579,858.45
CBB- 242-034-325 CD	55,534.71	13.85		\$ 13.85	55,548.56
CBB - 2766 Savings	1,586.75	0.40		\$ 0.40	1,587.15
CBB -242-034-953 CD	54,768.83	13.65		\$ 13.65	54,782.48
Petty Cash	400.00			\$ -	400.00
LAIF	229,394.77			\$ -	229,394.77
LAIF Maket Value	85.55			\$ -	85.55
Member Receivable	1,599.98			\$ -	1,599.98
Grants/Contracts Receivable	51,881.21	\$ 46,158.48	\$ 7,588.76	\$ 38,569.72	90,450.93
Sponsorships Receivable	25.00			\$ -	25.00
Rental Deposits Receivable	214.80			\$ -	214.80
Receivables - Other	-	\$ -		\$ -	-
	<u>\$ 1,067,039.27</u>	<u>\$ 54,245.14</u>	<u>\$ 107,336.74</u>	<u>\$ (53,091.60)</u>	<u>\$ 1,013,947.67</u>

SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS

Disbursements Report

March 2017

Transaction Date	Number/Reference	Vendor Name	Description	Amount
3/3/17	EFT	Paychex	Payroll Period Ending 3/03/17	22,190.88
3/7/2017	9382	Artin Baghkhani	Mileage Reimbursement Feb'17	9.74
3/7/2017	9383	Vantagepoint Transfer Agents	ICMA-457 Payment	76.81
3/7/2017	9384	Vasquez & Co., LLP	Audit Services for FY Ending 6/30/16	2,000.00
3/7/2017	9385	Eric Wolf	Travel Reimbursement to Sacramento	129.96
3/10/2017	EFT	Citi Card	Citi Card Payment	5,313.05
3/14/2017	9386	Jones & Mayer	Legal Services Jan'17 & Feb'17	3,267.33
3/14/2017	9387	Christian Cruz	Mileage Reimbursement Feb'17	61.20
3/14/2017	9388	Kaiser Permanente Health Pla	Dues for Apr'17	669.89
3/14/2017	9389	Alameda Corridor East Constr	Reimbursement for CALPERS PE 3/3/17	1,995.10
3/16/2017	EFT	Paychex	Payroll Period Ending 3/17/17	21,913.22
3/21/2017	9390	Image IV Systems	Copy Machine Rental Mar'17	897.34
3/21/2017	9391	Elite-TRC-Alhambra Community	Rent - Apr'17	6,230.95
3/21/2017	9392	Peter Duyshart	Mileage Reimbursement Feb'17	44.03
3/21/2017	9393	Alameda Corridor East Constr	Reimbursement for CALPERS PE 3/17/17	2,292.70
3/22/2017	EFT	Paychex	Processing Fee Mar'17	40.00
3/22/2017	EFT	Spectrum Business	Internet Provider	125.00
3/24/2017	EFT	Paychex	Payroll Period Ending 3/24/17-Jonathan Quiros	671.29
3/31/2017	9394	Athena Parking (Alhambra)	Parking Apr'17	465.00
3/31/2017	9395	Jones & Mayer	Legal Services - PERS - Feb'17	1,059.50
3/31/2017	9396	Mary Lou Echternach	Board Support Feb'17	8,840.83
3/31/2017	EFT	Paychex	Payroll Period Ending 3/31/17	21,454.16
			Total March 2017 Disbursements	\$ 99,747.98



Alameda Corridor-East Construction Authority

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

ACE Construction Authority Board of Directors Meeting February 27, 2017 Minutes

Chairperson Costanzo called the meeting of the Board of Directors of the Alameda Corridor-East Construction Authority to order at 1:00PM at the San Gabriel City Hall Council Chambers.

1. Pledge of Alliance –Member Hadjinian led the pledge of allegiance.
2. Roll Call: Chairperson Costanzo welcomed the Board to San Gabriel.

In attendance was:

Juli Costanzo, San Gabriel, Chair
Victoria Martinez, El Monte, Vice Chair
Hilda Solis, LA Board of Supervisors
Jack Hadjinian, Montebello
Barbara Messina, SGVCOG
Tim Sandoval, Pomona

Staff:

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

Guests:

Glenn Sutor, Harris & Associates
Charlie Nakamoto, Jacobs
Keith Gillfillin, Moffatt Nichol
Ron Butler Moffatt Nichol
Bret Fritziner, Guy F Atkinson
Hank Fung, LA County
John Burton, LA County

3. Public Comments – There were no public comments
4. Approval of January 23, 2017 Board meeting minutes – A motion was made to approve the January 23, 2017 Board of Director meeting minutes.
M/S/C/Solis/Hadjinian

5. Chairman Remarks – Chairperson Costanzo thanked staff for their efforts toward arranging meetings with legislative representatives in Washington DC.
6. Board Member Comments – Member Hadjinian indicated he was happy to be in San Gabriel.
7. **Chief Executive Officer’s Report** – Mr. Christoffels reported that the San Gabriel Valley Council of Governments Governing Board unanimously voted to conceptually retain ACE and directed the Ad Hoc Committee to work with both staffs to develop a detailed report for implementation of the combined agencies by June or July. He indicated ACE staff would continue to work on the completion of the projects in the ACE Program.

Member Solis asked if ACE envisioned labor agreements. Mr. Christoffels replied without specific projects identified and without Measure M guidelines released, he was unable to provide a definitive answer to the question. Member Solis requested a report back within 90 days.

8. Receive and File Fiscal Year 2016 Audited Financial Statements – Roger Martinez, Engagement Partner of Vasquez and Company reviewed in depth the financial audit procedures. He explained the process, risk based and control driven, was conducted within audit standards to assure financial responsibility. He indicated staff was timely in responsiveness which is always a good sign during an audit. He reported that Vasquez has determined for fiscal year 2016 ACE maintained effective internal controls and accomplished a timely and effective year end closing and financial reporting process. He indicated there was a prior audit of a storage facility which required follow-up.

A motion was made to receive and file the Fiscal Year 2016 audited financial statements.

M/S/C/Hadjinian/Martinez/Unanimous

9. Approval of Closeout of Construction Contract with Griffith Company and Acceptance of Nogales Street Grade Separation – Chairperson Costanzo indicated this item was being pulled at the request of staff.
10. Approval of Task Order for Paragon Partners for Durfee Avenue Grade Separation – Mark Christoffels reminded the Board that property acquisition services is provided through a contractor with tasks approved in the annual budget. He reminded the Board that Paragon Partners provided right of way services for the Durfee Avenue grade separation project which required either full or partial acquisitions of 23 parcels. He indicated several property owners have obtained legal counsel which has resulted in more extensive effort than originally planned and budgeted for. He indicated negotiations remain to be

complete on 10 parcels and an additional \$317,798 is required to carry the work through the remainder of the fiscal year.

A motion was made to authorize the Chief Executive Officer to increase the FY 2017 Annual Task Order with Paragon Partners Ltd. (Paragon) in an amount not-to-exceed \$317,798 for right-of-way services for a total FY 2017 task order authorization of \$1,853,001.

M/S/C/Solis/Sandoval/Approved Abstain: Solis

11. Approval Advance Acquisition of 418 S. Maple Avenue, Montebello, CA – Mr. Christoffels indicated the subject property has been identified as a property required for the Montebello project has come on the market. He indicated it is reasonable to acquire the property now before the property could potentially be sold to another buyer and potentially be subject to a new owner marketing it at a greater asking price knowing the property was required for the project. He indicated the property was identified for potential use for construction of a pedestrian overcrossing. He indicated the property would be purchased in accordance with a fair market appraisal.

A motion was made to approve the advance acquisition of 418 S. Maple Avenue, Montebello.

M/S/C/Martinez/Hadjinian/Unanimous


15. Approval of Employee Voluntary Leave Transfer Program – Mr. Christoffels indicated like many other agencies, staff was interested in having a voluntary leave donation to assist co-workers who unexpectedly have medical situations that cause absences beyond their accumulated sick leave balance. He indicated the donor would be required to maintain 80 hours of sick leave and the program would be strictly voluntary. Mr. Christoffels requested the board consider the program become effective retroactively to February 1st and if approved would be incorporated into the employee policy manual. The Chairperson expressed admiration for the willingness of staff to help co-workers.

A motion was made to approve the Employee Voluntary Leave Transfer program effective February 1st, 2017.

M/S/C/Solis/Hadjinian/Unanimous

18. Closed Session – Legal Counsel indicated the Board would adjourn to closed session in accordance with Government Code Section 549869 to discuss existing litigation Los Angeles Superior Court Case No BC539533 ACE vs. Leone Mooradian, et al. The Board returned to open session and legal counsel announced there were no reportable actions taken.

17. Adjournment – Chairperson Costanzo reminded the Board that the next regular meeting would be held March 27, 2017. The meeting was adjourned at 1:55PM.

X 

Deanna Stanley
Clerk of the Board



Alameda Corridor-East Construction Authority

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

MEMO TO: SGVCOG Governing Board Members & Alternates

FROM: Juli Costanzo, Chair

DATE: April 6, 2017

SUBJECT: Monthly Report

The following are items of note since the last meeting:

Durfee Project Funding – The California Transportation Commission at their meeting **in March unanimously approved ACE’s request to include the Durfee Avenue project** in the Trade Corridors Improvement Fund (TCIF) program and to program \$2.62 million of state bond funds for project construction.

Washington, DC Meetings – ACE and SGVCOG Board members and staff in mid-March traveled to Washington, DC for two days of meetings with legislators and Administration officials regarding federal support for **the San Gabriel Valley’s transportation programs** and priorities and regarding storm water compliance issues.

Community Outreach Update – Staff conducted the following project outreach activities:

- Distributed construction alert notices regarding repaving work on San Gabriel Boulevard and Agostino Road for the San Gabriel Trench project;
- Distributed construction alert notices regarding a traffic shift on Valley Boulevard for the Puente Avenue project;
- Distributed construction alert notices regarding mass excavation and shoring installation for the Lemon Avenue freeway ramps project; and
- Conducted ongoing community outreach and support activities for the San Gabriel Trench, Puente Avenue, Fairway Drive and Fullerton Road grade separation projects.

**Governing Board
FY 2016-17**

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

Major Action Items and Presentations

July

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

Governing Board
FY 2016-17

WOTUS Challenge Amicus Brief
Metro Measure M

September

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

October

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

November

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

January

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

February

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

March

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

**Transportation Committee Attendance
FY 2016-17**

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

Agenda Topics

September

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

October

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

November

- Bike SGV
- Measure M next steps

January

- CV Link
- Metro ExpressLanes
- LRTP Update

February

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

March

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

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

**EENR Committee Attendance
2016-2017**

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

Agenda Topics

July

LA County Marks Measure

September

SG Mountains National Monument Draft Environmental Assessment

Community Choice Aggregation

October

Mandatory Organics

AB 45

Puente Hillss Regional Park

Leg Recap

November

Emerald Necklace

Climate Resolve

January

Regional Organics

Mosquito and Vector Control

February

San Gabriel Canyons Improvement Project

Clean Water through oysters

March

Measure A

Aliso Canyon Facility Update

**Homelessness Committee Attendance
FY 2016-2017**

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

Agenda Topics

July

- Urban Harvester
- LA County Homeless Initiative

August

- SGV Homeless Fundraiser
- Lions Gate Transitional Living Centers

September

- Claremont Homeless Advocacy Program
- Vets Advocacy West LA

October

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

November

- Homeless Committee Work Plan
- Tour of Mar Vista Apartments

January

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

February

- El Monte Veterans Affordable Housing
- Pomona Homeless Plan

March

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

**Water Policy Committee
2016-2017 Attendance**

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

Agenda Topics

July (Joint Meeting with Water TAC)

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

August (Joint Meeting with Water TAC)

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

September (Joint Meeting with Water TAC)

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

October (Joint Meeting with Water TAC)

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

November (Joint Meeting with Water TAC)

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

December (Joint Meeting with Water TAC)

- Establish Stormwater Outreach Team
- Establish Stormwater Legislative Priorities
- RWQCB Update
- Election 2016 updates

January (Joint Meeting with Water TAC)

- MSGB Resource Development Fee update
- Rio Hondo/San Gabriel River EWMP Presentation
- Establish Stormwater Legislative Priorities

**Water Policy Committee
2016-2017 Attendance**

Urban Greening Grants

Stormwater Outreach Updates

Litigation Update

February (Joint Meeting with Water TAC)

Letter of Support: Irma Munoz to SWQCB

Revisions to 303(d) listing

Stormwater Outreach: Sacramento trip

Legislative Update

Water Supply Update: Chapman presentation

March (Joint Meeting with Water TAC)

support for SB 589, SB 541, AB 1180

Stormwater Outreach: Sacramento, D.C.

303(d) listing

Regulatory Update

water supply update

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

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

Agenda Topics

July

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

September

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

October

- LA Impact
- SGVCOG Financial Policies

November

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

December

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

January

- ACE Ad Hoc Committee Draft Report
- SGVCOG Office Lease

February

- Measure H

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

Budget Amendment #2
ACE Ad Hoc Committee Report
LACCE

March

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

**Planning TAC Attendance
FY 2016-17**

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

Agenda Topics

August

- Elections
- Legislative Update
- Wireless Siting

September

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

October

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

December

- Housing
- Marijuana
- GHG Impact by Transit Mode

January

- Housing
- Future Trends

**Planning TAC Attendance
FY 2016-17**

Measure M

February

Model Drone Ordinance

Housing

Measure M

March

Affordable Housing Presentation

Drone follow up

Measure M

Future Trends

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

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

Agenda Topics

September:

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

October

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

November

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

January

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

February

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

March

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

**Water TAC Attendance
FY 2016-17**

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

Agenda Topics

July (Joint Meeting with Water TAC)

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

August (Joint Meeting with Water TAC)

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

September (Joint Meeting with Water TAC)

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

October (Joint Meeting with Water TAC)

Presentation: CA Water Fix

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

November (Joint Meeting with Water TAC)

Presentation: SB 485

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

December (Joint Meeting with Water TAC)

Establish Stormwater Outreach Team

- Establish Stormwater Legislative Priorities

**Water TAC Attendance
FY 2016-17**

RWQCB Update
Election 2016 updates
MSGB Resource Development Fee update
January (Joint Meeting with Water TAC)
Rio Hondo/San Gabriel River EWMP Presentation
 Establish Stormwater Legislative Priorities
Urban Greening Grants
Stormwater Outreach Updates
Litigation Update
February (Joint Meeting with Water TAC)
Letter of Support: Irma Munoz to SWQCB
 Revisions to 303(d) listing
Stormwater Outreach: Sacramento trip
Legislative Update
Water Supply Update: Chapman presentation
March (Joint Meeting with Water TAC)
support for SB 589, SB 541, AB 1180
 Stormwater Outreach: Sacramento, D.C.
303(d) listing
Regulatory Update
water supply update

REPORT

DATE: April 20, 2017
TO: Governing Board Delegates and Alternates
FROM: Richard Jones, General Counsel
RE: **BYLAWS REVISION**

RECOMMENDED ACTION

Approve 8th Amended SGVCOG Bylaws, which clarifies Executive Committee membership.

BACKGROUND

Our office was asked to provide clarification regarding the position of Immediate Past President on the Executive Committee given some confusion as to whether the position could be filled by the most recent past President currently serving on the SGVCOG Governing Board. Section E (Executive Committee) of Article VI (Committees) of the Seventh Amended and Restated Bylaws states in relevant part:

The elected officers of the Council [of Governments], the immediate past President of the Council, if currently serving as a Governing Board Delegate, the Chairpersons of all Council Standing Policy Committees and the Chairperson of the Alameda Corridor-East Construction Authority, shall comprise an Executive Committee, whose Chairperson shall be the President of the Council. (Emphasis added.)

A strict interpretation of the language in the Bylaws would mean a vacancy in that position if the “immediate past President” – meaning the last president – is not a current Governing Board Delegate. However, in past practice, the Executive Committee has filled the “Immediate Past President” position with the most recently serving past president who remains on the Governing Board.

This matter was brought before the Executive Committee for discussion at its meeting on March 6, 2017. The Executive Committee recommends that the language in the Bylaws be amended to reflect the past practice of allowing the most recently serving past President still serving on the Governing Board to fill the position. The Executive Committee discussed the benefit of continuing to engage past Presidents, who have institutional knowledge regarding SGVCOG matters.

The Executive Committee recommends the following redlined revisions to the language in Section E (Executive Committee) of Article VI (Committees) of the Seventh Amended and Restated Bylaws:

The elected officers of the Council, the **immediate most recent** past President of the Council, ~~if~~ currently serving as a Governing Board Delegate, the Chairpersons of all Council Standing Policy Committees and the Chairperson of the Alameda

Corridor-East Construction Authority, shall comprise an Executive Committee, whose Chairperson shall be the President of the Council.

The Bylaws require any amendment to be submitted to the Governing Board at a meeting at least one month prior to the meeting at which the amendment is voted upon, and this proposed amendment was presented for review in March. A vote of fifty percent plus one of the total voting membership of the Governing Board is required to adopt the amendment.

ATTACHMENTS

Attachment A – SGVCOG 8th Amended Bylaws

SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS

A JOINT POWERS AUTHORITY

EIGHTH AMENDED AND RESTATED BYLAWS

EFFECTIVE APRIL 20, 2017

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BYLAWS

SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS

PREAMBLE

The San Gabriel Valley Council of Governments (the “Council”) is an agency voluntarily established by its Members pursuant to a Joint Powers Agreement (“Agreement”) for the purpose of providing a vehicle for the Members to engage in regional and cooperative planning and coordination of government services and responsibilities to assist the Members in the conduct of their affairs. In addition, the Council will provide a regional organization for the review of federal, state, and/or regional projects and studies which involve the use of federal, state and/or regional funds, in various forms.

Article I - Definitions

The terms “ACE Construction Authority,” “Agreement,” “Alternate Governing Board Representative,” “Council,” “Governing Board,” and “Governing Board Representative,” as used in these Bylaws are defined in the Agreement and said definitions are incorporated herein by reference.

Article II - Membership and Representation

A. Membership. Members shall withdraw from or be admitted to the Council in accordance with Section 21 of the Agreement.

B. Representation/Members.

1. The Governing Board Representative and Alternate Governing Board Representative for a Member shall be designated by a resolution or similar official action of that Member’s legislative body.

2. Names of Governing Board Representatives and Alternate Governing Board Representatives shall be communicated in writing to the Governing Board by that Member’s legislative body.

3. Governing Board Representatives and Alternate Governing Board Representatives shall serve until a successor is appointed or until such time that a Representative ceases to serve in public office for his or her Member.

Article III - Governing Board

A. Powers and Duties. The powers and duties of the Governing Board, subject to the limitations of applicable law, the Agreement and these Bylaws, shall include:

1. All of the powers of the Council provided in Section 4 of the Agreement, except as may be expressly delegated to others pursuant to the provisions of the Agreement, these Bylaws or by the direction of the Governing Board shall be exercised by and through the Governing Board.

2. Making policy decisions and determining policy matters for the Council.

3. Conducting the affairs of the Council.

4. Appointing, fixing the compensation of and removing an Executive Director and other staff of the Council and conducting an annual performance review of the Executive Director.

5. Annually reviewing the proposed Council budget and proposed work plan submitted by the Executive Director and adopting an annual budget and a work plan.

6. Appointing Standing Policy Committees and Ad Hoc Committees, as necessary, to study specific problems, programs, or other matters which it has approved for study.

7. Based on the guidance of the General Counsel, keeping informed about and working to keep the Council in compliance with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules that could affect the Council or any of its activities and projects.

8. Acting upon policy recommendations including those from committees.

B. Meetings.

1. Regular meetings of the Governing Board shall be held monthly, at such time, place, and location as the Governing Board may set by resolution from time to time, unless dispensed with by the Governing Board. Special meetings of the Governing Board may be called by the President. All meetings of the Council shall be called by the President. All meetings of the Council shall be called and conducted, and an agenda posted, in accordance with the Ralph M. Brown Act, Government Code Section 54950 *et seq.*, as it now exists or may hereafter be amended. Members shall direct their respective city clerks or equivalent officers to comply with all notice and agenda posting requirements deemed necessary by the Governing Board.

2. Fifty (50) percent plus one of current active membership shall constitute a quorum. Suspended Members shall not be counted toward a quorum.

3. The Governing Board shall adopt by resolution a policy regarding the use of electronic devices at meetings, which shall comply with all applicable laws.

C. Voting. Voting on the Governing Board shall be conducted as prescribed in the Agreement. Further, voting may be by voice, roll call or ballot vote. A roll call or a ballot vote shall be conducted upon the demand of five participating representatives, or at the discretion of the presiding officer. No secret ballots shall be employed. If ballot voting occurs all ballots must: identify the individual voting; be counted in and have the results reported in open session; and be available for public review. Further, if ballot voting is used for appointments to a committee or entity external to the Council, then all candidates are to be listed on a single ballot; only one ballot is to be completed for each Governing Board Representative or Alternate present; the candidate(s) receiving the highest number of votes is/are to be appointed consistent with the number of appointments to be made and if the appointments involve a delegate and an alternate the candidate with the highest number of votes will be appointed delegate and the candidate with the next highest number of votes will be appointed the alternate. Voting shall be reported as required by the Ralph M. Brown Act (Government Code Section 54950 et seq.).

D. Conduct. All Governing Board Representatives and Alternate Governing Board Representatives shall conduct themselves in a civil, respectful, and professional manner in the performance of their duties.

Article IV - Executive Director

The powers and duties of the Executive Director of the Council, which may be modified by action of the Governing Board, are:

A. Subject to the authority of and as directed by the Governing Board, to serve as chief administrative officer of the Council and administer the affairs of the Council in compliance with all applicable federal, state and local laws, statutes, codes, regulations and rules.

B. Except as to what may be reserved to the Governing Board, to hire, direct, discharge and remove all employees of the Council and to retain and discharge consultants and to prescribe the duties and fix the compensation thereof, except for those employees and consultants working for the ACE Construction Authority.

C. Annually to prepare and present a proposed budget for the Council to the Steering Committee of the City Managers' Technical Advisory Committee ("Steering Committee") and, after the approval of the Steering Committee, to the Governing Board for its approval and, after approval by the Governing Board, to maintain the expenditures of the Council within the approved budget, as may be amended from time to time by the Council.

D. Annually to prepare a proposed work plan for the Council that is consistent with the proposed annual budget and the currently effective strategic plan; to submit the proposed work plan to the Governing Board for its review, discussion, evaluation and possible adoption; and to implement the work plan adopted by the Governing Board.

E. To ensure that consultants under contract to the Council procure insurance policies that provide adequate protection to the Council and that such policies are in accord with any policy limits and policy coverage requirements directed by the Governing Board.

F. To attend the meetings of the Governing Board.

G. To interface with and cooperate with the Chief Executive Officer of the ACE Construction Authority, who shall be responsible for the day-to-day management and operations of that organization.

I. To perform such additional duties as the Governing Board, these Bylaws, the Agreement or applicable law may require.

Article V - Other Officers and Employees

A. Second and Third Vice Presidents. Second and Third Vice Presidents of the Council shall be elected annually as officers of the Council at the same time and in the same manner as the President and First Vice President of the Council, whose election is described in Section 11 of the Agreement. Any Governing Board Representative who is not already an officer of the Council may be elected as Second or Third Vice President. The Second and Third Vice Presidents may individually serve as President in the absence of the President and First Vice President and shall perform such duties as may be required by the Agreement, these Bylaws, or by direction of the Governing Board or the President.

B. Secretary. The Executive Director shall be the Secretary of the Council but shall not be an officer of the Council. The Secretary shall perform and/or oversee the usual and customary ministerial duties of such position.

C. Treasurer and Auditor/Controller. As set forth in Government Code Section 6505 et seq., in particular, Section 6505.6, and Section 13 of the Agreement, the Treasurer of the Council and the Auditor/Controller of the Council may be the same person and may be a contract employee of the Council. If the Treasurer and Auditor/Controller are not the same person, each shall have the duties and responsibilities set forth herein. The Treasurer and Auditor/Controller shall not be an officer of the Council. The duties and responsibilities of the Treasurer and Auditor/Controller are:

1. The Treasurer and Auditor/Controller shall possess the powers described in, and shall perform those functions required by: Government Code Sections 6505, 6505.5 and 6505.6; all other applicable laws and regulations, including any subsequent amendments thereto; the Agreement; these Bylaws; and/or the direction of the Governing Board.

2. The Treasurer and Auditor/Controller shall have custody of all Council and ACE Construction Authority funds and shall provide for strict accountability thereof in accordance with Government Code Section 6505.5 and other applicable laws.

3. The Treasurer and Auditor/Controller shall annually cause an independent audit to be made of the Council and of the ACE Construction Authority by a single certified public accountant or by separate certified public accountants, in accordance with Government Code Sections 6505 and 6505.6. and shall present such audit to the Governing Board at one of its meetings and be available to answer any questions.

D. General Counsel. The Governing Board shall appoint a qualified person or firm to serve as the General Counsel to the Council on any basis it desires, including, but not limited to, a contract or an employment basis. The General Counsel shall perform duties as directed by the Council, including, but not limited to, the review of meeting agendas and agenda reports, insurance policies, and policies, and procedures for compliance with state, federal and local laws, including the Brown Act.

E. Additional Officers, Employees, and Contractors. The Governing Board shall have the power to appoint, engage or employ such additional officers, employees, and independent contractors as may be appropriate. Such officers, employees, and independent contractors may also be, but are not required to be, officers and employees of the individual Members. None of the officers, employees, or independent contractors appointed by the Governing Board shall be deemed, by reason of their employment by the Governing Board, to be employed by any of the Members or, by reason of their employment by the Governing Board, to be subject to any of the requirements of such Members.

F. Bonding Requirement. Pursuant to the requirements of Government Code Section 6505.1, the Governing Board shall designate which officers or persons will have charge of, handle, or have access to any property of the Council. Each such designated officer or person shall be required to file an official bond with the Governing Board, at the expense of the Governing Board, in an amount which shall be established by the Governing Board. Should the existing bond or bonds of any such officers be extended to cover the obligations provided herein, said bond shall be the official public bond required herein. The premiums of any such bonds attributable to the coverage required herein shall be appropriate expenses of the Council. The Governing Board may also direct the purchase of appropriate insurance policies to supplement said bonds and the costs of such insurance policies shall be borne by the Council. The Council may procure an insurance policy in lieu of an official bond pursuant to Government Code Section 1463.

G. Status of Members' Officers and Employees. As provided in Government Code Section 6513, all of the privileges and immunities from liability and other benefits which apply to the activities of officers, agents, or employees when performing their respective functions within the territorial limits of their respective public agencies shall apply to them while engaged in the performance of any of their functions and duties extraterritorially under the Agreement.

H. Vacancies. In the event of a mid-term vacancy in an officer position, the officer in the next successive position shall fill that position for the remainder of the term, and every successive officer below shall accordingly move up one position. The Executive Committee shall recommend candidates to the Governing Board for the remaining vacant position, and the Governing Board shall hold an election for that position. The order of succession shall be as follows: President, First Vice President, Second Vice President, and Third Vice President.

I. Election of Officers. In the event an election of new officers is not held prior to the expiration of the terms of those current officers, the terms of those current officers shall extend automatically, and the current officers will continue to serve in their respective positions until an election of new officers is held. Officers shall be elected by popular vote.

Article VI - Committees

A. Technical Advisory Committees. The Council shall establish three Technical Advisory Committees (“TAC”), one consisting of city managers, one of planning/community development directors and one of public works/transportation directors of the Members as approved by the Governing Board. The Governing Board may establish additional TACs as it deems necessary and/or beneficial to the Council. Each TAC shall be established for the purpose of providing input, as may be requested by the Governing Board, a Council committee or as determined by the TAC itself, to report to the requesting body on matters including but not limited to Council work programs, budgets, priorities, policies, programs and practices.

Each TAC member may designate an alternate to serve in the absence of, and vote on behalf of, the member. Each TAC shall elect a Chair and Vice Chair by a majority vote of the members of the TAC. The Chair of each TAC shall sit as an ex officio, non-voting Representative to the Governing Board and an ex officio non-voting member of the Executive Committee and may make recommendations directly to the Governing Board and/or the Executive Committee. The Chief Executive Officer of the County or his or her designee shall be a member of the City Managers’ TAC (“CMTAC”) and shall be the sole representative of the County to the CMTAC. Each Governing Board Representative for the County shall be entitled to appoint one member to the Planning/Community Development Directors’ TAC and to the Public Works/Transportation Directors’ TAC. The Governing Board Representative of each Member of the Council that is neither a city nor a county shall be entitled to appoint one member to each of the three TACs. A quorum of each TAC shall be forty percent (40%) of its membership and all actions will be by a majority of those members present with a quorum in attendance. Each TAC shall meet in accordance with a schedule determined by the TAC and all meetings will be held in accordance with the Ralph M. Brown Act (Government Code Section 54950 et seq.).

B. City Managers’ Steering Committee. There shall be a Steering Committee of the CMTAC (“City Managers’ Steering Committee”), to provide assistance and support to the full CMTAC, the Governing Board and/or the Executive Committee and to oversee certain policy and financial matters for the Council.

The City Managers' Steering Committee shall meet at least quarterly. A quorum of the City Managers' Steering Committee shall be forty percent (40%) of its membership and all actions will be by a majority of those members present with a quorum in attendance. All meetings of the City Managers' Steering Committee shall be held in accordance with the Ralph M. Brown Act (Government Code Section 54950 et seq.).

C. Finance Committee. The Governing Board shall establish a Finance Committee comprised of Finance Directors of the Members as approved by the Governing Board. The Finance Committee shall, with the assistance of the ACE Construction Authority, recommend the independent auditor for the annual audit of the Council and the ACE Construction Authority, develop the scope of work for the audit, and review and comment on the preliminary and final audit reports prior to their presentation to the ACE Construction Authority and the Governing Board; oversee the investment of Council funds in accordance with the Council's investment policy; review and modify the Council's investment policy when required; review, as necessary, those insurance policies purchased for the benefit of the Council including policies purchased by consultants working for the Council; monitor compliance of the Council with applicable federal, state and local laws, ordinances, statutes, codes and regulations; and undertake those additional assignments as directed by the Governing Board. The Finance Committee shall also review and monitor all matters related to the Council's and the ACE Construction Authority's financial affairs, including reviewing quarterly financial reports, audits conducted by external auditors and agencies, grant compliance and bond issuance, as well as any matters related to best management practices or state/federal requirements. A quorum of the Finance Committee shall be a majority of its membership, and all actions will be by a majority of those members present with a quorum in attendance. The Finance Committee shall meet at least quarterly, and all meetings shall be held in accordance with the Ralph M. Brown Act (Government Code Section 54950 et seq.).

D. Standing Policy Committees and Ad Hoc Committees. The Governing Board may establish Standing Policy and Ad Hoc Committees. The Standing Policy Committees shall be established for the purpose of developing policy recommendations to the Governing Board or the Executive Director in specific functional areas consistent with the overall mission of the Council. Standing Policy Committees may be created to address transportation, solid waste and environmental matters and other matters considered important by the Governing Board. Ad Hoc Committees shall be formed to address specific matters of concern to the Governing Board. All Committees shall have a clearly defined purpose.

The Governing Board shall appoint the members ("Committee Members") of the Standing Policy and Ad Hoc Committees each June and, as appropriate throughout the year, with the intention of encouraging maximum participation in committee activities. Committee Members shall be Governing Board Representatives, Alternate Governing Board Representatives, city council members or County supervisors, city managers, or city or County staff, but no city or County District may have more than one Committee Member on any Standing Policy or Ad Hoc Committee. The Committee Members of the Standing Policy Committees shall be appointed for terms which shall expire, regardless of the appointment date, at the end of the Fiscal Year of the Council as defined in Article VII. C. The Committee Members of Ad Hoc Committees shall be appointed for terms that coincide with the term of the

respective Ad Hoc Committee or the end of the fiscal year of the Council, whichever may come first. The term of a Committee Member representing a Member of the Council or County District that has withdrawn or been suspended in accordance with Section 21 of the Agreement shall be concluded or suspended upon the effective date of the withdrawal or suspension of said Member of the Council or County District. In appointing Committee Members of the Standing Policy and Ad Hoc Committees, the Governing Board shall consider regional representation.

A quorum of each Standing Policy Committee shall be forty percent (40%) of its membership. A quorum of each Ad Hoc Committee shall be a majority of its membership. All actions taken by either type of Committee will be by a majority of those Committee Members present with a quorum in attendance. All Standing Policy and Ad Hoc Committees shall be chaired by a Governing Board Representative or an Alternate Governing Board Representative and the Chair of each Committee shall be selected by a majority vote of the Committee Members. All meetings of the Standing Policy and Ad Hoc Committees shall be held in accordance with the Ralph M. Brown Act (Government Code Section 54950 et seq.). All Committee Members of Standing Policy and Ad Hoc Committees shall be voting members unless limited voting is approved for a Committee by the Governing Board upon the recommendation of the Chair of that Committee. All Committee Members of Standing Policy and Ad Hoc Committees may designate an alternate to act on their behalf at any Committee meeting (“Alternate Member”). Each Alternate Member so designated may vote on behalf of the Committee Member the Alternate Member represents. If a Committee Member or his/her Alternate Member is absent from three consecutive meetings of any Standing Policy Committee, then the membership of the Committee Member will be terminated, however, subsequent re-appointment to the Standing Policy Committee can be made by the Governing Board.

E. Executive Committee. The elected officers of the Council, the most recent past President of the Council, currently serving as a Governing Board Delegate, the Chairpersons of all Council Standing Policy Committees and the Chairperson of the Alameda Corridor-East Construction Authority, shall comprise an Executive Committee, whose Chairperson shall be the President of the Council. Each of these members shall have one vote. The Chairpersons of the TACs shall be ex officio, non-voting members of the Executive Committee. The Executive Committee will meet monthly with the Executive Director on a date and at a location selected by the Executive Committee to consider and provide guidance on matters being considered for inclusion on Governing Board agendas and on other matters as directed by the Governing Board. A quorum of the Executive Committee shall be a majority of its voting members and all actions shall be by a majority of its members present with a quorum in attendance. All meetings of the Executive Committee shall be held in accordance with the Ralph M. Brown Act (Government Code Section 54950 et seq.).

Article VII - Budgets, Dues and Disbursements

A. Annual Budget. The Governing Board shall adopt a Budget annually prior to July 1 of each calendar year. The Budget shall: present projected revenues by source and by program on both a quarterly and annual basis; present projected expenses categorized by type of expense and by program both on a quarterly and annual basis; include separate schedules for

special programs of the Council showing projected revenues and projected direct and allocated expenses; include a summary balance sheet for the current fiscal year and for the budget year; include projected capital expenditures; include comparisons between the budget, and the estimated actual current year results; and include the projected year-end cash position of the Council.

B. Budget Amendments. The Governing Board may, at any time, amend the budget to incorporate additional income and disbursements that might become available to or be required of the Council during a fiscal year.

C. Fiscal Year. The Council shall be operated on a fiscal year basis beginning on July 1 of each year and continuing until June 30.

D. Accounts. All funds shall be placed in appropriate accounts and the receipt, transfer, or disbursement of such funds shall be accounted for in accordance with generally accepted accounting principles applicable to governmental entities and pursuant to Government Code Section 6505 and any other applicable laws. There shall be strict accountability of all funds. All revenues and expenditures shall be reported to the Governing Board.

E. Expenditures within Approved Annual Budget. All expenditures shall be made within the approved annual budget as may be amended from time to time. No expenditures in excess of those budgeted shall be made without the approval of the Governing Board.

F. Audit. The records and accounts of the Council shall be audited annually by an independent certified public accountant, in compliance with Government Code Sections 6505.5 – 6505.6, and copies of such audit report shall be filed with each Member of the Council and any other entities required by Government Code Section 6505 no later than fifteen (15) days after receipt of said audit by the Governing Board.

G. Dues. The Members of the Council shall be responsible for payment to the Council, annually, of dues in the amounts annually budgeted by the Governing Board for the operating costs of the Council (“Dues”). If there is any proposed change to the method by which dues are calculated, thirty (30) days’ notice shall be provided to Members prior to the meeting at which the proposed change will be considered. Thirty (30) days’ notice shall be provided to Members of the date by which Dues are to be submitted, which shall be July 1st each year.

The Governing Board may waive dues or approve payment arrangements of dues as it deems appropriate.

H. Uses of Funds. Grant funds received by the Council from any federal, state, or regional agency to pay for budgeted expenditures for which the Council has received all or a portion of said funds from the parties hereto shall be used as determined by the Governing Board and in accordance with the terms of any such grants and applicable laws.

Article VIII - Amendments

These Bylaws may, from time to time and at any time, be amended or repealed, and new or additional bylaws adopted, by approval of the Council, provided, however, that the Bylaws may not contain any provision in conflict with any applicable laws or with the Agreement. Amendments to these Bylaws may be proposed by a Governing Board Representative. Any Amendment shall be submitted to the Governing Board at a meeting at least one month prior to the meeting at which the Amendment is voted upon. A vote of fifty percent (50%) plus one (1) of the total voting membership of the Governing Board is required to adopt an Amendment.

Article IX - Alameda Corridor – East, Gateway to America Construction Authority

A. Purpose and Powers. The Alameda Corridor – East, Gateway to America Construction Authority (the “ACE Construction Authority”) shall exist solely to implement the Alameda Corridor – East, Gateway to America Project (the “Project”), all as described in the Agreement, as may be amended from time to time. The responsibilities and duties of the ACE Construction Authority, subject to the limitations of applicable law, the Agreement and these Bylaws, shall include:

1. All of the powers of the ACE Construction Authority provided in Section 27 of the Agreement, except as may be expressly delegated to others pursuant to the provisions of the Agreement, these Bylaws, or by the direction of the Governing Board.
2. Conducting the affairs of the ACE Construction Authority.
3. Appointing, fixing the compensation of and removing a Chief Executive Officer and conducting an annual performance review of the Chief Executive Officer.
4. Annually reviewing and approving a proposed budget and work plan submitted by the Chief Executive Officer.

B. Compliance With Applicable Laws; Permits and Licenses. The ACE Construction Authority shall keep itself informed of and comply with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules governing the implementation of the Project.

C. Brown Act. The ACE Construction Authority shall comply with all applicable laws in the conduct of its affairs, including, but not limited to, the Ralph M. Brown Act. (Government Code Section 54950 et seq.)

D. Composition of the ACE Construction Authority. The ACE Construction Authority shall be constituted as follows:

1. Designation of ACE Construction Authority Members and Alternates. The ACE Construction Authority shall be comprised of representatives from the City of El Monte,

the City of Industry, the City of Montebello, the City of Pomona, the City of San Gabriel, the County of Los Angeles, and the Council (the “Project Participants”). Each Project Participant shall designate a Construction Authority Member and an Alternate. For those jurisdictions that are Members of the Council, the Member and Alternate on the Construction Authority shall be the Member’s Representative and Alternate to the Governing Board except that the County of Los Angeles, at its sole discretion, shall designate an eligible person (as defined herein) as a Member and another eligible person as an Alternate. For Project Participants that are not Members of the Council, each Project Participant shall designate an eligible person (as defined herein) as a Member and another eligible person as an Alternate.

2. President of the Council. The President of the Council or his/her delegate shall be a Member of the ACE Construction Authority. The President of the Council may, subject to Governing Board approval, designate a Governing Board Representative to serve as his/her delegate and a Governing Board Representative or Alternate to serve as his/her Alternate to the ACE Construction Authority. In the event the President of the Council is a Councilperson of any jurisdiction represented on the ACE Construction Authority, the President shall, subject to Governing Board approval, designate a Governing Board Representative to represent the Governing Board on the ACE Construction Authority.

3. Eligibility. No person shall be eligible to serve as an ACE Construction Authority Member or Alternate unless that person is, at all times during that person’s tenure as an ACE Construction Authority Member or Alternate, a Member of the legislative body of one of the Project Participants. Should any person serving on the ACE Construction Authority fail to maintain this elected official status, that person’s position on the ACE Construction Authority shall be deemed vacated as of the date such person ceases to qualify pursuant to this paragraph and the appointing jurisdiction shall be entitled to appoint a qualified replacement.

4. Non-Council Member ACE Construction Authority Members. For those Project Participants that are not Members of the Council, participation on the ACE Construction Authority and the ability to recommend for appointment an ACE Construction Authority Member and Alternate shall be conditioned on the execution of an agreement, approved by the Governing Board, between such jurisdiction and the Council, which agreement shall reflect the non-Council Member’s agreement to be bound by these Bylaws, as approved and amended from time to time by the Governing Board, lawful action of the Governing Board and the Agreement, as may be amended from time to time.

E. ACE Construction Authority Procedures. The ACE Construction Authority shall be governed by the following procedures:

1. Voting and Participation. Each ACE Construction Authority Member may cast only one vote for each issue before the ACE Construction Authority. Members seated on the ACE Construction Authority shall be entitled to participate and vote on matters pending before it only if such person is physically present at the meeting of the ACE Construction Authority.

2. Proxy Voting. No absentee ballot or proxy shall be permitted.

3. **Quorum.** A quorum of the ACE Construction Authority shall consist of not less than four (4) of its total voting membership.

4. **Sub Committees.** As needed, the ACE Construction Authority may create ad hoc or advisory committees to give advice to the ACE Construction Authority on such matters as may be referred to such committee by the ACE Construction Authority. All committees shall have a stated purpose before they are formed. Such a committee shall remain in existence until it is dissolved by the ACE Construction Authority or the Governing Board. Qualified persons shall be appointed to such committees by the ACE Construction Authority and each such appointee shall serve at the pleasure of the ACE Construction Authority. Committees, unless otherwise provided by law, the Agreement or the Bylaws, may be composed of Members and non-Members of the ACE Construction Authority.

5. **Actions.** Actions taken by the ACE Construction Authority shall be by a simple majority of the ACE Construction Authority Members present with a quorum in attendance, unless by a provision of applicable law, the Agreement or the Bylaws, a higher number of votes is required to carry a particular motion. For motions before the ACE Construction Authority dealing with personnel actions, the annual budget, the Construction Authority's Administrative Code, or matters that will require subsequent approval by the Council's Governing Board, all actions taken by the ACE Construction Authority shall be by a minimum of five (5) votes.

F. Meetings of ACE Construction Authority. The ACE Construction Authority shall establish the dates and times of regular meetings of the ACE Construction Authority. The location of each such meeting shall be as directed by the ACE Construction Authority. Minutes shall be kept of each meeting and shall, as soon as possible after each meeting, be forwarded to each ACE Construction Authority Member.

G. Compensation of ACE Construction Authority. ACE Construction Authority Members shall be entitled to compensation for attendance at each Construction Authority meeting, and may be reimbursed for travel expenses associated with ACE Construction Authority activities.

H. Election of Chair and Vice Chair. The Chair shall be the chairperson of the ACE Construction Authority, shall conduct all meetings of the ACE Construction Authority and perform such other duties and functions as required of such person by provisions of applicable law, the Agreement, the Bylaws or by the direction of the ACE Construction Authority. The Vice Chair shall serve as Chair in the absence of the Chair and shall perform such duties as may be required by provisions of applicable law, the Agreement, the Bylaws, or by the direction of the ACE Construction Authority or the Chair.

At the first regular meeting of the ACE Construction Authority, an ACE Construction Authority Member shall be elected to the position of Chair by the ACE Construction Authority, and a different ACE Construction Authority Member shall be elected to the position of Vice Chair of the ACE Construction Authority. The terms of office of the Chair and Vice Chair elected at the first regular meeting of the ACE Construction Authority shall be for one year.

Thereafter, an ACE Construction Authority Member shall be elected annually to the position of Chair, and a different ACE Construction Authority Member shall be elected annually to the position of Vice Chair of the ACE Construction Authority.

If there is a vacancy, for any reason, in the position of Chair or Vice Chair, the ACE Construction Authority shall forthwith conduct an election and fill such vacancy for the unexpired term of such prior incumbent.

I. Chief Executive Officer. The ACE Construction Authority shall select a qualified individual to serve as the Chief Executive Officer. The powers and duties of the Chief Executive Officer are:

1. To serve as the chief executive officer of the ACE Construction Authority and to administer the affairs of the ACE Construction Authority in compliance with all applicable federal, state and local laws, statutes, codes, regulations and rules and all codes and procedures of the ACE Construction Authority.

2. To hire and remove all employees of the ACE Construction Authority and to retain and terminate consultants and contractors.

3. Annually to prepare and present a proposed budget to the ACE Construction Authority for approval and thereafter to the Steering Committee for information and to the Governing Board for approval and, after all approvals, to maintain the expenditures of the ACE Construction Authority within the approved budget, as may be amended from time to time.

4. To be responsible for the day-to-day handling of all cash and checks of the ACE Construction Authority; for the accounting, bookkeeping and financial reporting systems; and to be responsible for all records. To be responsible for the timely billing and collections of accounts receivable.

5. To actively monitor and be responsible for all aspects of the design, engineering and construction projects and work activities undertaken by the ACE Construction Authority.

6. To provide quarterly financial status reports, unless a different schedule is requested, to the ACE Construction Authority and the Governing Board in a manner and format that is acceptable to the Governing board, the ACE Construction Authority and the Treasurer/Auditor of the Council.

7. To ensure that the ACE Construction Authority and all consultants and contractors under contract to the ACE Construction Authority procure insurance policies that provide adequate protection to the Council and the ACE Construction Authority and that are in accord with any policy limits and policy coverage requirements directed by the Governing Board or the ACE Construction Authority.

8. To perform all banking, investment, bookkeeping, accounting, accounts payable, accounts receivable and recordkeeping activities required of the ACE Construction Authority.

9. To attend the meetings of the ACE Construction Authority.

10. To interface with and support the Executive Director on all matters affecting both the Council and the ACE Construction Authority.

J. Finance. The ACE Construction Authority, in consultation with the Treasurer/Auditor of the Council, shall be accountable for the oversight of the financial procedures, financial management and budget of the ACE Construction Authority. The books and records of the ACE Construction Authority shall be open to inspection at all reasonable times by representatives of the Members of the Council, the ACE Construction Authority, Project Participants and Members and the officers and directors and agents and employees of the entity they represent and any state or federal or local agency providing funding for the Project.

K. Control and Investment of ACE Construction Authority Funds. The control and investment of ACE Construction Authority funds shall be subject to the Investment Policy adopted by the Governing Board. The Treasurer/Auditor of the Council shall ensure strict compliance with such policy. The ACE Construction Authority shall periodically review all investments of ACE Construction Authority funds.

L. Liability Insurance. The ACE Construction Authority shall obtain adequate liability coverage and/or insurance for its activities and shall require whenever possible that parties with whom the ACE Construction Authority contracts agree to defend, hold harmless and indemnify, and name as additional insureds, the Council and the ACE Construction Authority and the officers, directors, agents and employees of the entity they represent.

M. Implementation Agreements. When authorized by the ACE Construction Authority, affected Project Participants may execute Implementation Agreements for the purpose of authorizing the ACE Construction Authority to implement, manage and administer area-wide and site-specific Projects within each Project Participant's jurisdictional boundaries. The ACE Construction Authority may also enter into Implementation Agreements with Project Participants authorizing individual Project Participants to undertake and implement site-specific improvements.

DATE: April 20, 2017

TO: Transportation Committee
Governing Board Delegates and Alternates

FROM: Phil Hawkey, Executive Director

VIA: Mark Christoffels, CEO, ACE Construction Authority

RE: **REQUEST FOR ISSUANCE OF A LETTER OF NO PREJUDICE FROM METRO FOR THE EARLY CONSTRUCTION OF NEW RAMPS AT STATE ROUTE 60 AND LEMON AVENUE.**

RECOMMENDED ACTION

Request that the Metropolitan Transportation Authority (Metro) issue a “Letter of No Prejudice” for the early construction of a Measure M eligible project for new ramps at State Route 60 and Lemon Avenue.

BACKGROUND:

The cities of Diamond Bar and the City of Industry have for over a decade been working on a project to add new ramps at Lemon Avenue and State Route 60. The construction of the Lemon Ave ramps is intended to fix the existing non-compliant weaving that occurs between the Brea Canyon Road ramps and the State Route 57-60 interchange. Because the Brea Canyon on-ramp is so close to the interchange, drivers entering the freeway are required to cross many lanes quickly to orient themselves to either the SR57 or the SR60. This has been a particular problem for trucks. The Lemon Ave ramp construction includes the removal of the non-compliant Brea Canyon Road ramp and makes Lemon Ave the new point of entry to the freeway in this area. From a safety and traffic congestion perspective, this project will correct a current hotspot on the SR60 freeway and was included in the adopted Mobility Matrix for the San Gabriel Valley.

The cities of Diamond Bar and the City of Industry were able to secure \$17.5 million in funding for the initial phases of this project and working with Caltrans, completed the construction plans and acquired the necessary rights of way. In July of 2016, the two cities entered into a Betterment Agreement with ACE for construction of these new ramps to be done in conjunction with the Fairway Drive grade separation project. Concurrently ACE amended its construction contract for the Fairway Drive Grade Separation project to include this construction work. Total current cost of construction is estimated at \$22.8 million, which will exceed by \$5.3 million the funding obtained by the cities of Diamond Bar and the City of Industry.

To close this funding gap and allow for the timely completion of the new ramps, an early allocation of Measure M funds will be required. As shown in the attached, Project ID 384 is the program that got funded under Measure M and was intended to fix lane drops, construct auxiliary lanes and correct ramp geometrics such as this project. To allow for early construction of Measure M

projects such as this one, on March 9, 2017, Metro issued the attached letter authorizing Council of Governments (COG's) to request Metro to issue a "Letter of No Prejudice" for projects that a COG may want to advance.

With this vital safety related construction for new ramps at Lemon Avenue and State Route 60 already under construction, with an anticipated completion date of September 2017, it does not make sense to not complete the final phase of construction, and re-bid this work when Measure M funds are formally allocated. Staff and the two cities are requesting that the San Gabriel Valley Council of Governments, through an action of the Governing Board, make a formal request to Metro to issue a "Letter of No Prejudice" allowing the project to proceed and remain eligible to receive Measure M funds upon formal allocation.

BUDGET IMPACT:

As the requested action is to obtain a "Letter of No Prejudice" from Metro to allow the early construction of a Measure M eligible project, this action will have no budget impact as all funds expended would be eligible for reimbursement. Funds expended for construction prior to reimbursement by Metro will be provided by ACE.

ATTACHMENTS:

Attachment A – Metro Correspondence Regarding Multi-Year Subregional Funding



Metro

Los Angeles County
Metropolitan Transportation Authority

One Gateway Plaza
Los Angeles, CA 90012-2952

Attachment A
213.922.2000 Tel
metro.net

DATE: MARCH 9, 2017

TO: COUNCIL OF GOVERNMENTS EXECUTIVE DIRECTORS

FROM: PHILLIP A. WASHINGTON *PAW*
CHIEF EXECUTIVE OFFICER

SUBJECT: MEASURE M MULTI-YEAR SUBREGIONAL PROGRAM FUNDING

Metro appreciates the efforts of local and subregional agencies in the immediate delivery of high priority Measure M projects and their interest in determining how Measure M funding may be made available to support these activities. Metro staff recognizes that many of these projects were aggregated along with other subregional priorities into Multi-Year Subregional Programs in the Measure M Expenditure Plan. While individual projects in these programs were identified in the Mobility Matrices developed for each subregion, the identification of specific projects to be assigned funding from the Multi-Year Subregional Programs still needs to be done. Metro staff expects that procedures for assigning and scheduling funding to specific projects will occur through either the development of the Measure M Guidelines or a subsequent programming process as was done in the Measure R highway operations programs.

One of the major challenges in accessing the Multi-Year Subregional Measure M funding is that the Measure M Expenditure Plan identifies the availability of these funds ("Groundbreaking Start Date") broadly over the next 40 years. Across all nine subregions there are 37 Multi-Year Subregional Programs covering multiple categories/modes of transportation investments with a "Groundbreaking Start Date" beginning as early as fiscal year 2018 or as late as fiscal year 2048. Until the Measure M Guidelines are completed and adopted by the Board, staff has been asked to provide a mechanism that would allow projects on an early delivery schedule (under construction within the next 12 months) to secure some funding assurances from the subregional programs.

If a subregion has a near-term project that seeks Measure M funding, the subregion may request a Letter of No Prejudice (LONP) from Metro to allow the subregion to move forward with the delivery of the project using other local funds and be eligible for future reimbursement of Measure M funds by Metro when such funding is available. Actual LONPs can be developed on a case-by-case basis until the guidelines are finalized, currently targeted for June 2017. The Measure M Guidelines will include provisions for LONPs or other tools to address the subregional funding programs.

cc: Metro Board Staff

REPORT

DATE: April 20, 2017
TO: SGVCOG Governing Board Delegates and Alternates
FROM: Phil Hawkey, Executive Director
RE: **SUPPORT OF SB 541 (ALLEN)**

RECOMMENDED ACTION

Recommend Governing Board adopt Resolution 17-06 in support of SB 541 (Allen)

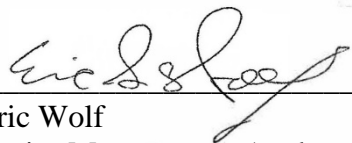
BACKGROUND

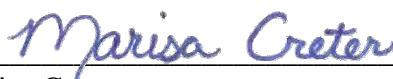
At the January 2017, Governing Board meeting, members adopted Resolution 17-02, identifying stormwater legislative priorities for 2017 and directing the Water Committee to engage with State and Federal legislators to support these priorities. Since then, committee members have drafted initial state legislation and engaged with San Gabriel Valley representatives who have agreed to sponsor legislation. As a result of these efforts, several bills have been introduced. One of those bills is SB 541 (Allen), which sets stormwater design practices for schools.

Cities are required to ensure that stormwater discharges meet water quality standards and one way of accomplishing this goal is to capture and infiltrate stormwater near the source. Cities are working with their local park districts to find suitable open space sites for this purpose, but in many urban areas, school sites are among the largest parcels in otherwise fully built-out municipalities. However, because schools are not currently subject to a stormwater permit, there are no standards or best practices for schools to follow to encourage their partnership, and because cities have no control over the design of schools, they have no control over one of the largest parcels in their community.

SB 541 would require several state agencies, including the Department of Education, to consult and recommend best design practices that include water capture design standards for all new, reconstructed, or altered public schools, including school grounds. These recommendations are to be reported the Governor and the Legislature on or before January 1, 2019.

At its March meeting, the Water Policy Committee voted to recommend that the Governing Board support SB 541. Staff is likewise recommending support for this legislation.

Prepared by: 
Eric Wolf
Senior Management Analyst

Approved by: 
Marisa Creter
Assistant Executive Director

ATTACHMENT

Attachment A – SB 541 (Allen)

Attachment B – Resolution in Support of SB 541 (Allen)

AMENDED IN SENATE APRIL 4, 2017

SENATE BILL

No. 541

Introduced by Senator Allen

February 16, 2017

An act to add Section 17255.5 to the Education Code, relating to school facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 541, as amended, Allen. School facilities: *school facility water capture—design standards practices*.

Existing law requires the Energy Resources Conservation and Development Commission, in consultation with the State Department of Education and the Division of the State Architect and the Office of Public School Construction within the Department of General Services, to recommend best design practices that include energy efficiency measures for all new public schools, and to report the recommendations to the Governor and the Legislature by October 1, 2003.

This bill would require the State Department of Education, the State Water Resources Control Board, *the regional water quality control boards*, and the Division of the State Architect and the Office of Public School Construction within ~~in~~ the Department of General Services, to consult and recommend best design *and use* practices that include *school facility water capture—design standards practices* for all new, reconstructed, or altered public schools, including school grounds. The bill would require these recommendations to be reported to the Governor and the Legislature on or before January 1, 2019. The bill would define “~~water capture~~” “*school facility water capture practices*” for these purposes.

SB 541

— 2 —

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

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

1 SECTION 1. Section 17255.5 is added to the Education Code,
2 to read:
3 17255.5. (a) The State Department of Education, the State
4 Water Resources Control Board, *the regional water quality control*
5 *boards*, and the Division of the State Architect and the Office of
6 Public School Construction within the Department of General
7 Services, shall consult and recommend best design *and use*
8 practices that include *school facility* water capture ~~design standards~~
9 *practices* for all new, reconstructed, or altered public schools,
10 including school grounds.
11 (b) These recommendations shall be reported to the Governor
12 and the Legislature on or before January 1, 2019.
13 (c) For purposes of this section ~~“water capture”~~ “*school facility*
14 *water capture practices*” means *practices* to control water
15 pollutants, pollutant loads, and water runoff volume to the
16 maximum extent feasible by minimizing impervious surface area
17 and controlling runoff from impervious surfaces through
18 infiltration, evapotranspiration, bio-retention, and rainfall ~~harvest~~
19 ~~and use. Water capture may be used in open space, parks, fields,~~
20 ~~rooftops, streetscapes, parking lots, sidewalks, and medians.~~
21 *harvest*.
22 (d) (1) The reporting requirement pursuant to subdivision (b)
23 shall be inoperative on January 1, 2023, pursuant to Section
24 10231.5 of the Government Code.
25 (2) A report submitted ~~by~~ *to* the Legislature pursuant to
26 subdivision (b) shall be submitted in compliance with Section 9795
27 of the Government Code.

O

RESOLUTION 17-06

**A RESOLUTION OF THE GOVERNING BOARD OF THE SAN GABRIEL
VALLEY COUNCIL OF GOVERNMENTS (“SGVCOG”)
SUPPORTING SB 541 (ALLEN)**

WHEREAS, as programs are implemented to improve water quality and attain Clean Water Act (CWA) objectives, cities are required to ensure stormwater discharges meet those standards,

WHEREAS, many cities struggle to find adequate open space sites needed for the construction of stormwater capture and infiltration,

WHEREAS, in many urban areas, school sites are among the largest parcels in otherwise fully built-out municipalities,

WHEREAS, because schools are not currently subject to a stormwater permit, there are no standards or best practices for schools to follow to encourage their partnership in stormwater capture and infiltration,

WHEREAS, SB 541 would require several state agencies, including the Department of Education, to consult and recommend best design practices that include stormwater capture design standards for all new, reconstructed, or altered public schools, including school grounds,

**NOW, THEREFORE BE IT RESOLVED THAT THE GOVERNING BOARD OF THE
SGVCOG SUPPORTS SB 541 (ALLEN)**

PASSED, APPROVED, and ADOPTED this 20th day of April, 2017.

SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS

By: _____

Cynthia Sternquist, President

Attest:

I, Philip A. Hawkey, Executive Director and Secretary of the Board of Directors of the San Gabriel Valley Council of Governments, do hereby certify that Resolution 17-06 was adopted at a regular meeting of the Governing Board held on the 20th day of April, 2017, by the following roll call vote:

AYES:	
NOES:	
ABSTAIN:	
ABSENT:	

Philip A. Hawkey, Secretary

DATE: April 20, 2017
TO: SGVCOG Governing Board Delegates and Alternates
FROM: Phil Hawkey, Executive Director
RE: **SUPPORT OF AB 1180 (HOLDEN)**

RECOMMENDED ACTION

Recommend that the Governing Board adopt Resolution 17-07 in support of AB 1180 (Holden)

BACKGROUND

At the January 2017, Governing Board meeting, members adopted Resolution 17-02 identifying stormwater legislative priorities for 2017 and directing the Water Committee to engage with State and Federal legislators to support these priorities. Since then, committee members have drafted initial state legislation and engaged with San Gabriel Valley representatives who have agreed to sponsor legislation. As a result of these efforts, several bills have been introduced. One bill, AB 1180 (Holden), would increase the tire recycling fee with the money placed in the newly created Stormwater Permit Compliance Fund, to be used for stormwater cleanup.

Among other metals and biological contaminants, one common pollutant to stormwater is zinc. A report of the status of water quality funding made note that zinc is a high-level water quality threat to the current collection of stormwater.¹ The most used zinc compound is zinc oxide, which is an ingredient found in tires. When a vehicle is driven, the rubber tire tread slowly wears off and mixes it with pavement debris and soil. Eventually tire wear particles are carried away from the road surface and washed roadside into the storm drain system. “This is the primary pathway for zinc from tires to be washed into urban runoff,” according to a report by the California Stormwater Quality Association.²

Currently, the California Tire Recycling Act requires a person who purchases a new tire to pay \$1.75 per tire, for purposes related to air quality and tire recycling. This bill would increase the tire fee by \$1.50 to be deposited in the Stormwater Permit Compliance Fund, which would be established by the bill. The money would be available to the State Water Resource Control Board for issuance as competitive grants for projects and programs for municipal storm sewer system permit compliance for the remediation of zinc pollutants caused by tires.

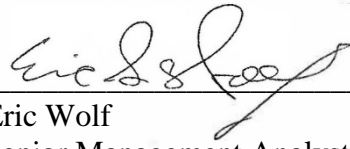
At its March 15th meeting, the SGVCOG Water Policy Committee voted to recommend that the Governing Board support AB 1180. Staff is likewise recommending support.

¹ Stormwater Funding Options: Providing Sustainable Water Quality Funding in Los Angeles County. Farfsing & Watson. October 14, 2014.

² Zinc Sources in California Urban Runoff . California Stormwater Quality Association. February 2015

REPORT

Prepared by:



Eric Wolf
Senior Management Analyst

Approved by:



Marisa Creter
Assistant Executive Director

ATTACHMENT

Attachment A – AB 1180 (Holden)

Attachment B – Resolution in Support of AB 1180 (Holden)

ASSEMBLY BILL**No. 1180**

Introduced by Assembly Member HoldenFebruary 17, 2017

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

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

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

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

This bill would make conforming changes.

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

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: no.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (1) A self-propelled wheelchair.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

O

RESOLUTION 17-07

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

WHEREAS, as programs are implemented to improve water quality and attain Clean Water Act (CWA) objectives, local governments find themselves required to mitigate against pollutants over which they have no direct control,

WHEREAS, one common stormwater pollutant is zinc, an essential element in the vulcanization of tires,

WHEREAS, the California Tire Recycling Act currently requires a person who purchases a new tire to pay \$1.75 per tire, for purposes related to air quality and tire recycling,

WHEREAS, AB 1180 would increase the tire fee by \$1.50 to be deposited in the Stormwater Permit Compliance Fund, which would be established by the bill,

WHEREAS, the money would be available to the State Water Resource Control Board for issuance as competitive grants for projects and programs for municipal separate storm sewer system (MS4) permit compliance for the remediation of zinc pollutants caused by tires.

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

PASSED, APPROVED, and ADOPTED this 20th day of April, 2017.

SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS

By: _____

Cynthia Sternquist, President

Attest:

I, Philip A. Hawkey, Executive Director and Secretary of the Board of Directors of the San Gabriel Valley Council of Governments, do hereby certify that Resolution 17-07 was adopted at a regular meeting of the Governing Board held on the 20th day of April, 2017, by the following roll call vote:

AYES:	
NOES:	
ABSTAIN:	
ABSENT:	

Philip A. Hawkey, Secretary

REPORT

DATE: April 20, 2017
TO: SGVCOG Governing Board
FROM: Phil Hawkey, Executive Director
RE: **AB 346 (DALY & BROUGH)**

RECOMMENDED ACTION

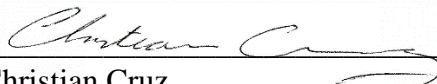
Adopt Resolution 17-08 supporting AB 346 (Daly & Brough).

BACKGROUND

Existing law dissolved redevelopment agencies and community development agencies as of February 2012 and provides for the designation of successor agencies to wind down the affairs of the dissolved redevelopment agencies, make payments due for enforceable obligations, and perform duties required by any enforceable obligation. This bill would authorize a housing successor to use funds remaining in the Low and Moderate Income Housing Asset Fund for homelessness services, transitional housing, or emergency housing services, as well as for the development of affordable housing (Attachment A).

At a time when California cities have fewer economic development opportunities, this bill will allow an additional funding source from their Low and Moderate Income Housing Fund (LMIHF). Cities are hampered by LMIHF use restrictions leaving cities with unused or unusable funds. Currently, there is not enough flexibility to use LMIHF funds in ways to help residents who are homeless or in need of housing services associated with affordable housing. AB 346 would help to bridge this disparity by expanding the current cap on the narrow use for LMIHF homeless response dollars and provide cities with the flexibility to use their funds.

The Association of California Cities - Orange County has sponsored this bill in response to the challenges faced by cities across the state related to housing needs, and services for homeless individuals.

Prepared by: 
Christian Cruz
Management Analyst

Approved by: 
Marisa Creter
Assistant Executive Director

ATTACHMENTS

Attachment A – AB 346 (Daly)
Attachment B – Resolution 17-08

ASSEMBLY BILL**No. 346****Introduced by Assembly Members Daly and Brough**

February 8, 2017

An act to amend Section 34176.1 of the Health and Safety Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 346, as introduced, Daly. Redevelopment: housing successor: Low and Moderate Income Housing Asset Fund.

Existing law dissolved redevelopment agencies and community development agencies as of February 1, 2012, and provides for the designation of successor agencies to wind down the affairs of the dissolved redevelopment agencies and to, among other things, make payments due for enforceable obligations and to perform duties required by any enforceable obligation.

Existing law authorizes the city, county, or city and county that created a former redevelopment agency to elect to retain the housing assets and functions previously performed by the former redevelopment agency. Existing law requires the housing successor to maintain any funds transferred to it, together with any funds generated from housing assets in a separate Low and Moderate Income Housing Asset Fund to be used in accordance with applicable housing-related provisions of the Community Redevelopment Law, except as specified. Existing law requires the housing successor to expend funds received from the successor agency to meet its enforceable obligations, and for specified administrative and monitoring costs relating to ensuring the long-term affordability of units subject to affordability restrictions. The housing successor may expend a specified amount per fiscal year for homeless

prevention and rapid rehousing services, and must use all funds remaining thereafter for the development of affordable housing, as specified.

This bill would authorize a housing successor to also use funds remaining in the Low and Moderate Income Housing Asset Fund for homelessness services, transitional housing, or emergency housing services, as well as for the development of affordable housing.

This bill would also make nonsubstantive changes to that provision.

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

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

1 SECTION 1. Section 34176.1 of the Health and Safety Code
2 is amended to read:
3 34176.1. Funds in the Low and Moderate Income Housing
4 Asset Fund described in subdivision (d) of Section 34176 shall be
5 subject to the provisions of the Community Redevelopment Law
6 (Part 1 (commencing with Section 33000)) relating to the Low and
7 Moderate Income Housing Fund, except as follows:
8 (a) Subdivision (d) of Section 33334.3 and subdivision (a) of
9 Section 33334.4 shall not apply. Instead, funds received from the
10 successor agency for items listed on the Recognized Obligation
11 Payment Schedule shall be expended to meet the enforceable
12 obligations, and the housing successor shall expend all other funds
13 in the Low and Moderate Income Housing Asset Fund as follows:
14 (1) For the purpose of monitoring and preserving the long-term
15 affordability of units subject to affordability restrictions or
16 covenants entered into by the redevelopment agency or the housing
17 successor and for the purpose of administering the activities
18 described in paragraphs (2) and (3), a housing successor may
19 expend per fiscal year up to an amount equal to 5 percent of the
20 statutory value of real property owned by the housing successor
21 and of loans and grants receivable, including real property and
22 loans and grants transferred to the housing successor pursuant to
23 Section 34176 and real property purchased and loans and grants
24 made by the housing successor. If this amount is less than two
25 hundred thousand dollars (\$200,000) for any given fiscal year, the
26 housing successor may expend up to two hundred thousand dollars
27 (\$200,000) in that fiscal year for these purposes. The Department

1 of Housing and Community Development shall annually publish
2 on its Internet Web site an adjustment to this amount to reflect any
3 change in the Consumer Price Index for All Urban Consumers
4 published by the ~~federal~~ *United States* Department of Labor for
5 the preceding calendar year. For purposes of this paragraph,
6 “statutory value of real property” means the value of properties
7 formerly held by the former redevelopment agency as listed on
8 the housing asset transfer form approved by the department
9 pursuant to paragraph (2) of subdivision (a) of Section 34176, the
10 value of the properties transferred to the housing successor pursuant
11 to subdivision (f) of Section 34181, and the purchase price of
12 properties purchased by the housing successor.

13 (2) Notwithstanding Section 33334.2, if the housing successor
14 has fulfilled all obligations pursuant to Sections 33413 and 33418,
15 the housing successor may expend up to two hundred fifty thousand
16 dollars (\$250,000) per fiscal year for homeless prevention and
17 rapid rehousing services for individuals and families who are
18 homeless or would be homeless but for this assistance, including
19 the provision of short-term or medium-term rental assistance,
20 housing relocation and stabilization services including housing
21 search, mediation, or outreach to property owners, credit repair,
22 security or utility deposits, utility payments, rental assistance for
23 a final month at a location, moving cost assistance, and case
24 management, or other appropriate activities for homelessness
25 prevention and rapid rehousing of persons who have become
26 homeless.

27 (3) ~~(A)~~—The housing successor shall expend all funds remaining
28 in the Low and Moderate Income Housing Asset Fund after the
29 expenditures allowed pursuant to paragraphs (1) and (2) for ~~the~~
30 ~~development of the development of one of the following purposes~~
31 *set out in subparagraph (A) or (B) below:*

32 (A) *Notwithstanding Section 33334.2, the development of*
33 *homelessness services, transitional housing, or emergency housing*
34 *services.*

35 (B) (i) *The development of housing affordable to and occupied*
36 *by households earning 80 percent or less of the area median*
37 *income, with at least 30 percent of these remaining funds expended*
38 *for the development of rental housing affordable to and occupied*
39 *by households earning 30 percent or less of the area median income*
40 *and no more than 20 percent of these remaining funds expended*

1 for the development of housing affordable to and occupied by
2 households earning between 60 percent and 80 percent of the area
3 median income. A housing successor shall demonstrate in the
4 annual report described in subdivision (f), for 2019, and every five
5 years thereafter, that the housing successor's expenditures from
6 January 1, 2014, through the end of the latest fiscal year covered
7 in the report comply with the requirements of this subparagraph.

8 ~~(B)~~

9 (ii) If the housing successor fails to comply with the extremely
10 low income requirement in any five-year report, then the housing
11 successor shall ensure that at least 50 percent of these remaining
12 funds expended in each fiscal year following the latest fiscal year
13 following the report are expended for the development of rental
14 housing affordable to, and occupied by, households earning 30
15 percent or less of the area median income until the housing
16 successor demonstrates compliance with the extremely low income
17 requirement in an annual report described in subdivision (f).

18 ~~(C)~~

19 (iii) If the housing successor exceeds the expenditure limit for
20 households earning between 60 percent and 80 percent of the area
21 median income in any five-year report, the housing successor shall
22 not expend any of the remaining funds for households earning
23 between 60 percent and 80 percent of the area median income until
24 the housing successor demonstrates compliance with this limit in
25 an annual report described in subdivision (f).

26 ~~(D)~~

27 (C) For purposes of this subdivision, "development" means new
28 construction, acquisition and rehabilitation, substantial
29 rehabilitation as defined in Section 33413, the acquisition of
30 long-term affordability covenants on multifamily units as described
31 in Section 33413, or the preservation of an assisted housing
32 development that is eligible for prepayment or termination or for
33 which within the expiration of rental restrictions is scheduled to
34 occur within five years as those terms are defined in Section
35 65863.10 of the Government Code. Units described in this
36 subparagraph may be counted towards any outstanding obligations
37 pursuant to Section 33413, provided that the units meet the
38 requirements of that section and are counted as provided in that
39 section.

1 (b) Subdivision (b) of Section 33334.4 shall not apply. Instead,
2 if the aggregate number of units of deed-restricted rental housing
3 restricted to seniors and assisted individually or jointly by the
4 housing successor, its former redevelopment agency, and its host
5 jurisdiction within the previous 10 years exceeds 50 percent of the
6 aggregate number of units of deed-restricted rental housing assisted
7 individually or jointly by the housing successor, its former
8 redevelopment agency, and its host jurisdiction within the same
9 time period, then the housing successor shall not expend these
10 funds to assist additional senior housing units until the housing
11 successor or its host jurisdiction assists, and construction has
12 commenced, a number of units available to all persons, regardless
13 of age, that is equal to 50 percent of the aggregate number of units
14 of deed-restricted rental housing units assisted individually or
15 jointly by the housing successor, its former redevelopment agency,
16 and its host jurisdiction within the time period described above.

17 (c) (1) Program income a housing successor receives shall not
18 be associated with a project area and, notwithstanding subdivision
19 (g) of Section 33334.2, may be expended anywhere within the
20 jurisdiction of the housing successor or transferred pursuant to
21 paragraph (2) without a finding of benefit to a project area. For
22 purposes of this paragraph, “program income” means the sources
23 described in paragraphs (3), (4), and (5) of subdivision (e) of
24 Section 34176 and interest earned on deposits in the account.

25 (2) Two or more housing successors within a county, within a
26 single metropolitan statistical area, within 15 miles of each other,
27 or that are in contiguous jurisdictions may enter into an agreement
28 to transfer funds among their respective Low and Moderate Income
29 Housing Asset Funds for the sole purpose of developing transit
30 priority projects as defined in subdivisions (a) and (b) of Section
31 21155 of the Public Resources Code, permanent supportive housing
32 as defined in paragraph (2) of subdivision (b) of Section 50675.14,
33 housing for agricultural employees as defined in subdivision (g)
34 of Section 50517.5, or special needs housing as defined in federal
35 or state law or regulation if all of the following conditions are met:

36 (A) Each participating housing successor has made a finding
37 based on substantial evidence, after a public hearing, that the
38 agreement to transfer funds will not cause or exacerbate racial,
39 ethnic, or economic segregation.

1 (B) The development to be funded shall not be located in a
2 census tract where more than 50 percent of its population is very
3 low income, unless the development is within one-half mile of a
4 major transit stop or high-quality transit corridor as defined in
5 paragraph (3) of subdivision (b) of Section 21155 of the Public
6 Resources Code.

7 (C) The completed development shall not result in a reduction
8 in the number of housing units or a reduction in the affordability
9 of housing units on the site where the development is to be built.

10 (D) A transferring housing successor shall not have any
11 outstanding obligations pursuant to Section 33413.

12 (E) No housing successor may transfer more than one million
13 dollars (\$1,000,000) per fiscal year.

14 (F) The jurisdictions of the transferring and receiving housing
15 successors each have an adopted housing element that the
16 Department of Housing and Community Development has found
17 pursuant to Section 65585 of the Government Code to be in
18 substantial compliance with the requirements of Article 10.6
19 (commencing with Section 65580) of Chapter 3 of Division 1 of
20 Title 7 of the Government Code and have submitted to the
21 Department of Housing and Community Development the annual
22 progress report required by Section 65400 of the Government Code
23 within the preceding 12 months.

24 (G) Transferred funds shall only assist rental units affordable
25 to, and occupied by, households earning 60 percent or less of the
26 area median income.

27 (H) Transferred funds not encumbered within two years shall
28 be transferred to the Department of Housing and Community
29 Development for expenditure pursuant to the Multifamily Housing
30 Program or the Joe Serna, Jr. Farmworker Housing Grant Program.

31 (d) Sections 33334.10 and 33334.12 shall not apply. Instead, if
32 a housing successor has an excess surplus, the housing successor
33 shall encumber the excess surplus for the purposes described in
34 paragraph (3) of subdivision (a) or transfer the funds pursuant to
35 paragraph (2) of subdivision (c) within three fiscal years. If the
36 housing successor fails to comply with this subdivision, the housing
37 successor, within 90 days of the end of the third fiscal year, shall
38 transfer any excess surplus to the Department of Housing and
39 Community Development for expenditure pursuant to the
40 Multifamily Housing Program or the Joe Serna, Jr. Farmworker

1 Housing Grant Program. For purposes of this subdivision, “excess
2 surplus” shall mean an unencumbered amount in the account that
3 exceeds the greater of one million dollars (\$1,000,000) or the
4 aggregate amount deposited into the account during the housing
5 successor’s preceding four fiscal years, whichever is greater.

6 (e) Section 33334.16 shall not apply to interests in real property
7 acquired on or after February 1, 2012. With respect to interests in
8 real property acquired by the former redevelopment agency ~~prior~~
9 ~~to~~ before February 1, 2012, the time periods described in Section
10 33334.16 shall be deemed to have commenced on the date that the
11 department approved the property as a housing asset.

12 (f) Section 33080.1 of this code and Section 12463.3 of the
13 Government Code shall not apply. Instead, the housing successor
14 shall conduct, and shall provide to its governing body, an
15 independent financial audit of the Low and Moderate Income
16 Housing Asset Fund within six months after the end of each fiscal
17 year, which may be included in the independent financial audit of
18 the host jurisdiction. If the housing successor is a city or county,
19 it shall also include in its report pursuant to Section 65400 of the
20 Government Code and post on its Internet Web site all of the
21 following information for the previous fiscal year. If the housing
22 successor is not a city or county, it shall also provide to its
23 governing body and post on its Internet Web site all of the
24 following information for the previous fiscal year:

25 (1) The amount the city, county, or city and county received
26 pursuant to subparagraph (A) of paragraph (3) of subdivision (b)
27 of Section 34191.4.

28 (2) The amount deposited to the Low and Moderate Income
29 Housing Asset Fund, distinguishing between amounts deposited
30 pursuant to subparagraphs (B) and (C) of paragraph (3) of
31 subdivision (b) of Section 34191.4, amounts deposited for other
32 items listed on the Recognized Obligation Payment Schedule, and
33 other amounts deposited.

34 (3) A statement of the balance in the fund as of the close of the
35 fiscal year, distinguishing any amounts held for items listed on the
36 Recognized Obligation Payment Schedule from other amounts.

37 (4) A description of expenditures from the fund by category,
38 including, but not limited to, expenditures ~~(A) for monitoring~~ for
39 the following:

1 (A) *Monitoring* and preserving the long-term affordability of
2 units subject to affordability restrictions or covenants entered into
3 by the redevelopment agency or the housing successor and
4 administering the activities described in paragraphs (2) and (3) of
5 subdivision (a), ~~(B) for homeless prevention~~ *subdivision (a)*.

6 (B) *Homeless prevention* and rapid rehousing services for the
7 development of housing described in paragraph (2) of subdivision
8 ~~(a), and (C) for the development~~ *(a)*.

9 (C) *The development* of housing pursuant to paragraph (3) of
10 subdivision (a).

11 (5) As described in paragraph (1) of subdivision (a), the statutory
12 value of real property owned by the housing successor, the value
13 of loans and grants receivable, and the sum of these two amounts.

14 (6) A description of any transfers made pursuant to paragraph
15 (2) of subdivision (c) in the previous fiscal year and, if still
16 unencumbered, in earlier fiscal years and a description of and status
17 update on any project for which transferred funds have been or
18 will be expended if that project has not yet been placed in service.

19 (7) A description of any project ~~for which~~ *that* the housing
20 successor receives or holds property tax revenue pursuant to the
21 Recognized Obligation Payment Schedule and the status of that
22 project.

23 (8) For interests in real property acquired by the former
24 redevelopment agency ~~prior to~~ *before* February 1, 2012, a status
25 update on compliance with Section 33334.16. For interests in real
26 property acquired on or after February 1, 2012, a status update on
27 the project.

28 (9) A description of any outstanding obligations pursuant to
29 Section 33413 that remained to transfer to the housing successor
30 on February 1, 2012, of the housing successor's progress in meeting
31 those obligations, and of the housing successor's plans to meet
32 unmet obligations. In addition, the housing successor shall include
33 in the report posted on its Internet Web site the implementation
34 plans of the former redevelopment agency.

35 (10) The information required by *clause (ii) of* subparagraph
36 (B) of paragraph (3) of subdivision (a).

37 (11) The percentage of units of deed-restricted rental housing
38 restricted to seniors and assisted individually or jointly by the
39 housing successor, its former redevelopment agency, and its host
40 jurisdiction within the previous 10 years in relation to the aggregate

1 number of units of deed-restricted rental housing assisted
2 individually or jointly by the housing successor, its former
3 redevelopment agency, and its host jurisdiction within the same
4 time period.

5 (12) The amount of any excess surplus, the amount of time that
6 the successor agency has had excess surplus, and the housing
7 successor's plan for eliminating the excess surplus.

8 (13) An inventory of homeownership units assisted by the
9 former redevelopment agency or the housing successor that are
10 subject to covenants or restrictions or to an adopted program that
11 protects the former redevelopment agency's investment of moneys
12 from the Low and Moderate Income Housing Fund pursuant to
13 subdivision (f) of Section 33334.3. This inventory shall include
14 all of the following information:

15 (A) The number of those units.

16 (B) In the first report pursuant to this subdivision, the number
17 of units lost to the portfolio after February 1, 2012, and the reason
18 or reasons for those losses. For all subsequent reports, the number
19 of the units lost to the portfolio in the last fiscal year and the reason
20 for those losses.

21 (C) Any funds returned to the housing successor as part of an
22 adopted program that protects the former redevelopment agency's
23 investment of moneys from the Low and Moderate Income Housing
24 Fund.

25 (D) Whether the housing successor has contracted with any
26 outside entity for the management of the units and, if so, the
27 identity of the entity.

O

Resolution 17-08
Page 1 of 2

RESOLUTION 17-08

**A RESOLUTION OF THE GOVERNING BOARD OF THE SAN GABRIEL
VALLEY COUNCIL OF GOVERNMENTS (“SGVCOG”)
SUPPORTING AB 346 (DALY & BROUGH)**

WHEREAS, Existing law authorizes the city, county, or city and county that created a former redevelopment agency to elect to retain the housing assets and functions previously performed by the former redevelopment agency;

WHEREAS, Existing law requires the housing successor to maintain any funds transferred to it, together with any funds generated from housing assets in a separate Low and Moderate Income Housing Asset Fund to be used in accordance with applicable housing-related provisions of the Community Redevelopment Law;

WHEREAS, Existing law requires the housing successor to expend funds received from the successor agency to meet its enforceable obligations, and for specified administrative and monitoring costs relating to ensuring the long-term affordability of units subject to affordability restrictions; and

WHEREAS, AB 346 (Daly & Brough) would authorize a housing successor to also use funds remaining in the Low and Moderate Income Housing Asset Fund for homelessness services, transitional housing, or emergency housing services, as well as for the development of affordable housing.

**NOW, THEREFORE BE IT RESOLVED THAT THE GOVERNING BOARD OF THE
SGVCOG SUPPPORTS AB 346 (DALY & BROUGH)**

PASSED, APPROVED, and ADOPTED this 20th day of April, 2017.

SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS

By: _____

Cynthia Sternquist, President

Attest:

I, Philip A. Hawkey, Executive Director and Secretary of the Board of Directors of the San Gabriel Valley Council of Governments, do hereby certify that Resolution 17-08 was adopted at a regular meeting of the Governing Board held on the 20th day of April, 2017, by the following roll call vote:

AYES:	
NOES:	
ABSTAIN:	
ABSENT:	

Philip A. Hawkey, Secretary

DATE: April 20, 2017

TO: SGVCOG Governing Board Delegates and Alternates

FROM: Phil Hawkey, Executive Director

RE: **SUPPORT OF SB 633 (PORTANTINO)**

RECOMMENDED ACTION

Recommend that the Governing Board adopt Resolution 17-09 in support of SB 633 (Portantino)

BACKGROUND

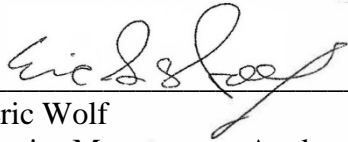
At the January 2017, Governing Board meeting, members adopted Resolution 17-02 identifying stormwater legislative priorities for 2017 and directing the Water Committee to engage with State and Federal legislators to support these priorities. Since then, committee members have drafted initial state legislation and engaged with San Gabriel Valley representatives who have agreed to sponsor legislation. As a result of these efforts, several bills have been introduced. One bill, SB 633 (Portantino), would require the Los Angeles Regional Water Quality Control Board (Regional Board) to consider opportunities to convey stormwater to a regional site within the watershed for the purpose of improving water quality and enhancing local water supplies.

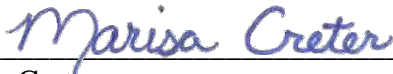
The 2012 National Pollutant Discharge Elimination System (NPDES) stormwater permits for Los Angeles county cities highly encourage stormwater capture and infiltration within cities as a means of limiting downstream pollution caused by dry weather and stormwater runoff. Such stormwater capture also enhances local water supplies. To comply with the permit, most cities must undertake local projects, such as green streets, at much higher costs and less efficiency than regional projects. The Los Angeles County Department of Public Works has projected the cost of construction alone, not including maintenance, at over \$20 billion. This enormous cost is attributed to the numerous small-scale local projects required under the permit.

The flood control system in Los Angeles County is an amalgamation of under-street storm drains, open channels, and river beds, both concrete lined and natural. Most segments of this system are regulated by water quality standards. Pollutants are measured at “receiving waters” and any exceedance of waterbody-pollutant standards constitutes a violation. For this reason, the Regional Board has not allowed use of the existing flood control system to convey polluted stormwater to sites more economical and conducive to capture and infiltration.

SB 633 would require the Regional Board to consider opportunities to convey stormwater to a regional site within the watershed in which the stormwater is captured for the purpose of improving water quality and enhancing local water supply. The board must consider and balance the opportunity to cost-effectively enhance local water supply through stormwater capture when determining past and probable future beneficial uses of stormwater.

Staff is recommending support for SB 633.

Prepared by: 
Eric Wolf
Senior Management Analyst

Approved by: 
Marisa Creter
Assistant Executive Director

ATTACHMENT

Attachment A – SB 633 (Portantino)

Attachment B – Resolution in Support of SB 633 (Portantino)

AMENDED IN SENATE MARCH 23, 2017

SENATE BILL**No. 633****Introduced by Senator Portantino**

February 17, 2017

An act to add Section 13241.5 to the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 633, as amended, Portantino. ~~Stormwater.~~—*Water quality objectives: stormwater.*

Existing law, the Porter-Cologne Water Quality Control Act, requires each California regional water quality control board to adopt water quality control plans and to establish water quality objectives in those plans, considering certain factors, to ensure the reasonable protection of beneficial uses and the prevention of nuisance.

This bill would require a regional board preparing a water quality control plan for a region having a population in excess of 10 million residents to additionally consider opportunities to convey stormwater to a regional site within the watershed in which the stormwater originated for capture and infiltration and to consider and balance the opportunity for stormwater capture when determining past and probable future beneficial uses of water, as specified.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Los Angeles region.

~~Existing law, the Stormwater Resource Planning Act, authorizes one or more public agencies to develop a stormwater resource plan that meets certain standards.~~

~~This bill would state the intent of the Legislature to enact legislation relating to stormwater runoff in California.~~

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

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

1 SECTION 1. Section 13241.5 is added to the Water Code, to
 2 read:

3 13241.5. (a) In addition to the factors identified in Section
 4 13241 to be considered when establishing water quality objectives,
 5 a regional board shall consider opportunities to convey stormwater
 6 to a regional site within the watershed in which the stormwater
 7 originated for capture and infiltration for the purpose of improving
 8 water quality and enhancing local water supply in multiobjective
 9 projects. A regional board shall consider and balance the
 10 opportunity to cost-effectively enhance local water supply through
 11 stormwater capture when determining past and probable future
 12 beneficial uses of water. For the purposes of this section, a regional
 13 board may consider all tools available to the regional board.

14 (b) This section applies only to a water quality control plan
 15 prepared for a region having a population in excess of 10 million
 16 residents.

17 SEC. 2. The Legislature finds and declares that a special statute
 18 is necessary and that a general statute cannot be made applicable
 19 within the meaning of Section 16 of Article IV of the California
 20 Constitution because of the unique water quality challenges in the
 21 Los Angeles region.

22 ~~SECTION 1. It is the intent of the Legislature to enact~~
 23 ~~legislation relating to stormwater runoff in California.~~

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RESOLUTION 17-09

**A RESOLUTION OF THE GOVERNING BOARD OF THE SAN GABRIEL
VALLEY COUNCIL OF GOVERNMENTS (“SGVCOG”)
SUPPORTING SB 633 (PORTANTINO)**

WHEREAS, the 2012 National Pollutant Discharge Eliminations System permit highly encourages stormwater capture and infiltration within city boundaries as a means of limiting downstream pollution caused by dry weather and stormwater runoff,

WHEREAS, the Los Angeles Regional Water Quality Control Board (Regional Board) has not allowed use of the existing flood control system to convey polluted stormwater to sites more economical and conducive to capture and infiltration,

WHEREAS, SB 633 would require the Regional Board to consider opportunities to convey stormwater to a regional site within the watershed in which the stormwater is captured for the purpose of improving water quality and enhancing local water supply,

WHEREAS, the Regional Board must consider and balance the opportunity to cost-effectively enhance local water supply through stormwater capture when determining past and probable future beneficial uses of water.

**NOW, THEREFORE BE IT RESOLVED THAT THE GOVERNING BOARD OF THE
SGVCOG SUPPPORTS SB 633 (PORTANTINO)**

PASSED, APPROVED, and ADOPTED this 20th day of April, 2017.

SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS

By: _____

Cynthia Sternquist, President

Attest:

I, Philip A. Hawkey, Executive Director and Secretary of the Board of Directors of the San Gabriel Valley Council of Governments, do hereby certify that Resolution 17-09 was adopted at a regular meeting of the Governing Board held on the 20th day of April, 2017, by the following roll call vote:

AYES:	
NOES:	
ABSTAIN:	
ABSENT:	

Philip A. Hawkey, Secretary

REPORT

DATE: April 20, 2017

TO: SGVCOG Governing Board

FROM: Phil Hawkey, Executive Director

RE: MEASURE H GUIDING PRINCIPLES

RECOMMENDED ACTION

Adopt Resolution 17-10 approving Measure H Guiding Principles.

BACKGROUND

The Los Angeles County Homeless Initiative (HI) is currently in the process of developing Measure H funding allocations for eligible strategies, which will outline the total amount each eligible strategy will be granted. As a part of the funding allocation process, HI formed a Measure H Planning Group with representatives from County departments, LAHSA, COGs, homeless services agencies, the faith community, and persons with lived experience. The Planning Group intends to finalize the recommended funding allocations by May 2017 and present the recommendations to the Los Angeles County Board of Supervisors in June 2017. Linda Lowry (Pomona City Manager) and Joe Lyons (Claremont Councilmember) are representing the SGVCOG on the Measure H Planning Group.

Staff is seeking general policy direction for the roll out of anticipated Measure H funds to the San Gabriel Valley. Staff recommends the following principles:

- **Coordination and Partnerships:** Partner with interested COG's to expand capacity and facilitate coordination with cities by allowing a portion of Measure H funds to be used to create in-house homeless coordinator positions. These positions would be funded through an MOU between the County and the COG; This position would coordinate and engage with cities and service providers to support the Coordinated Entry System and the Continuum of Care services for residents currently homeless and those who are at risk of becoming homeless;
- **Funding for COC's and city programs:** Currently, Continuum of Care (CoC's) and individual cities do not receive automatic allocations. In order to encourage engagement and participation, the County should work to facilitate city's access to Measure H funds for programs that support the HI. The County should explore ways to work with CoC's to determine what portion of funds should automatically be allocated to the CoC's; and
- **Funding Distribution:** Currently, the County is proposing to allocate funds to each SPA according to the 2016 homeless count. The SGVCOG is recommending that instead of strictly using that formula the distribution of funds should be based on additional metrics in conjunction with the LAHSA homeless count to avoid funding shortfalls in SPA's which have had considerable success in combating homelessness.

Prepared by: Christian Cruz
Christian Cruz
Management Analyst

Approved by: Marisa Creter
Marisa Creter
Assistant Executive Director

ATTACHMENTS

Attachment A – Resolution 17-10

RESOLUTION NO. 17-10

**RESOLUTION OF THE SAN GABRIEL VALLEY
COUNCIL OF GOVERNMENTS (SGVCOG) AFFIRMING MEASURE H GUIDING
PRINCIPLES**

WHEREAS, Measure H, a ¼ cent sales tax for homeless services, was approved by voters in March 2017; and

WHEREAS, Measure H would increase the Los Angeles County sales tax by one-quarter of one cent for a period of ten years, generating approximately \$350 million in annual revenues to fund the Homeless Initiative coordinated and integrated strategies; and

WHEREAS, On February 7, 2017, the Board of Supervisors approved a motion, directing the County's Chief Executive Office to convene a collaborative Measure H Revenue Planning Process Group; and

WHEREAS, the San Gabriel Valley Council of Governments appointed the following representatives to serve on the Planning Process Group:

- Joe Lyons, Councilmember, City of Claremont
- Linda Lowry, City Manager, City of Pomona

NOW THEREFORE, BE IT RESOLVED that the Governing Board does hereby adopt the following guiding principles:

- **Coordination and Partnerships:** Partner with interested Council of Governments (COGs) to expand capacity and facilitate coordination with cities by allowing a portion of Measure H funds to be used to create in-house homeless coordinator positions. Each position would be funded through an MOU between the County and the respective COG ; This position would coordinate and engage with cities and service providers to support the Coordinated Entry System and the Continuum of Care services for residents currently homeless and those who are at risk of becoming homeless;
- **Funding for COC's and city programs:** Currently, Continuum of Cares (CoC's) and individual cities do not receive automatic allocations. In order to encourage engagement and participation, the County should work to facilitate city's access to Measure H funds for programs that support the HI. The County should explore ways to work with CoC's to determine what portion of funds should automatically be allocated to the CoC's; and
- **Funding Distribution:** Currently, the County is proposing to allocate funds to each SPA according to the 2016 homeless count. The SGVCOG is recommending that instead of strictly using that formula the distribution of funds should be based on additional metrics in conjunction with the LAHSA homeless count to avoid funding shortfalls in SPA's which have had considerable success in combating homelessness.

PASSED AND ADOPTED by the Governing Board of San Gabriel Valley Council of Governments, County of Los Angeles, in the County of Los Angeles, State of California, on the 20th day of April 2017.

Cynthia Sternquist, President
San Gabriel Valley Council of Governments

Attest:

I, Philip A. Hawkey, Executive Director and Secretary of the Board of Directors of the San Gabriel Valley Council of Governments, do hereby certify that Resolution 17-10 was adopted at a regular meeting of the Governing Board held on the 20th day of April 2017, by the following roll call vote:

AYES:	
NOES:	
ABSTAIN:	
ABSENT:	

Philip A. Hawkey, Secretary

REPORT

DATE: April 20, 2017

TO: Transportation Committee
Governing Board Delegates and Alternates

FROM: Phil Hawkey, Executive Director

RE: **MEASURE M COMMENT LETTER**

RECOMMENDED ACTION

Direct staff to send comment letter on draft Measure M Guidelines.

BACKGROUND

Metro is currently in the process of developing Measure M Expenditure Guidelines, which will outline the eligible uses of and requirements for Measure M funds. Metro intends to finalize these guidelines by June 2017, so that they are in place when the sales tax begins being collected on July 1, 2017. As a part of the guideline development process, Metro has formed a Measure M Policy Advisory Council (PAC), with representatives from cities, transit providers, and transit and roadway users. Mark Christoffels (ACE CEO) is representing the SGVCOG on the Measure M Policy Advisory Council and Marisa Creter (SGVCOG Assistant Executive Director) is the alternate.

Last month, the Governing Board approved guiding principles to provide staff general policy direction. Staff is now seeking to authorization to submit a comment letter that addresses specific areas of concern. Attached is the draft letter.

Prepared by: Marisa Creter
Marisa Creter
Assistant Executive Director

Approved by: Phil Hawkey
Phil Hawkey
Executive Director

ATTACHMENTS

Attachment A –Draft Measure M Comment Letter



April 10, 2017

DRAFT

OFFICERS

- President*
Cynthia Sternquist
- 1st Vice President*
Margaret Clark
- 2nd Vice President*
Vacant
- 3rd Vice President*
Vacant

Honorable John Fasana, Chairman
 Los Angeles County Metropolitan Transportation Authority
 One Gateway Plaza
 Los Angeles, CA 90012

RE: DRAFT MEASURE M GUIDELINES

Dear Chairman Fasana:

The San Gabriel Valley Council of Governments (SGVCOG) has reviewed the draft Measure M Guidelines and provides the following comments and recommended changes:

MEMBERS

- Alhambra
- Arcadia
- Azusa
- Baldwin Park
- Bradbury
- Claremont
- Covina
- Diamond Bar
- Duarte
- El Monte
- Glendora
- Industry
- Irwindale
- La Cañada Flintridge
- La Puente
- La Verne
- Monrovia
- Montebello
- Monterey Park
- Pasadena
- Pomona
- Rosemead
- San Dimas
- San Gabriel
- San Marino
- Sierra Madre
- South El Monte
- South Pasadena
- Temple City
- Walnut
- West Covina
- First District, LA County
Unincorporated Communities
- Fourth District, LA County
Unincorporated Communities
- Fifth District, LA County
Unincorporated Communities
- SGV Water Districts

Comment No. 1:

Throughout the document, Metro refers to the term “Project Sponsor” when discussing the programming and use of subregional funds. This term is not defined and opens the door for individual cities or other entities within a sub-region to take the lead in programming specific projects and seeking approval directly from Metro. The SGVCOG feels strongly that these are sub-regional funds established and defined by the sub-regions and any project to be funded under these programs must come to Metro through a programming effort by the sub-regions.

To insure this is accomplished, the Measure M Guidelines should include a provision requiring Project Sponsors to have the concurrence of the sub-region (essentially, the COG’s¹ and joint powers authorities officially identified by Metro as regional planning agencies) prior to being included by Metro in their annual funding plan even if already included in the various adopted Mobility Matrices. To provide this concurrence, each COG should be required to adopt a five-year programming plan for each sub-regional program within their respective sub-region. The five-year programming plan would have to identify specific projects and phasing, allocated funding amounts, and project timing and be submitted to Metro. These programming plans would be required to be updated or amended on an annual basis reflecting executed funding MOU’s and project additions or deletions. Unless prohibited by the adopted guidelines, revenue constraints, or the Measure M ordinance, Metro would be required to adhere to these COG adopted sub-regional programming plans when executing funding MOU’s for specific projects. Should a project included in a COG adopted sub-regional programming plan be denied by Metro, each COG shall have the right to appeal the denial to the Measure M Oversight Board. Attachment A proposed a flowchart of the proposed process.

Comment No. 2:

The guidelines allow for “Project Sponsors” to borrow from one Sub-Regional Program to accelerate the funding of a project in another Sub-Regional Program with the consent of

¹ Note: Throughout this letter the term “COG” is intended to reference both Councils of Governments and joint powers authorities that are identified by Metro as regional planning agencies.

the Metro Board and the “affected sub-region(s)”. The SGVCOG appreciates this flexibility, but would like to see language that requires the affected sub-regions to approve the proposed borrowing, by amending their affected adopted sub-regional programming plans as defined in our comment No. 1, to reflect the transfer of funds and acknowledging the associated timing impact for projects included in those sub-regional programs.

Comment No. 3:

The guidelines state that Measure M funds may be used for pre-construction as well as construction activities. Pre-construction activities are defined in the guideline and include “planning studies”. The SGVCOG recommends that this term be expanded to “planning and programming studies”. Adding the term “programming studies” will allow the sub-regions through their respective COGs to develop sub-regional project lists for corridor planning and coordination, and for subsequent project development and delivery. This will ensure that proposed projects complement each other and maximize mobility and/or sustainability.

Comment No. 4:

The Measure M Guidelines regarding Sub-Regional Equity funds state that Metro may meet these obligations using “any combination of federal, state or Metro controlled funds including, but not limited to, Measure M.” SGVCOG appreciates the need for this flexibility, however this flexibility being sought by Metro potentially places significant grant compliance requirements on sub-regions that may conflict with proposed projects or uses of those funds. The guidelines should be revised to not allow Metro the ability to unilaterally determine that a sub-region’s funding requirement under the “Sub-Regional Equity Fund” be met with something other than Measure M. Such a funding substitution should only be allowed with the affected COG (sub-region’s) concurrence. In addition, the SGVCOG requests that uses of the “Sub-Regional Equity Fund” be expanded to include the use of these funds for bonding capacity to accelerate proposed projects within the other sub-regional programs.

Comment No. 5:

The definition for eligible uses for the “Highway Demand Based Program” should include park and ride facilities, as well as other ridesharing related facilities.

Comment No. 6:

Under the section “3% Local Contribution to Major Transit Projects”, the guidelines state that “betterment work” funded by the local agency and as defined as “a change that will improve the level of service and/or capacity, capability, appearance, efficiency or function over that which is required by the Metro Design”, shall not be counted towards the 3% required local contribution. The SGVCOG disagrees with this exclusion and would like to see the guidelines amended to allow such betterment work to be counted towards the 3% local contribution. Any capital investment that enhances and improves the operation of the transit system and funded by a local agency should be desirable to Metro and should not be discouraged by not allowing this type of betterment work to be counted towards the required 3% contribution.

Comment No. 7:

Under the section “3% Local Contribution to Major Transit Projects”, “in kind” local contributions as defined should include the cost of staff time from the commencement of the environmental phase through the end of the warranty period.

Comment No. 8:

Under the section “3% Local Contribution to Major Transit Projects”, local contribution limits are determined at the conclusion of preliminary engineering (30% plans). The guidelines need to have language to address projects that have already exceeded this point such as the Gold Line Foothill Extension. How will local contribution be determined for that project? SGVCOG suggests that language be added that states for projects that have exceeded preliminary engineering as of the initial adoption of the these Measure M guidelines, Metro shall consult with the local affected agencies to determine the appropriate project scope and cost estimate to determine the local contribution limits.

Comment No. 9:

Under local return, Metro is currently recommending a \$100,000 annual minimum allocation for small population cities that would normally receive less than this amount. The SGVCOG does not object to this proposal, however is not in favor of increasing this amount beyond the current recommended \$100,000 minimum.

Comment 10:

Upon the approval of the Measure M Guidelines and the initiation of project funding MUO’s, the SGVCOG requests that they be included in all communications from Metro to Project Sponsors related to the allocation and use of sub-regional funds assigned to the SGVCOG’s sub-region.

Sincerely,

Cynthia Sternquist, President
San Gabriel Valley Council of Governments
Councilmember, City of Temple City

c.c.: SGVCOG Board of Directors
L. A. Metro Board of Directors
Phillip Washington, CEO, L. A. Metro

SGVCOG proposed project funding approval process for sub-regional funds

COG's adopt a five-year programming plan for each sub-regional program within their respective sub-region. The plan will identify specific projects and phasing, allocated funding amounts, and project timing.



COG adopted five-year programming plans are submitted for approval by Metro Board



Upon approval by Metro Board, project sponsors may apply for funding MOU's based on adopted five-year sub-regional fund programming plans



COG's update or amend their adopted five-year programming plans on an annual basis reflecting executed funding MOU's and project additions or deletions and submit for approval by Metro Board

DATE: April 20, 2017
TO: SGVCOG Governing Board
FROM: Phil Hawkey, Executive Director
RE: **SENATE BILL 231 (HERTZBERG)**

RECOMMENDED ACTION

Discuss and provide direction to staff.

BACKGROUND

Compliance with Municipal Separate Sewer Stormwater System (MS4) permits issued by the Los Angeles Regional Water Quality Control Board has imposed significant requirements on LA County cities to construct and operate stormwater treatment facilities. The estimated construction cost for the county is over \$20 billion, and within San Gabriel Valley the cost is in excess of \$6 billion, not including Operations and Maintenance. One option for raising funds to meet these costs is through parcel assessments.

Proposition 218 amended the California Constitution to require that assessments, fees, and charges be submitted to property owners for approval after the provision of written notice and the holding of a public hearing. Article XIII D, Section 6, subdivision (c) states, "*Except for fees or charges for sewer, water, and refuse collection services, no property-related fee or charge shall be imposed or increased unless and until that fee or charge is submitted and approved by a majority vote of the property owners of the property subject to the fee or charge or, at the option of the agency, by a two-thirds vote of the electorate residing in the affected area*" (italics added).

The definitions of "water" and "sewer" under Proposition 218 are significant because the voter approval requirements are on fees for services other than water, sewer, and trash services and Proposition 218 did not define those terms. Determining what services fall within the definition of water and sewer services has been the subject of much litigation. In 2002, the California Court of Appeals for the Sixth District, in the case of *Howard Jarvis Taxpayers Association v. City of Salinas*, took up the question of whether Proposition 218 was intended to include "stormwater" systems as an excepted service, along with water, sewer, and refuse collection. In its decision, the court declined to include stormwater systems within the definition of "sewer" based on its conclusion such an extension would be contrary to voter intent in enacting Proposition 218. The court reasoned that the definition of "sewer" in Proposition 218 was ambiguous and that in light of the measure's intent to be construed liberally to enhance taxpayer consent, fees for stormwater management should require voter approval.

SENATE BILL 231

Senator Robert Hertzberg introduced SB 231 that would change the California Constitution to include stormwater, along with water, sewer, and trash, to be considered as a utility. SB 231 is based on a reading of the Public Utilities Code (PUC) which can be interpreted to include stormwater under the

category of “sewer.” This PUC text predates Proposition 218.

If passed, SB 231 would change the California Constitution to allow parcel-based fee increases for purposes of funding stormwater projects using the same procedures required to raise fees for water, sewer, and refuse collection services. These procedures vary by city/district, but generally include a justified recommendation for an increase by the utility provider, followed by notice to property owners with the opportunity to protest the proposed increase through mail-in ballot. If a majority of property owners do not file a protest, then city councils may approve the increased rate. The default in this case is that the fee increase will go into effect *unless expressly protested*.

Currently, except for sewer, water and refuse collection services, imposing or raising fees requires a majority vote of property owners or, at the public agency’s option, a two-thirds vote of the electorate. In this case, the default position is that the fee increase will not take effect *unless expressly approved*.

Passage of SB 231 would not require that cities use the lower threshold described above to raise or adopt a stormwater fee however. It would simply add stormwater to the suite of current parcel-based fees for which a lower threshold exists for raising those fees, providing a more easily obtained funding stream.

SUPPORT AND OPPOSITION

Many local agencies are in support of SB 231 as it gives them an easier way to raise dedicated revenue in support of stormwater cleanup mandates. They argue that currently stormwater cleanup is being funded out of general funds and the time for viewing stormwater as a utility, on par with water and sewer, is past due.

Supporting agencies: Water Foundation (Sponsor); California State Association of Counties; City of Hawthorne; City of Hermosa Beach; City of Industry; City of Norwalk; City of San Gabriel; City of Signal Hill; County of Contra Costa; Los Angeles Gateway Region Integrated Regional Water Management Authority; Save the Bay; Sierra Club; State Building and Construction Trades Council; Tree People, City/County Association of Governments of San Mateo County, City of Alameda, City of Beverly Hills, City of Commerce, City of Petaluma, County of San Joaquin, Inland Empire Utilities District, Santa Clara Valley Water District.

Opponents of the bill argue that Proposition 218 was intended to provide an expansive right for the public to vote on tax increases and only included limited exemptions. They point to the *Salinas* decision as evidence that stormwater was not an oversight when 218 was passed; instead, excluding stormwater was the will of the voters. Opponents argue that SB 231 directly contradicts the intent of Proposition 218 by changing a voter approved and court upheld amendment to the California Constitution.

The California Constitution generally requires the state to reimburse local governments for the costs they incur when implementing programs mandated by the state. However, the state does not have to reimburse local agencies if they can levy service charges, fees, or assessments to cover the cost of the program. SB 231 would make it easier for local governments to levy fees to fund stormwater cleanup. Some opponents argue that SB 231 could undermine an agency’s ability to recoup stormwater compliance costs they believe are state imposed unfunded mandates.

Opposing agencies: City of Glendora; City of Rosemead; City of West Covina; Howard Jarvis Taxpayers Association, City of Claremont, City of Diamond Bar, City of Los Alamitos, City of Sierra Madre.

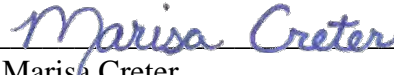
LEGAL CHALLENGE

Because Proposition 218's restrictions are enshrined in the California Constitution, SB 231's definition will likely be challenged in court. It is unclear if it would be upheld, particularly in light of the *Salinas* decision.

RECOMMENDATION

The Water Policy Committee will discuss SB 231 at its April 19th meeting. Staff is seeking direction.

Prepared by: 
Eric Wolf
Senior Management Analyst

Approved by: 
Marisa Creter
Assistant Executive Director

ATTACHMENTS

- Attachment A – SB 231 (Hertzberg)
- Attachment B – SB 231 (Hertzberg) Legislative Analysis

SENATE BILL**No. 231****Introduced by Senator Hertzberg**

February 2, 2017

An act to amend Section 53750 of, and to add Section 53751 to, the Government Code, relating to local government finance.

LEGISLATIVE COUNSEL'S DIGEST

SB 231, as introduced, Hertzberg. Local government: fees and charges.

Articles XIII C and XIII D of the California Constitution generally require that assessments, fees, and charges be submitted to property owners for approval or rejection after the provision of written notice and the holding of a public hearing. Existing law, the Proposition 218 Omnibus Implementation Act, prescribes specific procedures and parameters for local jurisdictions to comply with Articles XIII C and XIII D of the California Constitution and defines terms for these purposes.

This bill would define the term "sewer" for these purposes. The bill would also make findings and declarations relating to the definition of the term "sewer" for these purposes.

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

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

1 SECTION 1. Section 53750 of the Government Code is
 2 amended to read:
 3 53750. For purposes of Article XIII C and Article XIII D of
 4 the California Constitution and this ~~article~~: *article, the following*
 5 *words have the following meanings, and shall be read and*

1 *interpreted in light of the findings and declarations contained in*
2 *Section 53751:*

3 (a) “Agency” means any local government as defined in
4 subdivision (b) of Section 1 of Article XIII C of the California
5 Constitution.

6 (b) “Assessment” means any levy or charge by an agency upon
7 real property that is based upon the special benefit conferred upon
8 the real property by a public improvement or service, that is
9 imposed to pay the capital cost of the public improvement, the
10 maintenance and operation expenses of the public improvement,
11 or the cost of the service being provided. “Assessment” includes,
12 but is not limited to, “special assessment,” “benefit assessment,”
13 “maintenance assessment,” and “special assessment tax.”

14 (c) “District” means an area that is determined by an agency to
15 contain all of the parcels that will receive a special benefit from a
16 proposed public improvement or service.

17 (d) “Drainage system” means any system of public
18 improvements that is intended to provide for erosion control, for
19 landslide abatement, or for other types of water drainage.

20 (e) “Extended,” when applied to an existing tax or fee or charge,
21 means a decision by an agency to extend the stated effective period
22 for the tax or fee or charge, including, but not limited to,
23 amendment or removal of a sunset provision or expiration date.

24 (f) “Flood control” means any system of public improvements
25 that is intended to protect property from overflow by water.

26 (g) “Identified parcel” means a parcel of real property that an
27 agency has identified as having a special benefit conferred upon
28 it and upon which a proposed assessment is to be imposed, or a
29 parcel of real property upon which a proposed property-related
30 fee or charge is proposed to be imposed.

31 (h) (1) “Increased,” when applied to a tax, assessment, or
32 property-related fee or charge, means a decision by an agency that
33 does either of the following:

34 (A) Increases any applicable rate used to calculate the tax,
35 assessment, fee, or charge.

36 (B) Revises the methodology by which the tax, assessment, fee,
37 or charge is calculated, if that revision results in an increased
38 amount being levied on any person or parcel.

39 (2) A tax, fee, or charge is not deemed to be “increased” by an
40 agency action that does either or both of the following:

1 (A) Adjusts the amount of a tax, fee, or charge in accordance
2 with a schedule of adjustments, including a clearly defined formula
3 for inflation adjustment that was adopted by the agency prior to
4 November 6, 1996.

5 (B) Implements or collects a previously approved tax, fee, or
6 charge, so long as the rate is not increased beyond the level
7 previously approved by the agency, and the methodology
8 previously approved by the agency is not revised so as to result in
9 an increase in the amount being levied on any person or parcel.

10 (3) A tax, assessment, fee, or charge is not deemed to be
11 “increased” in the case in which the actual payments from a person
12 or property are higher than would have resulted when the agency
13 approved the tax, assessment, fee, or charge, if those higher
14 payments are attributable to events other than an increased rate or
15 revised methodology, such as a change in the density, intensity,
16 or nature of the use of land.

17 (i) “Notice by mail” means any notice required by Article XIII C
18 or XIII D of the California Constitution that is accomplished
19 through a mailing, postage prepaid, deposited in the United States
20 Postal Service and is deemed given when so deposited. Notice by
21 mail may be included in any other mailing to the record owner
22 that otherwise complies with Article XIII C or XIII D of the
23 California Constitution and this article, including, but not limited
24 to, the mailing of a bill for the collection of an assessment or a
25 property-related fee or charge.

26 (j) “Record owner” means the owner of a parcel whose name
27 and address appears on the last equalized secured property tax
28 assessment roll, or in the case of any public entity, the State of
29 California, or the United States, means the representative of that
30 public entity at the address of that entity known to the agency.

31 (k) “Sewer” means services and systems provided by all real
32 estate, fixtures, and personal property owned, controlled, operated,
33 or managed in connection with or to facilitate sewage collection,
34 treatment, or disposition for sanitary or drainage purposes,
35 including lateral and connecting sewers, interceptors, trunk and
36 outfall lines, sanitary sewage treatment or disposal plants or works,
37 drains, conduits, outlets for surface or storm waters, and any and
38 all other works, property, or structures necessary or convenient
39 for the collection or disposal of sewage, industrial waste, or surface

1 *or storm waters. “Sewer system” shall not include a sewer system*
 2 *that merely collects sewage on the property of a single owner.*

3 ~~(k)~~

4 (l) “Registered professional engineer” means an engineer
 5 registered pursuant to the Professional Engineers Act (Chapter 7
 6 commencing with Section 6700) of Division 3 of the Business
 7 and Professions Code).

8 ~~(t)~~

9 (m) “Vector control” means any system of public improvements
 10 or services that is intended to provide for the surveillance,
 11 prevention, abatement, and control of vectors as defined in
 12 subdivision (k) of Section 2002 of the Health and Safety Code and
 13 a pest as defined in Section 5006 of the Food and Agricultural
 14 Code.

15 ~~(m)~~

16 (n) “Water” means any system of public improvements intended
 17 to provide for the production, storage, supply, treatment, or
 18 distribution of water from any source.

19 SEC. 2. Section 53751 is added to the Government Code, to
 20 read:

21 53751. The Legislature finds and declares all of the following:

22 (a) The ongoing, historic drought has made clear that California
 23 must invest in a 21st century water management system capable
 24 of effectively meeting the economic, social, and environmental
 25 needs of the state.

26 (b) Sufficient and reliable funding to pay for local water projects
 27 is necessary to improve the state’s water infrastructure.

28 (c) Proposition 218 was approved by the voters at the November
 29 5, 1996, statewide General Election. Some court interpretations
 30 of the law have constrained important tools that local governments
 31 need to manage storm water and drainage runoff.

32 (d) Storm waters are carried off in storm sewers, and careful
 33 management is necessary to reduce pollution. But a court decision
 34 has excluded storm water from those provisions of Proposition
 35 218 that apply to property-related fees for sewer and water,
 36 preventing many important projects from being built.

37 (e) The court of appeal in *Howard Jarvis Taxpayers Ass’n v.*
 38 *City of Salinas* (2002) 98 Cal.App.4th 1351 concluded that the
 39 term “sewer,” as used in Proposition 218, is “ambiguous” and
 40 declined to use the statutory definition of the term “sewer system”

1 which was part of the then-existing law as Section 230.5 of the
2 Public Utilities Code.

3 (f) The court in *Howard Jarvis Taxpayers Ass'n v. City of*
4 *Salinas* (2002) 98 Cal.App.4th 1351 failed to follow long-standing
5 principles of statutory construction by disregarding the plain
6 meaning of the term “sewer.” Courts have long held that statutory
7 construction rules apply to initiative measures, including in cases
8 that apply specifically to Proposition 218 (see *People v. Bustamante*
9 (1996) 57 Cal.App.4th 693, *Keller v. Chowchilla Water Dist.*
10 (2000) 80 Cal.App.4th 1006). When construing statutes, courts
11 look first to the words of the statute, which should be given their
12 usual, ordinary, and commonsense meaning (*People v. Mejia*
13 (2012) 211 Cal.App.4th 586, 611). The purpose of utilizing the
14 plain meaning of statutory language is to spare the courts the
15 necessity of trying to divine the voters’ intent by resorting to
16 secondary or subjective indicators. The court in *Howard Jarvis*
17 *Taxpayers Ass'n v. City of Salinas* (2002) 98 Cal.App.4th 1351
18 asserted its belief as to what most voters thought when voting for
19 Proposition 218, but did not cite the voter pamphlet or other
20 accepted sources for determining legislative intent. Instead, the
21 court substituted its own judgment for the judgment of voters.

22 (g) Numerous sources predating Proposition 218 reject the
23 notion that the term “sewer” applies only to sanitary sewers,
24 including, but not limited to:

25 (1) Section 230.5 of the Public Utilities Code.

26 (2) Section 23010.3, which was first added by Chapter 1193 of
27 the Statutes of 1963.

28 (3) The Street Improvement Act of 1913 (repealed by Chapter
29 346 of the Statutes of 1963).

30 (4) The California Supreme Court stated in *Los Angeles County*
31 *Flood Control District v. Southern California Edison Co.* (1958)
32 51 Cal.2d 331, that “no distinction has been made between sanitary
33 sewers and storm drains or sewers.”

34 (5) The term, “sewer” has been used interchangeably to refer
35 to both sanitary and storm sewers in many other cases, including,
36 but not limited to, *County of Riverside v. Whitlock* (1972) 22
37 Cal.App.3d 863, *Ramseier v. Oakley Sanitary Dist.* (1961) 197
38 Cal.App.2d 722, and *Torson v. Fleming* (1928) 91 Cal.App. 168.

39 (6) Dictionary definitions of sewer, which courts have found to
40 be an objective source for determining common or ordinary

1 meaning, including Websters (1976), American Heritage (1969),
2 and Oxford English Dictionary (1971).

3 (h) Prior legislation has affirmed particular interpretations of
4 words in Proposition 218, specifically Assembly Bill 2403 of the
5 2013–14 Regular Session (Chapter 78 of the Statutes of 2014).

6 (i) The Legislature reaffirms and reiterates that the definition
7 found in Section 230.5 of the Public Utilities Code is the definition
8 of “sewer” or “sewer service” that should be used in the Proposition
9 218 Omnibus Implementation Act.

O

SENATE RULES COMMITTEE
 Office of Senate Floor Analyses
 (916) 651-1520 Fax: (916) 327-4478

SB 231

THIRD READING

Bill No: SB 231
 Author: Hertzberg (D)
 Introduced: 2/2/17
 Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-2, 4/5/17
 AYES: McGuire, Beall, Hernandez, Hertzberg, Lara
 NOES: Nguyen, Moorlach

SUBJECT: Local government: fees and charges

SOURCE: Water Foundation

DIGEST: This bill defines “sewer” for the purposes of Proposition 218.

ANALYSIS:

Existing law:

- 1) Imposes constitutional limits on local officials’ ability to impose, increase, and extend fees, including property-related fees (Proposition 218, 1996).
- 2) Defines a property-related fee as any levy other than an *ad valorem* tax, a special tax, or an assessment imposed by an agency on a parcel or on a person as an incident of property ownership, including a user fee for a property-related service.
- 3) Specifies definitions and procedures related to Proposition 218 in the Proposition 218 Omnibus Implementation Act (SB 919, Rainey, 1997). The Act requires local officials to, before imposing a new property related fee or increase an existing one:
 - a) Identify the parcels to be charged.
 - b) Calculate the fee for each parcel.

- c) Notify the parcels' owners in writing about the fees and the hearing.
 - d) Hold a public hearing to consider and count protests.
 - e) Abandon the fees if a majority of the parcels' owners protest.
- 4) Requires new or increased property-related fees to:
- a) Be less than the proportional cost of service to each parcel.
 - b) Receive approval by a majority-vote of the affected property owners, two-thirds registered voter approval, or weighted ballot approval by the affected property owners.
- 5) Exempts property-related fees for water, sewer, and refuse collection from the voter approval requirements of Proposition 218.
- 6) Defines "sewer" in the Public Utilities Code.

This bill:

- 1) Defines "sewer" for the purposes of Proposition 218, using the existing Public Utilities Code definition, to mean:
- a) Services and systems provided by all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate sewage collection, treatment, or disposition for sanitary or drainage purposes, including lateral and connecting sewers, interceptors, trunk and outfall lines, sanitary sewage treatment or disposal plants or works, drains, conduits, outlets for surface or storm waters, and any and all other works, property, or structures necessary or convenient for the collection or disposal of sewage, industrial waste, or surface or storm waters, but excluding a sewer system that merely collects sewage on the property of a single owner from the definition of "sewer."
- 2) Provides that the terms in the Proposition 218 Omnibus Implementation Act should be interpreted in light of findings codified by the bill, including findings that:
- a) State that storm waters are carried off in storm sewers, and describe the importance of storm water management.
 - b) State that the court of appeal in *Salinas* (2002) concluded that the term "sewer," as used in Proposition 218, is "ambiguous" and declined to use the

statutory definition of the term “sewer system” which was part of the then-existing law as Section 230.5 of the Public Utilities Code.

- c) Argue that the court failed to follow long-standing principles of statutory construction by disregarding the plain meaning of the term “sewer” and instead substituted its own judgment for the judgment of voters.
- d) Identify numerous sources predating Proposition 218 that reject the notion that the term “sewer” applies only to sanitary sewers.
- e) Identify AB 2403 (Rendon, Chapter 78, Statutes of 2014) as a case where prior legislation has affirmed particular interpretations of words in Proposition 218.
- f) Reaffirm and reiterate that the definition found in Section 230.5 of the Public Utilities Code is the definition of “sewer” or “sewer service” that should be used in the Proposition 218 Omnibus Implementation Act.

Background

Proposition 218’s vote requirements don’t apply to property-related fees for sewer, water, or refuse collection services, but the measures didn’t define those terms. Thus, determining what services fall within the definition of “water” and “sewer” services has been the subject of litigation. An appellate court decision in *Howard Jarvis Taxpayers Association v. City of Salinas* 98 Cal. App. 4th 1351 (2002) found that a city’s charges on developed parcels to fund storm water management were property-related fees and were not covered by the exemption for sewer or water services. The court reasoned that the definition of “sewer” in Proposition 218 was ambiguous and that in light of Proposition 218’s intent to be construed liberally to enhance taxpayer consent, fees for storm water management should require voter approval.

In light of these court rulings and local governments’ continued struggles to finance storm water management, groundwater augmentation, water conservation, and similar activities, in 2014 the Legislature amended the Proposition 218 Implementation Act to define “water” in a manner that is consistent with *Griffith v. Pajaro Valley Water Management Agency* (AB 2403, Rendon). AB 2403 clarified local agencies’ ability to impose some storm water management fees—where the management programs capture storm water for domestic and irrigation supply—without having to subject those fees to a vote.

Because of the *Salinas* decision, fees for projects that treat and discharge storm water still must receive voter approval, despite other sections of law that include

storm drainage in the definition of sewer. Specifically, the Public Utilities Code defines “sewer system” to include all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate sewage collection, treatment, or disposition for sanitary or drainage purposes, including lateral and connecting sewers, interceptors, trunk and outfall lines, sanitary sewage treatment or disposal plants or works, drains, conduits, outlets for surface or storm waters, and any and all other works, property, or structures necessary or convenient for the collection or disposal of sewage, industrial waste, or surface or storm waters (Chapter 1109, Statutes of 1970). The definition excludes a sewer system which merely collects sewage on the property of a single owner. However, the *Salinas* court declined to use this definition.

Since the 2002 *Salinas* decision, state and federal water quality regulators have imposed increasingly costly requirements on cities and counties to clean up their storm water discharge under the Municipal Separate Storm Sewer System (MS4) permitting program. For example, the costs of complying with the most recent MS4 permit for Los Angeles County and the 88 cities in the county are expected to exceed \$20 billion over the next 20 years. Local governments that fail to comply can face fines of up to \$250,000 per day.

Finding the money to pay for these costs is challenging. Because storm water cleanup fees are subject to voter approval, some local governments, such as Culver City, have put storm water assessments or special taxes on the ballot that were subsequently approved. Others have tried and failed; Los Angeles County sought to put a storm water measure on the ballot in 2013, but it never made it past the Board of Supervisors. The author of this bill and the sponsor want to make it easier for local governments to levy fees to pay for storm water cleanup.

Comments

- 1) *Purpose of the bill.* In 2002, an appellate court ruled that the meaning of sewer in Proposition 218 was “ambiguous,” and proceeded to develop a new definition of sewer service that did not include storm water without citing any sources for that definition. As a result, storm water programs must meet a higher standard than other water and sewer services to raise capital, and local governments are struggling to fund the projects they need to meet state and federal water quality regulations. These governments face the prospect of redirecting scarce general fund dollars to pay for storm water programs or could get hit with expensive fines if they don’t comply. Storm water is plainly a part of managing water and sewer and should follow the same procedures. SB 231 addresses this problem by providing a definition of sewer that definition

predates Proposition 218 and treats fees for storm water like all other water and sewer fees. SB 231 does not change the Constitution's mandate for rigorous oversight of water and sewer fees, including reports, hearings, and protest votes. As with setting other fees, public officials remain ultimately accountable to the voters for their re-election. SB 231 won't provide all the funding that local governments need to fund their storm water programs, but it is a step in the right direction.

- 2) *Who's right?* Opponents of the bill argue that Proposition 218 was intended to provide an expansive right for the public to vote on tax increases and only included limited exemptions from this requirement to maintain basic public health and safety services, such as providing drinking and irrigation water and disposing of sanitary sewage and refuse. Cleaning up storm water and discharging it simply to benefit the environment shouldn't fall within those categories, and, thanks to the *Salinas* court decision, it doesn't. SB 231 directly contradicts this decision. Should the Legislature override the courts, and potentially the will of the people, by allowing local governments to raise fees for storm water cleanup projects without a vote?

Related/Prior Legislation

- 1) SB 231 is similar to SB 1298 (Hertzberg, 2016), which would have added a similar definition of sewer to the Proposition 218 Omnibus Implementation Act, supported by less expansive findings. SB 1298 was held on the Assembly Floor.
- 2) In 2014, the Legislature amended the Proposition 218 Omnibus Implementation Act to define "water" to include water from any source (AB 2403, Rendon, Chapter 78, Statutes of 2014). AB 2403 clarified local agencies' ability to impose some storm water management fees—where the management programs capture storm water for domestic and irrigation supply—without having to subject those fees to a vote.

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

SUPPORT: (Verified 4/7/17)

Water Foundation (source)

California State Association of Counties

City/County Association of Governments of San Mateo County

City of Alameda

City of Beverly Hills

City of Commerce
City of Hawthorne
City of Hermosa Beach
City of Industry
City of Norwalk
City of Petaluma
City of San Gabriel
City of Signal Hill
County of Contra Costa
County of San Joaquin
Inland Empire Utilities District
Los Angeles Gateway Region Integrated Regional Water
Santa Clara Valley Water District
Save the Bay
Sierra Club California
State Building and Construction Trades Council of California
Tree People

OPPOSITION: (Verified 4/7/17)

City of Claremont
City of Diamond Bar
City of Glendora
City of Los Alamitos
City of Rosemead
City of Sierra Madre
City of West Covina
Howard Jarvis Taxpayers Association

Prepared by: Anton Favorini-Csorba / GOV. & F. /
4/10/17 11:57:17

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



Proposed Budget – FY 2018





SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS FISCAL YEAR 2017-18 BUDGET

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LA County District 5

Bradbury
Glendora
Monrovia
San Dimas
Temple City
San Gabriel Valley Water Agencies

Claremont
Industry
Montebello
San Gabriel
Walnut

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May 18, 2017

Governing Board Delegates and Alternates:

On behalf of the San Gabriel Valley Council of Governments (SGVCOG), it is my pleasure to present a balanced budget for Fiscal Year 2017-18. The budget provides detailed information about anticipated revenues and planned expenditures for the upcoming fiscal year, and demonstrates how available resources are allocated based on the Governing Board's Strategic Plan and objectives, which serve as the guiding principles. The budget was developed using a conservative approach to revenue forecasting and incorporates prudent expenditure adjustments to achieve a balanced operating budget.

Strategic Plan, Mission, Vision & Core Values

On April 21, 2016, the SGVCOG adopted the most recent update to its Strategic Plan. This update was developed through a comprehensive outreach process. The SGVCOG mission, vision and values, which were reaffirmed in October 2013 and were used as the basis for developed the key initiatives and near-term actions, are shown below.

Mission

“The San Gabriel Valley Council of Governments is a unified voice to maximize resources and advocate for regional and member interests to improve the quality of life in the San Gabriel Valley.”

Vision

“The San Gabriel Valley Council of Governments will be recognized as a leader in advocating for and achieving sustainable solutions for transportation, housing, economic growth and the environment.”

Core Values & Guiding Principles

- *Accountability*
- *Fiscal Responsibility*
- *Mutual Respect*
- *Transparency*
- *Integrity*
- *Being Proactive & Results Oriented*
- *Unity of Common Goals & Objectives*
- *Creativity*
- *Reflecting the Diversity of Our Member Agencies*
- *Collaboration*

Table 1 summarizes the key initiatives for FY 2017-18, including goals and near-term actions.

<p>Water Quality</p> <p>Goal: Assist cities in addressing stormwater MS-4 permit requirements, with an emphasis on securing long-term funding and identifying regional solutions.</p> <p>Near-Term Actions:</p> <ul style="list-style-type: none"> • Draft and advocate for legislation supporting MS4 compliance. • Apply for grants for construction of stormwater capture and infiltration infrastructure. • Complete Stormwater Outreach agenda and continue meeting with stakeholders and policy makers. • Develop stronger coordinated relationships with LA County DPW and LA County Sanitation Districts. • Work to develop approach to new MS4 permit. 	<p>Active Transportation</p> <p>Goal: Create a regional active transportation network that increases safety for bicyclists and pedestrians and enhances access to transit.</p> <p>Near-Term Actions:</p> <ul style="list-style-type: none"> • Develop a high-level implementation plan for Greenway Network projects based on feasibility study and Measure M guidelines. • Execute 4-cities Open Street event in April 2018. • Coordinate with Goldline Phase 2B cities to develop First/Last Mile plans. • Serve as project manager for SCAG grant funded in FY 2017-18 (e.g. Bike Friendly Business District Pilot Expansion and First/Last Mile Planning). 	<p>Legislative & Regulatory Advocacy</p> <p>Goal: Advocate for San Gabriel Valley priorities and interests on the County-wide, State and Federal level.</p> <p>Near-Term Actions:</p> <ul style="list-style-type: none"> • After one legislative cycle, report back findings on functionality of Ad Hoc Committee and provide recommendations regarding the formation of a standing committee.
<p>Homelessness</p> <p>Goal: Serve as a clearinghouse to member agencies for resources related to homelessness and advocate for resources to address homelessness in the San Gabriel Valley.</p> <p>Near-Term Actions:</p> <ul style="list-style-type: none"> • Engage with the Los Angeles Homeless Services Authority (LAHSA) to better coordinate on regional homeless issues. • Complete master point of contact list and services/programs list. • Identify important legislation at the County, State and Federal Levels that can help combat homelessness in the San Gabriel Valley Region. 	<p>Large Capital Transportation Projects</p> <p>Goal: Ensure the timely implementation of regional priority transportation projects.</p> <p>Near-Term Actions:</p> <ul style="list-style-type: none"> • Implement Ad Hoc ACE/ Large Capital Projects Committee recommendations, including integration study. • Hire Transportation Planner/Program Manager and develop plan to manage Measure M funds. 	

Table 1.
FY 2017-18 Key Initiatives.

FY 2016-17 Major Accomplishments

As we look forward to another exciting and successful year, it is important to reflect on the accomplishments of the past year. Some of the major accomplishments completed over the past year include the following:

- Adopted new financial and administrative policies and participated in a Caltrans pre-award audit to remove “high risk designation”, which would allow agency to receive State and Federal Transportation funding. That audit was completed in March 2017, and the SGVCOG received no findings and was determined to have addressed all findings from the prior audit.
- In partnership with 10 cities, awarded \$798K in funding for 5 projects submitted under SCAG’s Sustainability Planning Grant program (i.e. Greenway Network Feasibility Plan; Arrow Highway Demonstration Project; Bike Friendly Business District - El Monte/South El Monte; Bike Friendly Business District - Baldwin Park; and First/Last Mile Planning - El Monte).
- Awarded \$594,000 by Metro for Open Street event in partnership with cities of San Dimas, Pomona, La Verne, and Claremont.
- Initiated ATP Cycle 1 Grant to undertake Greenway Network Feasibility Study, which will complete Greenway Network Feasibility Study and Active Transportation Plans for 5 cities (Glendora, Monrovia, La Puente, Irwindale and Montebello), provide educational workshops, and develop a wayfinding/signage coordination plan.
- Coordinated with Metro to initiate Regional Bike Share Expansion Feasibility Study with 15 SGV Cities.
- Launching Bicycle-Friendly Business District Pilot with Glendora and South Pasadena.
- Supported passage of Measure A, which will provide over \$92.7M annually for open space and trail projects including the SGV Greenway Network.
- Developed Stormwater Policy and Legislative Platform that was adopted by Governing Board.
- At least five initiatives from the SGVCOG Legislative Platform are set to be introduced in this legislative cycle including the following:
 - AB 1180 (Holden): Creates a new tire fee to address stormwater pollution
 - SB 589 (Hernandez): Adopts Financial Capability Analysis (FCA) as a component of Municipal Separate Sewer Stormwater System (MS4) permits
 - SB 541 (Allen): Addresses school construction water capture design standards
 - SB 633 (Portantino): Clarifies that permittees shall enjoy entitlement to use the stormwater they capture
 - AB 968 (Rubio): Allows use of existing infrastructure to convey stormwater for capture and infiltration
- Ad Hoc Legislative Committee and committee structure approved by Governing Board in January 2017.
- Homelessness Committee formed in July 2017.
- Homelessness Policy and Committee workplan approved by Governing Board in January 2017.
- Supported Measure H which will provide over \$355M annually over the next 10 years for homeless services.
- Supported passage of Measure M, which will provide over \$3.3B in funding to San Gabriel Valley over next 40 years.
- Governing Board approved recommendations of Ad Hoc ACE/Large Capital Projects Committee to enlarge the scope of ACE to serve the San Gabriel Valley and integrate ACE and SGVCOG.

- Working with Gateway COG, secured \$34 million in funding for the environmental and final project approval phases of the 605/60 improvement project.

Proposed FY 2017-18 Budget

The SGVCOG estimated revenues for the Fiscal Year 2016-17 budget are \$1,372,211 proposed expenditures are \$1,367,136, resulting in a net balance of \$5,075. The narrative provides detailed explanations of the anticipated changes and budgeted figures. Major changes from the current year's budget are as follows:

- **Dues:** Per direction from the Governing Board, the FY 2017-18 budget proposes a 2.1% increase to dues based on changes to the consumer price index (CPI).
- **Transportation Planner / Program Manager:** In February 2017, the Governing Board directed staff to begin work to create a transportation planner/program director position to primarily manage Measure M program funds, which will amount to nearly \$1.5 billion in various programs directed towards the SGV over the next 40 years. It is anticipated that staff will return to the Governing Board to request approval of a job description and pay range. Simultaneously, staff is working with Metro staff to develop a Memorandum of Understanding (MOU) with Metro to fund this position using Measure M program funds.
- **General Assembly:** Staff is working to plan the SGVCOG's next General Assembly for October 2017. The theme of this year's assembly will be on the regional impact of future trends. Staff is working to secure more sponsorships in order to expand this event.
- **Office Relocation:** The SGVCOG's office lease is set to expire in December 2017. Staff is working to evaluate various options for new office space and the proposed budget includes expenses related to moving costs.

I anticipate this will be an exciting and rewarding year for the SGVCOG. The SGVCOG staff is working closely with you to deliver key projects and initiatives, and we will continue to reach out within our organization and externally to ensure the staff is meeting the Board's expectations and leverage the SGVCOG's resources to preserve and enhance the quality of life in the San Gabriel Valley.

Respectfully submitted,



Philip A. Hawkey
Executive Director

FY 2017-18 BUDGET
BUDGET OVERVIEW

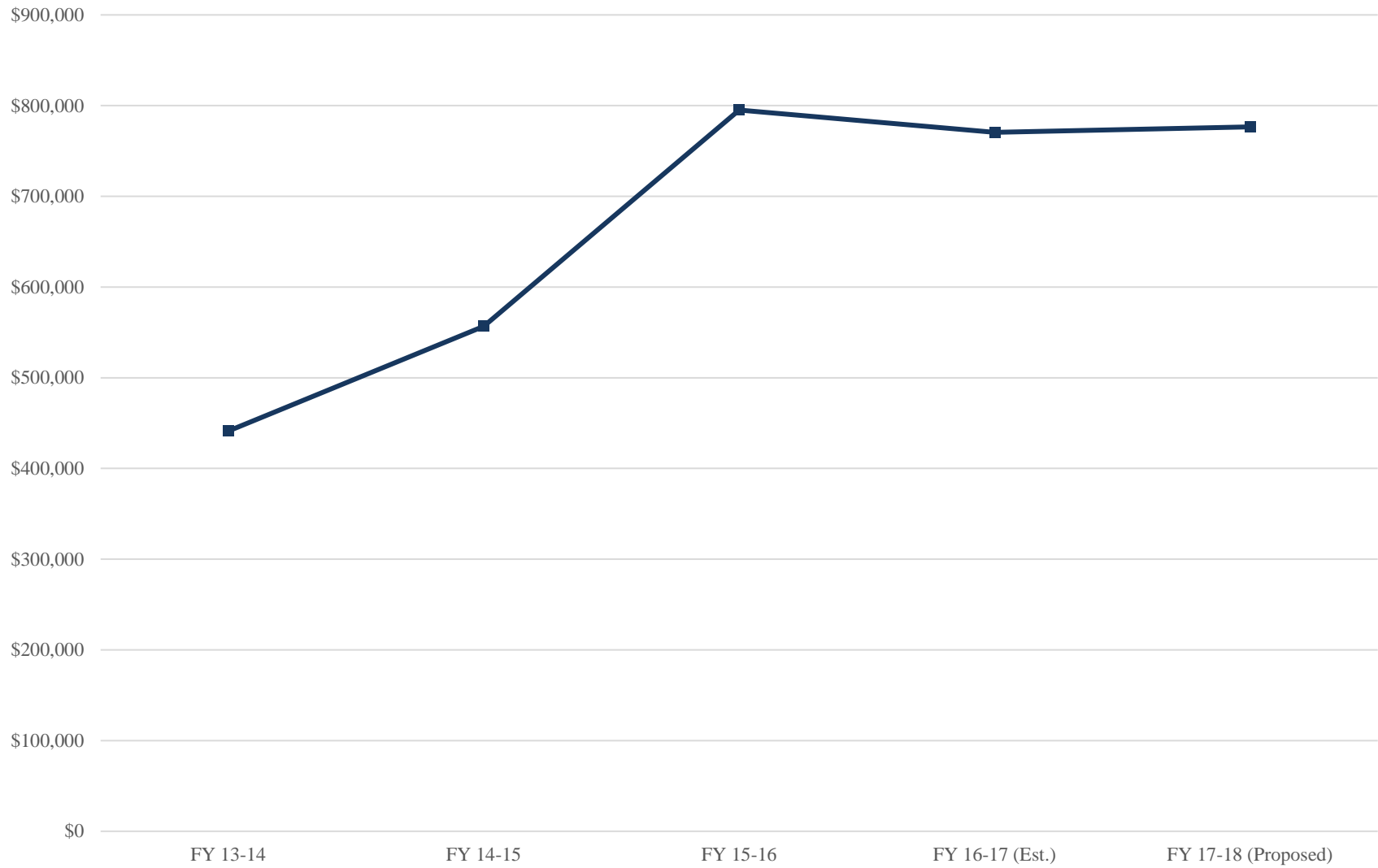
San Gabriel Valley Council of Governments	
Proposed Budget	
Fiscal Year 2017-18	
<u>Description</u>	<u>Amount</u>
Revenues:	
General Operating Income	\$ 823,798
Grants & Special Project Income	548,413
Total Revenue	1,372,211
Expenses:	
Ongoing Operational Contracts	90,400
Personnel	780,823
General & Administrative	227,823
Consultant Services	205,090
Direct Expenses	23,000
Grant and Special Project Expenses	40,000
Total Expenses	1,367,136
Estimated Year-End Balance	\$ 5,075

Estimated Fund Balance (7/1/2017):	\$770,584
Estimated Fund Balance (6/30/2018):	\$775,659

SUMMARY OF REVENUES AND EXPENSES (2015-2018)

<u>Description</u>	FY 15-16 (Actual)	FY 16-17 (Estimated)	FY 17-18 (Proposed)
Revenues:			
General Operating Income	\$ 790,168	\$ 784,606	\$ 823,798
Grants & Special Project Income	379,147	706,518	548,413
Total Revenue	1,169,315	1,491,124	1,372,211
Expenses:			
Ongoing Operational Contracts	67,780	100,500	90,400
Personnel	279,459	515,489	780,823
General & Administrative	147,954	170,823	227,823
Consultant Services	405,547	280,090	205,090
Direct Expenses	21,882	23,000	23,000
Grant and Special Project Expenses	75,223	42,475	40,000
Total Expenses	997,845	1,162,376	1,367,136
Year-End Balance	\$ 171,470	\$ (24,511)	\$ 5,075

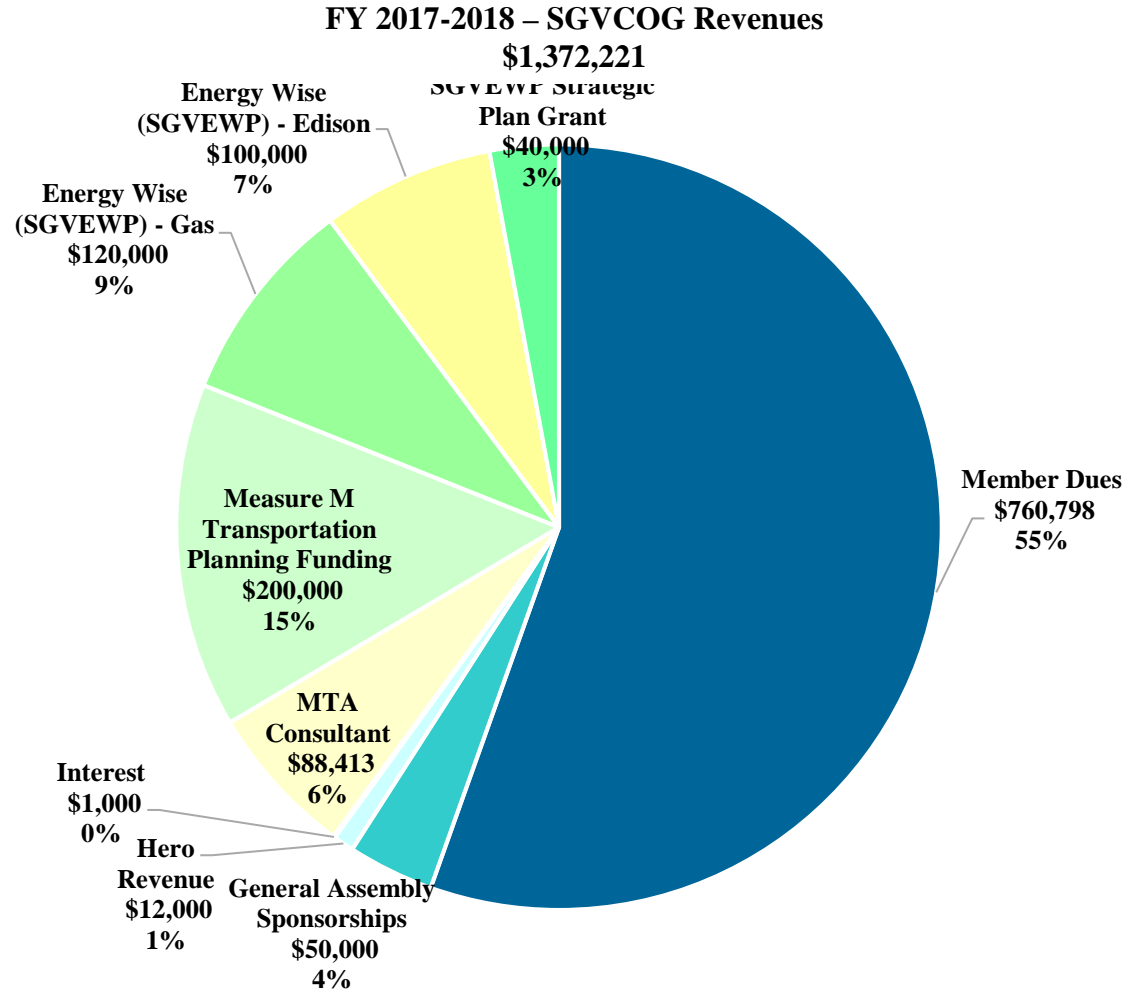
SGVCOG Fund Balance 2013-2018¹



¹ FY 16-17 includes back payments to CalPERS and employee costs from FY 2015-16.

REVENUES

In FY 2017-18, SGVCOG revenues are projected at \$1,372,221. Dues revenue, which reflects direct contributions made by member agencies, is estimated at \$760,798, or 55% of total revenues. It is anticipated there will be \$1,000 in revenue from interest; \$50,000 in sponsorships for the general assembly; and \$12,000 will be received from the HERO program. The remaining \$548,413, or 40%, of the SGVCOG revenues are received through grants and other restricted funding.



Dues Revenue - Total member agency dues for FY 2017-18 are estimated to be \$760,798. The revenue from dues is the primary source of income to support the SGVCOG’s day-to-day staffing and operations. On March 19, 2015, the Governing Board approved a revised dues structure for members as follows:

$$[\$5,000 \text{ base fee} + \$0.32 \text{ per capita}] \times \text{Annual CPI Adjustment} = \text{Member Dues}^2$$

At the same time, the Governing Board approved the following:

1. Increased the dues cap from \$30,000 to \$31,200, or by 4%.
2. Implemented an annual CPI adjustment to the base fee, the per capita portion of the dues formula, and the dues cap beginning in FY 2016-17. The CPI would be based on the LA County region. The CPI adjustment would be considered annually by the Governing Board in conjunction with approval of the upcoming fiscal year budget.
3. Capped CPI adjustments at 5 percent.
4. Instituted a policy to review the need for changes to the dues cap and the cap on the CPI adjustment every three years beginning in FY 2016-17.
5. Instituted a policy to utilize the prior year population figures provided by the Department of Finance in calculating the dues. This change will ensure that the SGVCOG staff is able to accurately project the dues revenue earlier in the budget preparation process and prepare timely dues invoices for distribution to the member agencies.

Per the dues policy, staff is proposing a 2.1% CPI adjustment to the member agencies dues and cap. This proposed increase is necessary to because of a number of ongoing operational contracts for goods and services, including rent, legal services, and financial audit services, that include an annual CPI adjustment. Therefore, approval of the CPI adjustment to the member dues would prevent the development of a structural deficit. Incorporating the proposed CPI increase, dues range from \$5,641 to \$32,843, with agencies paying an average of \$21,737; nine member agencies pay the maximum dues amount.

Agency	Dues
Alhambra	\$ 32,842.71
Arcadia	\$ 24,480.45
Azusa	\$ 21,931.18
Baldwin Park	\$ 30,438.62
Bradbury	\$ 5,641.54
Claremont	\$ 17,463.23
Covina	\$ 21,866.85
Diamond Bar	\$ 24,490.89
Duarte	\$ 12,733.54
El Monte	\$ 32,842.71
Glendora	\$ 22,901.31
Industry	\$ 21,737.08
Irwindale	\$ 5,739.90
La Canada Flintridge	\$ 12,187.51
La Puente	\$ 18,912.69
La Verne	\$ 16,446.62
Monrovia	\$ 17,905.51
Montebello	\$ 26,795.95
Monterey Park	\$ 25,927.55
Pasadena	\$ 32,842.71
Pomona	\$ 32,842.71
Rosemead	\$ 23,867.72
San Dimas	\$ 16,764.60
San Gabriel	\$ 18,880.01
San Marino	\$ 9,832.94
Sierra Madre	\$ 8,972.97
South El Monte	\$ 12,274.42
South Pasadena	\$ 14,030.74
Temple City	\$ 17,569.67
Walnut	\$ 15,419.91
West Covina	\$ 32,842.71
LA County District 1	\$ 32,842.71
LA County District 4	\$ 32,842.71
LA County District 5	\$ 32,842.71
SGV Water Agencies	\$ 32,842.71
Total	\$ 760,797.79

² The City of Industry pays dues equal to the average dues of all member agencies. That formula was approved by the Governing Board and agreed to by the City of Industry due to the differences in the City’s daytime and nighttime population.

Grants & Other Funding- Income from grants and other sources varies annually based on the number of active grants and has been used to leverage the SGVCOG's other resources and enable the organization to meet its objectives and serve the needs of member agencies. In FY 2017-18, there is an estimated \$548,413 in revenue projected from four programs:

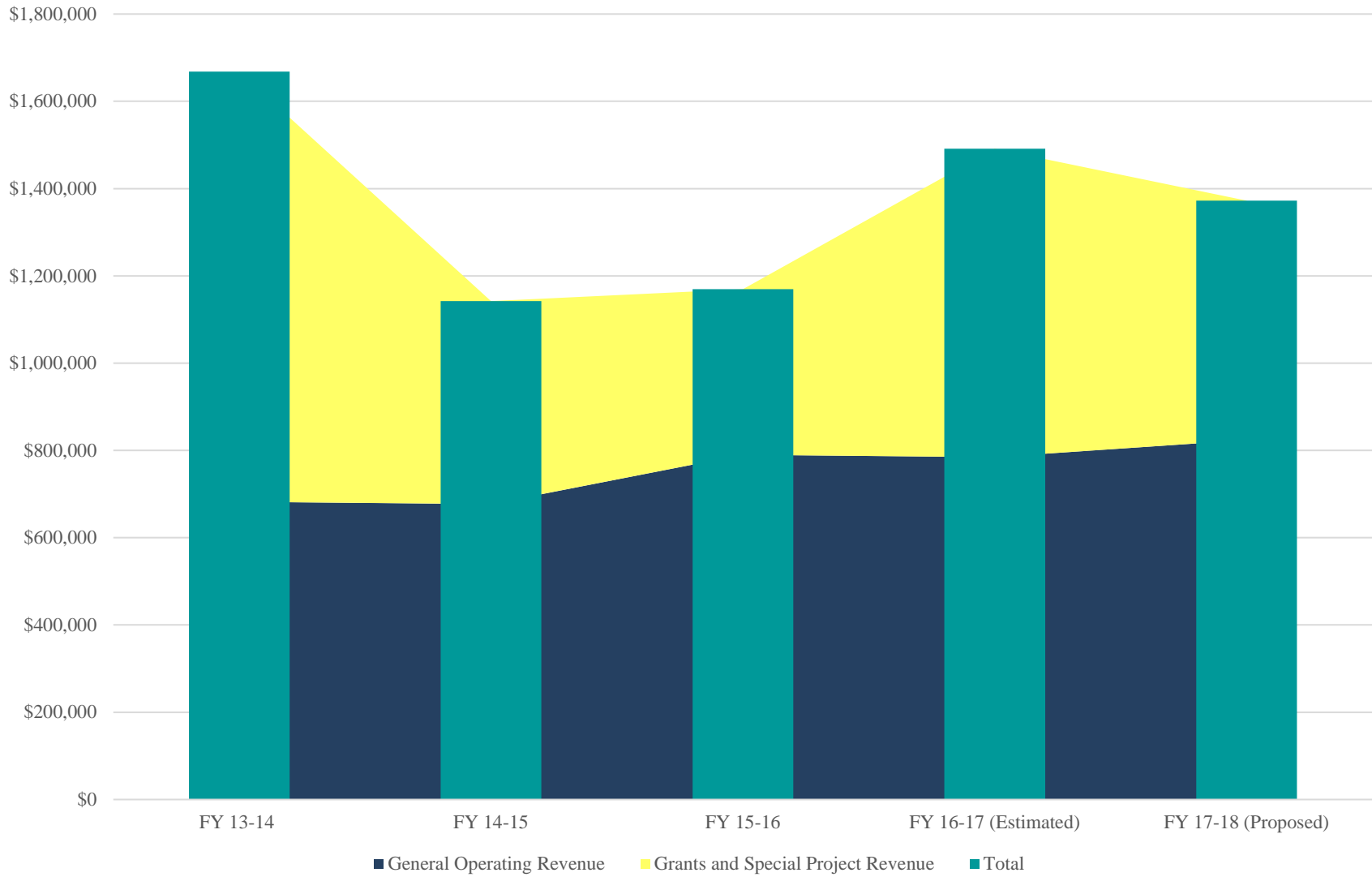
- ***San Gabriel Valley Energy Wise Partnership (SGVEWP) (\$220,000):*** This program is funded by the California Public Utilities Commission (CPUC). The objectives of the Partnership are as follows: 1) Assisting local governments in identifying and implementing energy-efficiency projects in their municipal facilities; 2) Providing training to city staff on energy efficiency issues; and 3) Educating and outreaching to the public on energy-efficiency and related programs and rebates. As the local government partner, the SGVCOG is primarily responsible for administrating and coordinating with utility staff in identifying energy-efficiency projects in city facilities and marketing and outreach for the Partnership. SGVCOG is fully reimbursed for all staff time spent managing this program. The SGVCOG receives an annual budget allocation from Southern California Edison (SCE) and SoCalGas (SCG). This grant is paid on a reimbursement basis, based on labor and expenses, under a not to exceed amount. Based on the 2017 workplan and anticipated staffing and expenses, staff is recommending estimated revenues of \$220,000 be included in the proposed FY 2017-18 budget.
- ***SGVEWP Strategic Plan Grant (\$40,000):*** In January 2017, the SGVCOG was awarded funding through the SGVEWP to assist the cities of West Covina, Pomona, South Pasadena and Monrovia with energy benchmarking. Energy benchmarking allows cities to inventory their facilities' energy usage and compare it to similar facilities. All work will be completed in-house and must be completed by December 2017. This grant is paid on a reimbursement basis. It is anticipated the reimbursable labor costs associated with effort will be \$40,000 in FY 2017-18.
- ***MTA Transportation Consultant (\$88,413):*** The Los Angeles County Metropolitan Transportation Authority (MTA) Board of Directors includes one member appointed by the Los Angeles Division of the League of California Cities' City Selection Committee to represent the San Gabriel Valley as the SGVCOG representative. John Fasana (Duarte) currently serves in this role. MTA recognizes the need for the SGVCOG representative to have staff support to perform the duties of a Board Member. Beginning in FY 2013-14, MTA has instead provided an annual allocation to the SGVCOG via a Memorandum of Understanding (MOU), which can then be used to provide the support services either through the use of a consultant or by hiring an employee. Under the terms of this MOU, the SGVCOG and Board Member are responsible for selecting, employing/contracting with, compensating and overseeing the work of the individual responsible for providing the support services. Currently, the total reimbursement from MTA is for an amount not exceed \$88,413 annually. This amount is adjusted in an amount equal to any increases approved by the Board for MTA non-contract employee salary increases.³ The

³ This revenue is associated with a contract with a consultant. The terms of the contract with the consultant provide that the annual amount paid to the consultant be increased by a percentage equal to the percent increase that the SGVCOG receives from MTA.

term of the MOU is from July 1, 2013 to June 30, 2017, and staff is currently working on an extension. The SGVCOG utilizes this funding to pay for a consultant. The total annual cost of that contract is \$106,090, and the SGVCOG contributes the balance of \$17,677.

- ***MTA Measure M Transportation Planning Funding (\$200,000)***: In February 2017, the Governing Board directed staff to begin work to create a transportation planner/program director position to primarily manage Measure M program funds, which will amount to nearly \$1.5 billion in various programs directed towards the SGV over the next 40 years. It is anticipated that staff will return to the Governing Board to request approval of a job description and pay range. Simultaneously, staff is working with Metro staff to develop a MOU with Metro to fund this position using Measure M program funds. It is expected that this MOU will be brought to the Governing Board for consideration in July.
- ***California HERO (\$12,000)***: In April 2013, the SGVCOG entered into a MOU with Western Riverside Council of Governments (WRCOG) to promote the California HERO program in the San Gabriel Valley. The California HERO program provides property owners with access to loans for the installation of energy-efficiency and renewable energy projects. Pursuant to the MOU, the SGVCOG serves as the point of contact for information and support for the program in our region and assists San Gabriel Valley cities in implementing the program. While contractors have the primary responsibility for marketing the program, SGVCOG staff provides information on California HERO at existing marketing and outreach events in participating cities. In exchange for this program support, WRCOG is obligated to pay Participant fees to the SGVCOG equal to 0.05% of the aggregate cost of the bonds issued to fund California HERO eligible projects within the subregion.

SGVCOG Total Revenue 2013-2018⁴



⁴ FY 15-16 includes \$50,933 in revenue from the SGVCOG's settlement with its insurance carrier.

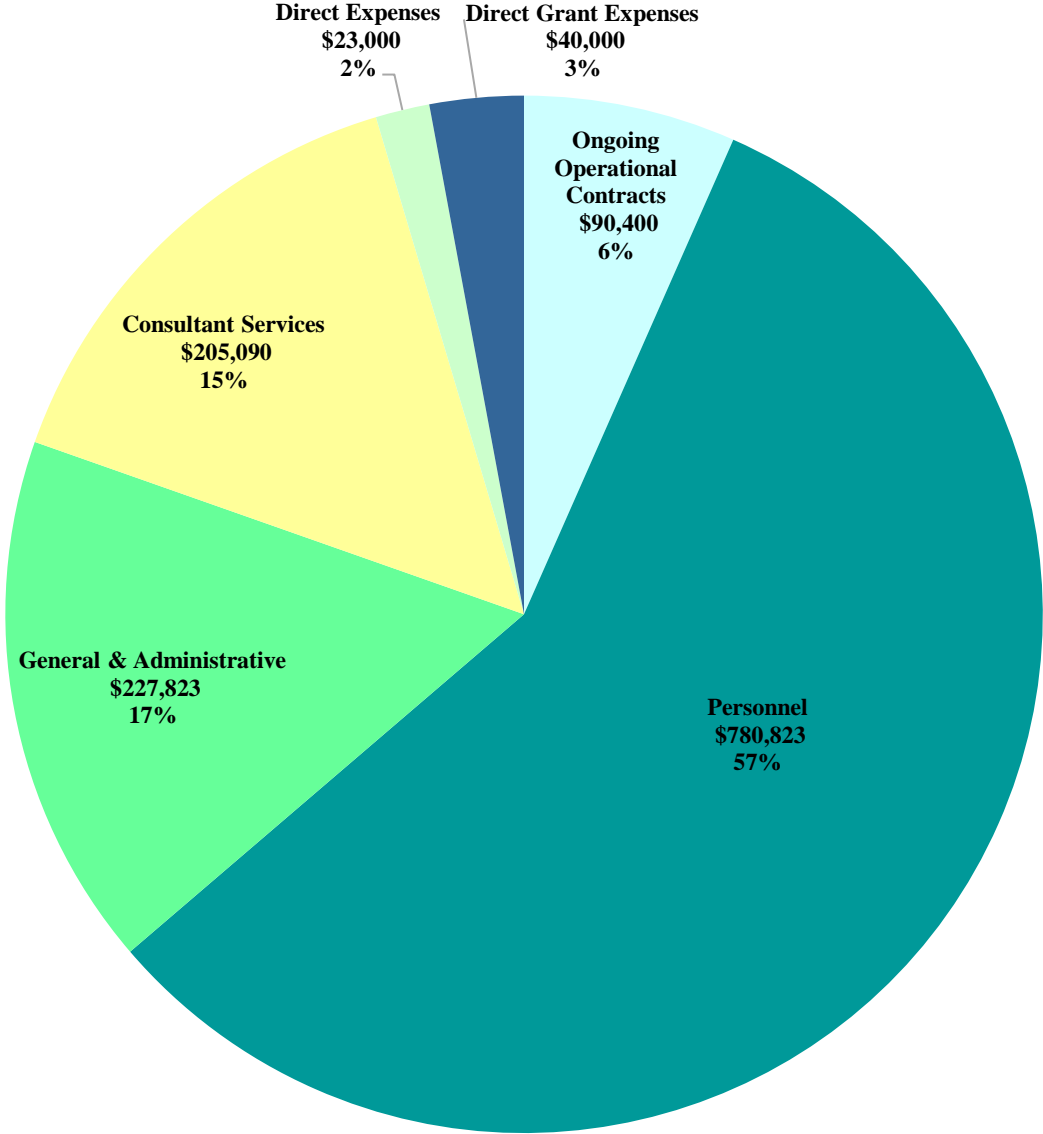
EXPENDITURES

During FY 2017-18, SGVCOG expenditures are projected to total \$1,367,136. This reflects an increase of 17.6% from FY 2016-17, largely associated with the creation of the new Measure M Transportation Planner/Program Manager position. The three largest expenditure components are 1) Personnel, 780,823 or 57% 2) General & Administrative Costs, \$227,823 or 17%, and 3) Consultant Services, \$205,090 or 15%.

SGVCOG Expenses 2013-2018

Category	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17 (Est.)	FY 2017-18 (Proposed)
Ongoing Operational Contracts	108,886	91,456	67,780	100,500	90,400
Personnel	417,429	353,459	279,459	515,489	780,823
General & Administrative	231,921	133,680	147,954	170,823	227,823
Consultant Services	93,354	254,023	405,547	280,090	205,090
Direct Expenses	15,192	18,177	21,882	23,000	23,000
Grant and Special Project Expenses	132,879	183,022	75,223	42,475	40,000
Total	\$ 1,000,366	\$ 1,033,817	\$ 997,845	\$ 1,162,376	\$ 1,367,136

FY 2017-18 – SGVCOG Expenditures by Category
\$1,367,136



Personnel- These costs include the salary, benefit and retirement costs associated with the SGVCOG staff. For FY 2017-18, staff is proposing six full-time positions, including an Executive Director, Assistant Executive Director, a transportation planner/program manager, one Senior Management Analyst, two Management Analysts, and one part-time project assistant position. Additionally, the SGVCOG offers a paid internship program, and those interns generally work on projects related to the San Gabriel Valley Energy Wise Partnership. Legal services, administrative support, accounting and treasurer services are provided pursuant to contracts. Additionally, various specialized services, such as strategic planning and human resources, are provided to the SGVCOG on an as-needed basis under contracts. The SGVCOG provides standard benefits to staff, and all staff members participate in the California Public Employees' Retirement System (CalPERS). All new employees are under the "2% at 62" formula, and all employees pay the full employee CalPERS contribution. Of the total personnel costs, \$245,520, or 32%, is anticipated to be offset by grants and revenue from Metro. For those programs that do not have outside funding, including administrative work, legislative tracking and advocacy, homelessness and stormwater, general fund revenue is used to pay these costs.

Changes from current fiscal year (FY 2016-17) and the proposed FY 2017-18 budget are attributable to the following:

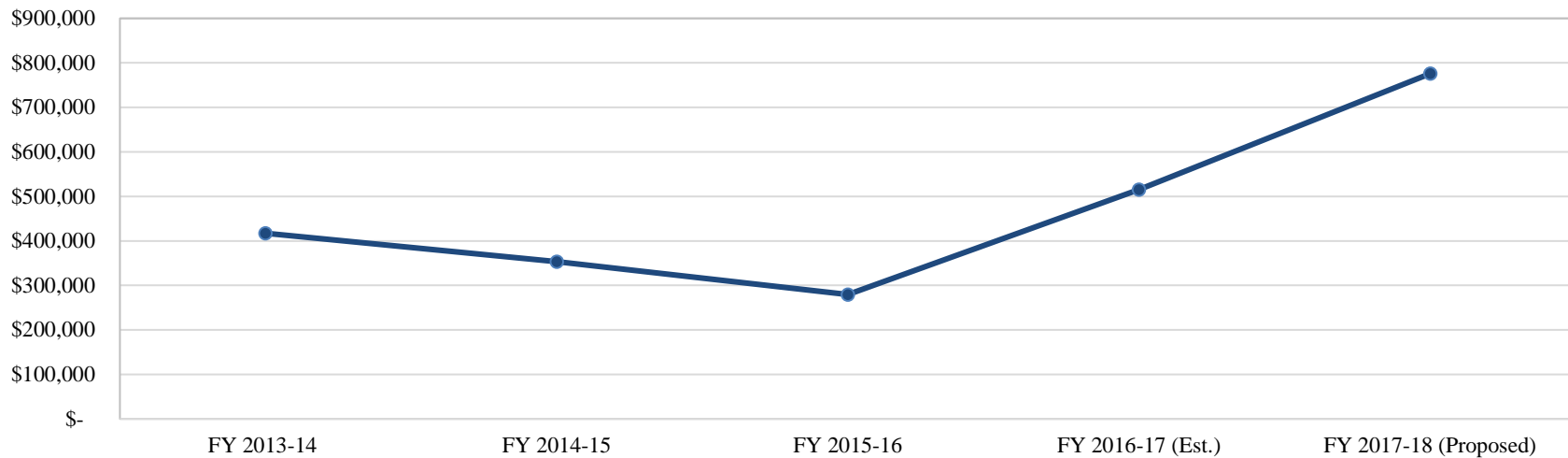
- **Salaries and Deferred Compensation (\$255,383 increase):** There several changes are reflected in the proposed salary costs as follows:
 - *Executive Director:* Per direction from CalPERS, the Executive Director position was converted from a consultant contract to an in-house position in FY 2016-17. The FY 2017-18 budget reflects 12 months of full-time salary for this position. Additionally, the salary was increased to \$180,250 to reflect a 3% increase from the prior full-time Executive Director's salary (\$175,000) in anticipation of undertaking a recruitment for this position.
 - *Salary Adjustments:* SGVCOG staff do not receive step increases or annual cost of living adjustments. All salary increases are based on annual evaluations. The proposed FY 2017-18 budget includes funding to provides to funding to provide merit-based salary increases of up to 3%.
 - *Management Analyst (Energy Wise Partnership):* In January 2017, the Governing Board approved creation of an additional management analyst position to manage the San Gabriel Valley Energy Wise Partnership. This position is limited term (dependent upon grant funding) and is fully funded through the San Gabriel Valley Energy Wise Partnership. The FY 2017-18 budget reflects 12 months of full-time salary for this position.
 - *Transportation Planner / Program Manager:* The Governing Board directed staff to work with Metro to develop an MOU to provide ongoing funding for this new full-time position. Based on comparable positions, the proposed starting salary for this position is \$120,000.
- **Internship Program (\$20,000 increase):** SGVCOG interns work to support and are funded through the San Gabriel Valley Energy Wise Partnership. With the creation of the new full-time Energy Wise Partnership position, staff anticipates that there will some decrease in the need for interns to staff the Energy Wise program.
- **Benefits (\$4,900 increase):** Full-time staff receive medical insurance benefits up to \$700 per month. The FY 2017-18 budget reflects a full year of costs for the new full-time positions (Executive Director, Management Analyst, and Transportation Planner/

Program Manager). This increase is partially offset by back payments for medical insurance benefits that were due to the Executive Director in FY 2016-17 when that position was converted from a consultant contract to an in-house position.

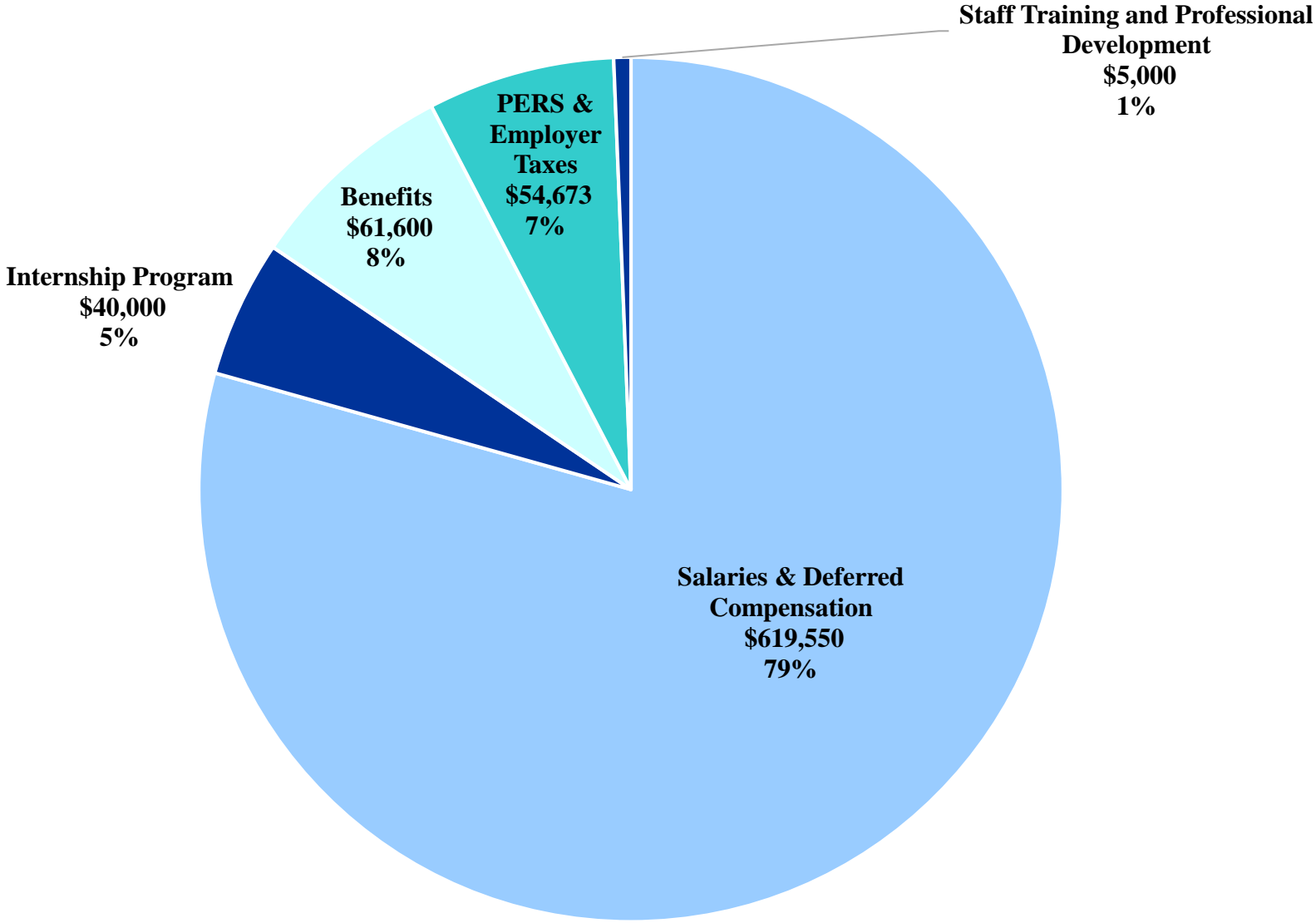
- PERS & Employer Taxes (\$20,551 increase):** Currently, all SGVCOG employers are subject to the Public Employee Pension Reform Act (PEPRA), which caps and limits pension benefits. CalPERS has indicated that the employer contribution rate for FY 2017-18 will be 6.55% of salaries for PEPRA employees.

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17 (Est.)	FY 2017-18 (Proposed)
Salaries & Deferred Compensation	348,259	299,983	183,534	364,167	619,550
Internship Program			46,045	60,500	40,000
Benefits	31,738	27,797	28,616	56,700	61,600
PERS & Employer Taxes	37,432	25,679	21,264	34,122	54,673
CalPERS Payment (One-time)				25,000	
Staff Training and Development				5,000	5,000
Total	\$ 417,429	\$ 353,459	\$ 279,459	\$ 515,489	\$ 775,823

SGVCOG Personnel Costs 2013-2018



FY 2017-2018 – SGVCOG Personnel Expenditures
\$775.823



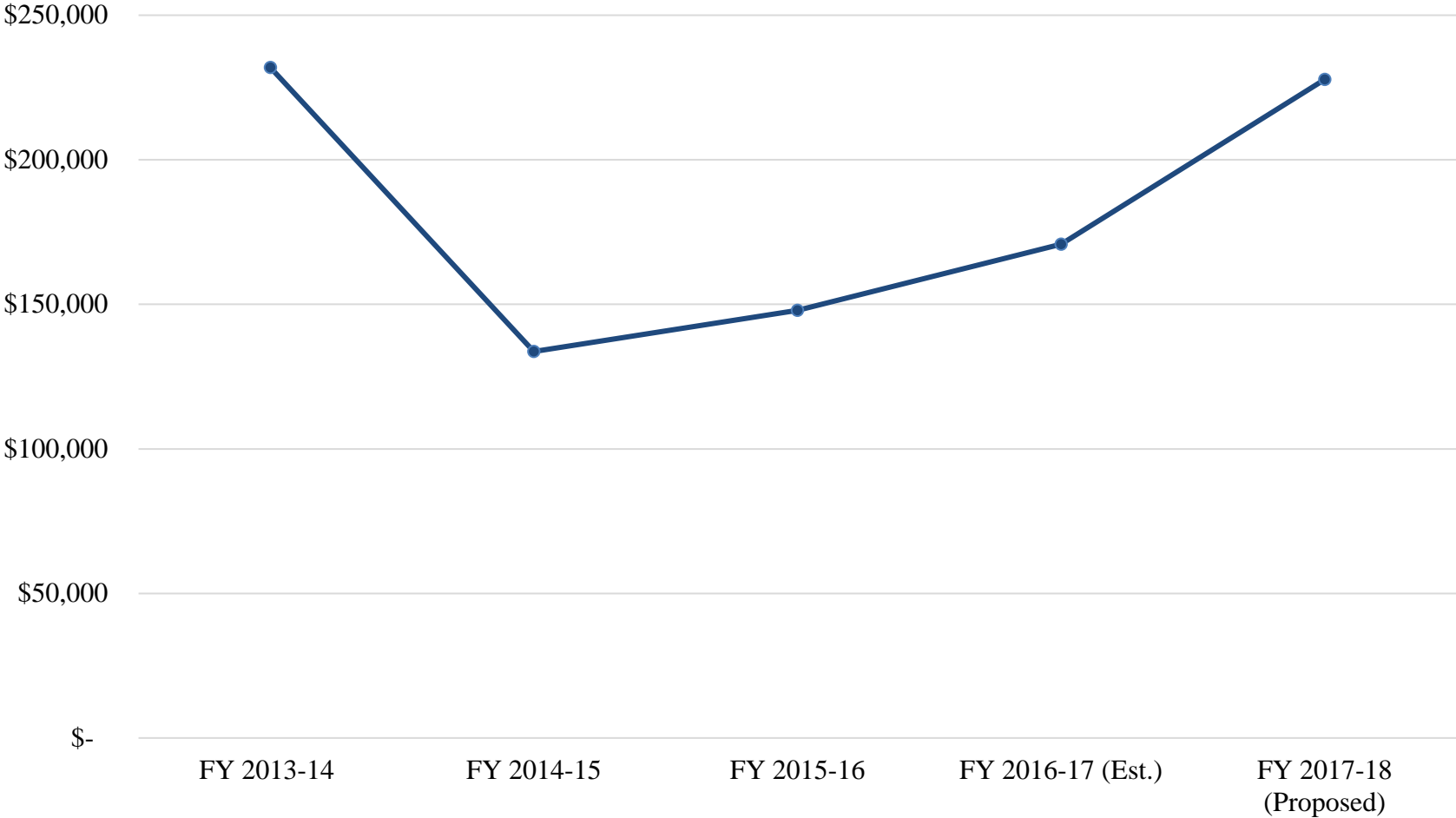
General & Administrative- These costs include facility costs (i.e. rent, storage, utilities, and office supplies), insurance/bonding, meetings and travel, and memberships. In January 2013, the SGVCOG entered into a five-year lease for the SGVCOG’s offices that are currently located in Alhambra, and that lease is set to expire in December 2017. Staff is researching potential options for office space and will present options to the Governing Board in the coming months. Based on the SGVCOG’s indirect costs allocation plan, a portion of the general and administrative costs are reimbursed through the SGVCOG’s grant programs.

Changes from current fiscal year (FY 2016-17) and the proposed FY 2017-18 budget are attributable to the following:

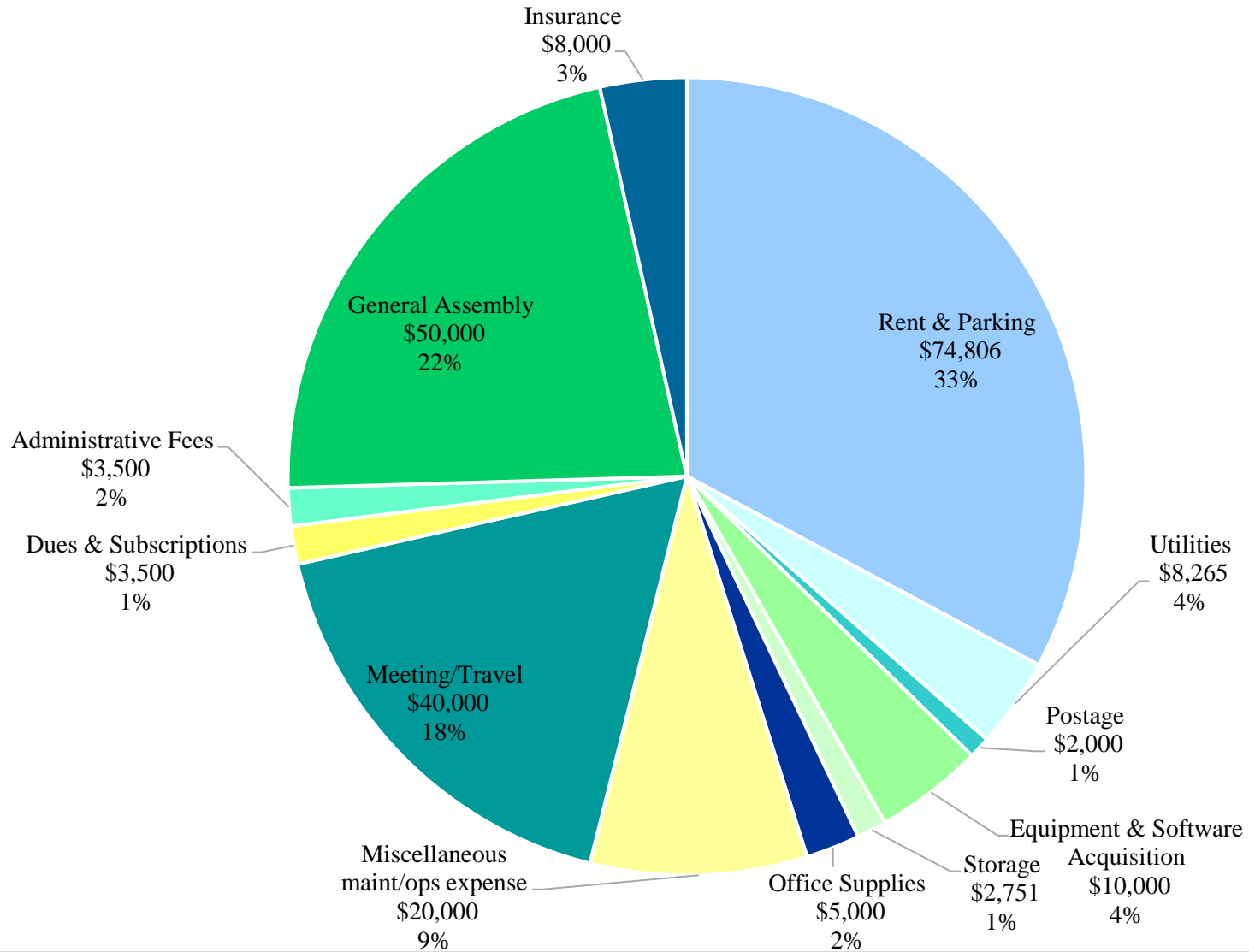
- **Rent (\$2,179 increase):** The FY 2017-18 assumes at 3% increase for rent, utilities, and storage based on increases to the consumer price index. This is consistent with historic trends.
- **Utilities (\$240 increase):** The FY 2017-18 assumes at 3% increase for rent, utilities, and storage based on increases to the consumer price index. This is consistent with historic trends.
- **Storage (\$80 increase):** The FY 2017-18 assumes at 3% increase for rent, utilities, and storage based on increases to the consumer price index. This is consistent with historic trends.
- **Miscellaneous Expenses (\$15,000 increase):** This line item includes \$15,000 to cover possible moving costs.
- **General Assembly (\$35,000 increase):** Staff is working to seek additional sponsorships for the General Assembly to expand the scope of the event. It is anticipated that revenues will offset all expenses for the general assembly.

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17 (Est.)	FY 2017-18 (Proposed)
Rent & Parking	62,169	63,762	66,904	72,627	74,806
Utilities	5,097	5,106	5,754	8,025	8,265
Postage	1,718	1,292	868	2,000	2,000
Equipment & Software Acquisition	12,041	4,175	17,291	10,000	10,000
Storage	1,238	2,063	2,578	2,671	2,751
Office Supplies	4,646	5,455	4,008	5,000	5,000
Miscellaneous Expenses	1,517	15,838	3,813	5,000	20,000
Meeting/Travel	30,444	24,520	31,750	40,000	40,000
Dues & Subscriptions	1,239	2,903	4,744	3,500	3,500
Administrative Fees	2,287	2,929	3,635	3,500	3,500
Claim Expense	102,929				
General Assembly				10,500	50,000
Insurance	6,596	5,637	6,609	8,000	8,000
Total	\$ 231,921	\$ 133,680	\$ 147,954	\$ 170,823	\$ 227,823

SGVCOG General and Administrative Costs 2013-2018



FY 2017-18 – SGVCOG General and Administrative Expenditures
\$227,823



Ongoing Operational Contracts – This includes ongoing annual contracts for legal, accountant/financial, treasurer and auditor services. The SGVCOG’s legal contract provides for a monthly retainer, and the financial audit is conducted and paid for annually. In March 2014, the Governing Board approved a renewal of the contract with Jones & Mayer for General Counsel legal services for one year with four one-year options, with the same terms and conditions. In January 2016, the Governing Board approved a five-year contract with Vasquez and Company for financial audit services.⁵ In February 2016, the Governing Board approved a Memorandum of Understanding (MOU) with ACE to provide accountant/financial management services. At the same time, the Governing Board approved a two-year contract with Vicenti, Lloyd & Stutzman to provide treasurer services.

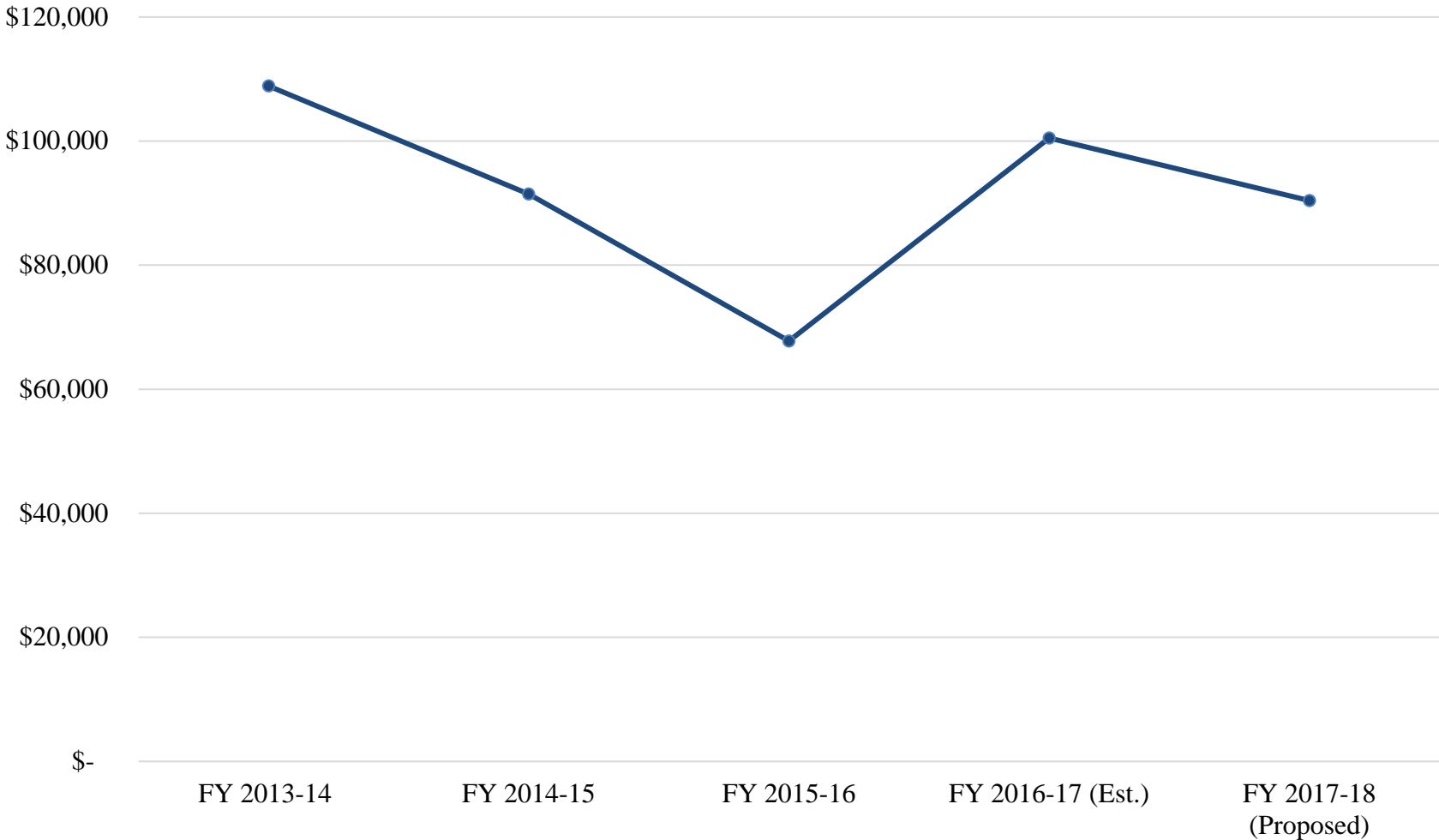
Changes from current fiscal year (FY 2016-17) and the proposed FY 2017-18 budget are attributable to the following:

- **Legal Services (\$5,000 decrease):** The annual cost of the SGVCOG’s retainer for legal services is \$25,000. In FY 2016-17, the SGVCOG had additional non-retainer legal expenses associated with addressing inquiries from CalPERS and providing legal opinions related to the reconfiguration of ACE. In FY 2017-18, it is anticipated that there will be some non-retainer services needed related to revising the bylaws and JPA to reflect the reconfiguration of ACE.
- **Financial Audit Service (\$400 increase):** The SGVCOG’s five-year contract provides for specified annual increases.
- **Treasurer (\$1,500 decrease):** The contract for this services specifies an annual not to exceed budget of \$22,500, and the costs are shared between ACE and SGVCOG. Based on discussions with the contractor, it is anticipated that the SGVCOG’s share of costs for FY 2017-18 will decrease slightly.
- **Financial/Accounting Services (\$4,000 decrease):** The SGVCOG’s MOU with ACE specifies an annual not to exceed budget of \$28,000, unless amended. In FY 2016-17, additional accounting costs were incurred assisting in developing new financial policies and participating in the Caltrans audit.

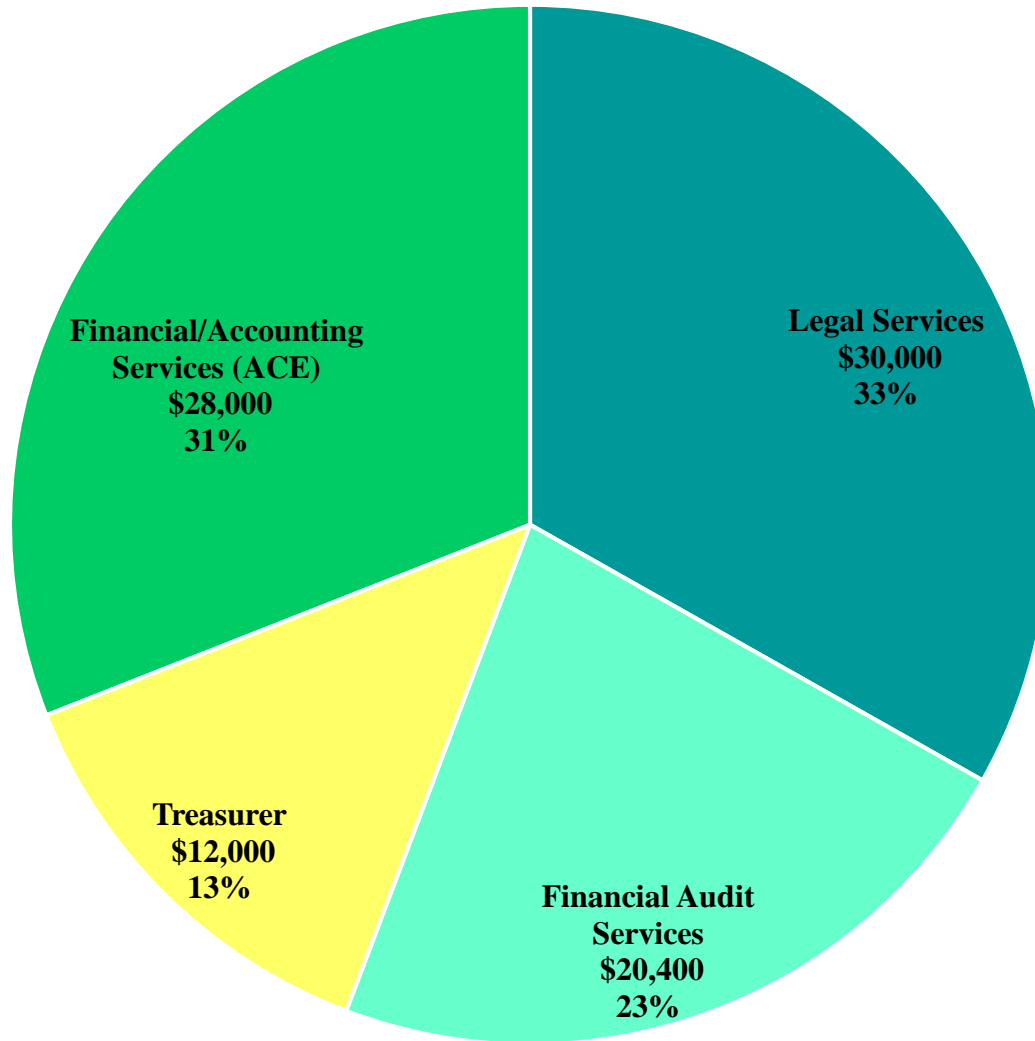
	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17 (Est.)	FY 2017-18 (Proposed)
Legal Services	53,227	35,502	26,974	35,000	30,000
Financial Audit Services	15,000	20,000	17,500	20,000	20,400
Treasurer			2,985	13,500	12,000
Financial/Accounting Services	40,659	36,254	20,321	32,000	28,000
Total	\$108,886	\$91,456	\$67,780	\$100,500	\$90,400

⁵ The contract for financial audit services may be cancelled at any time by the SGVCOG with 30 days written notice.

SGVCOG Operational Contracts 2013-2018



**FY 2017-18 – SGVCOG Ongoing Operational
Contracts Expenditures
\$90,400**



Consultant Services- This reflects the costs related to services including MTA Board Support, transportation planning support, administrative support,⁶ media/public relations, and grant writing.

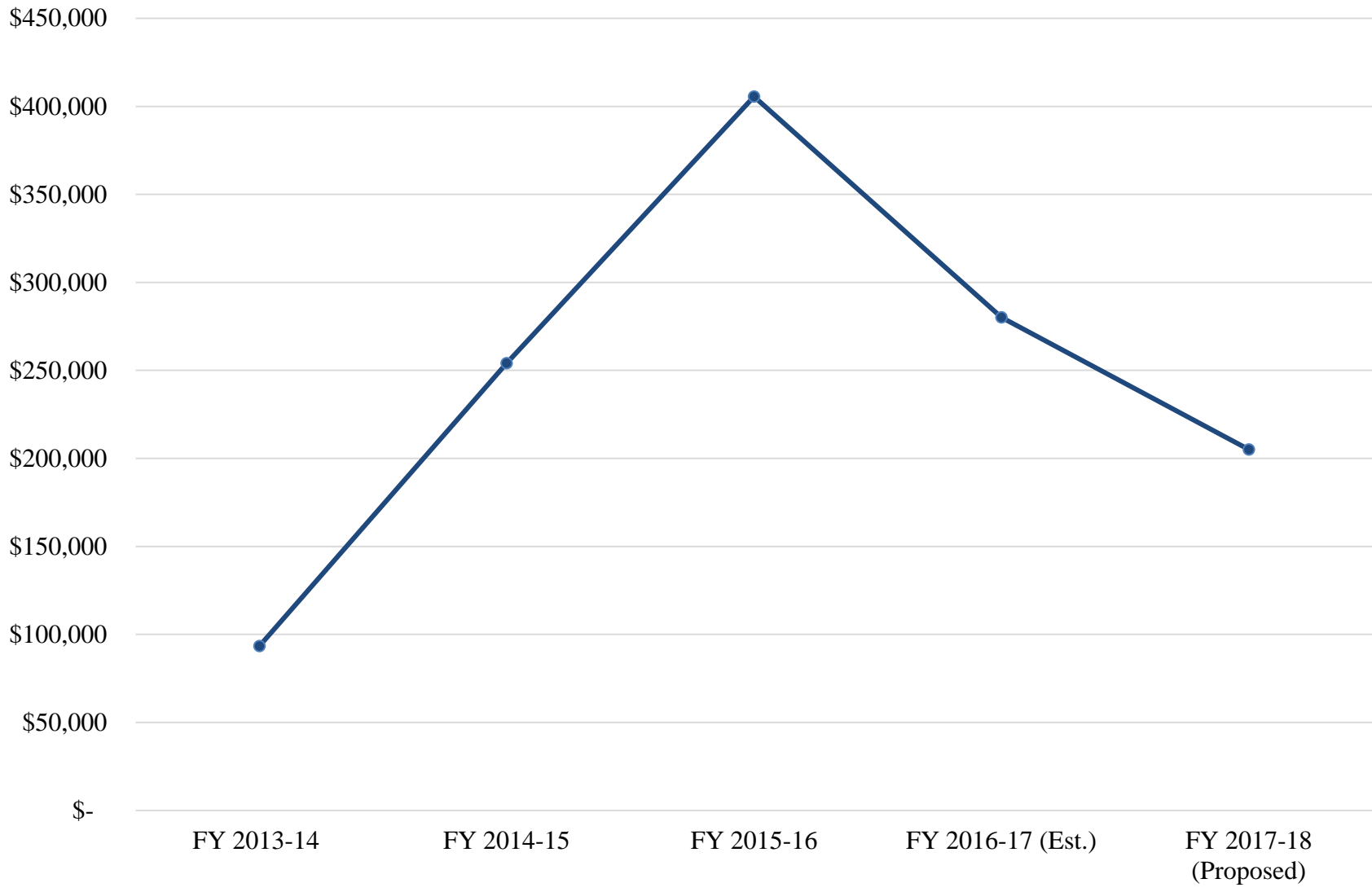
Changes from current fiscal year (FY 2016-17) and the proposed FY 2017-18 budget are attributable to the following:

- **Interim Executive Director (\$65,000 decrease):** In November 2016, the Executive Director position was converted from an consultant position to a full-time staff position. Those costs are now included under personnel costs.
- **Transportation Technical Support (\$5,000 decrease):** With the creation of the new transportation planner/program manager position, it is expected that there will be some decrease in the need for transportation technical support from ACE staff.
- **Administrative Support (\$5,000 decrease):** In FY 2016-17, additional administrative support costs were incurred assisting in developing new human resource procedures and financial policies as well as participating in the Caltrans audit.

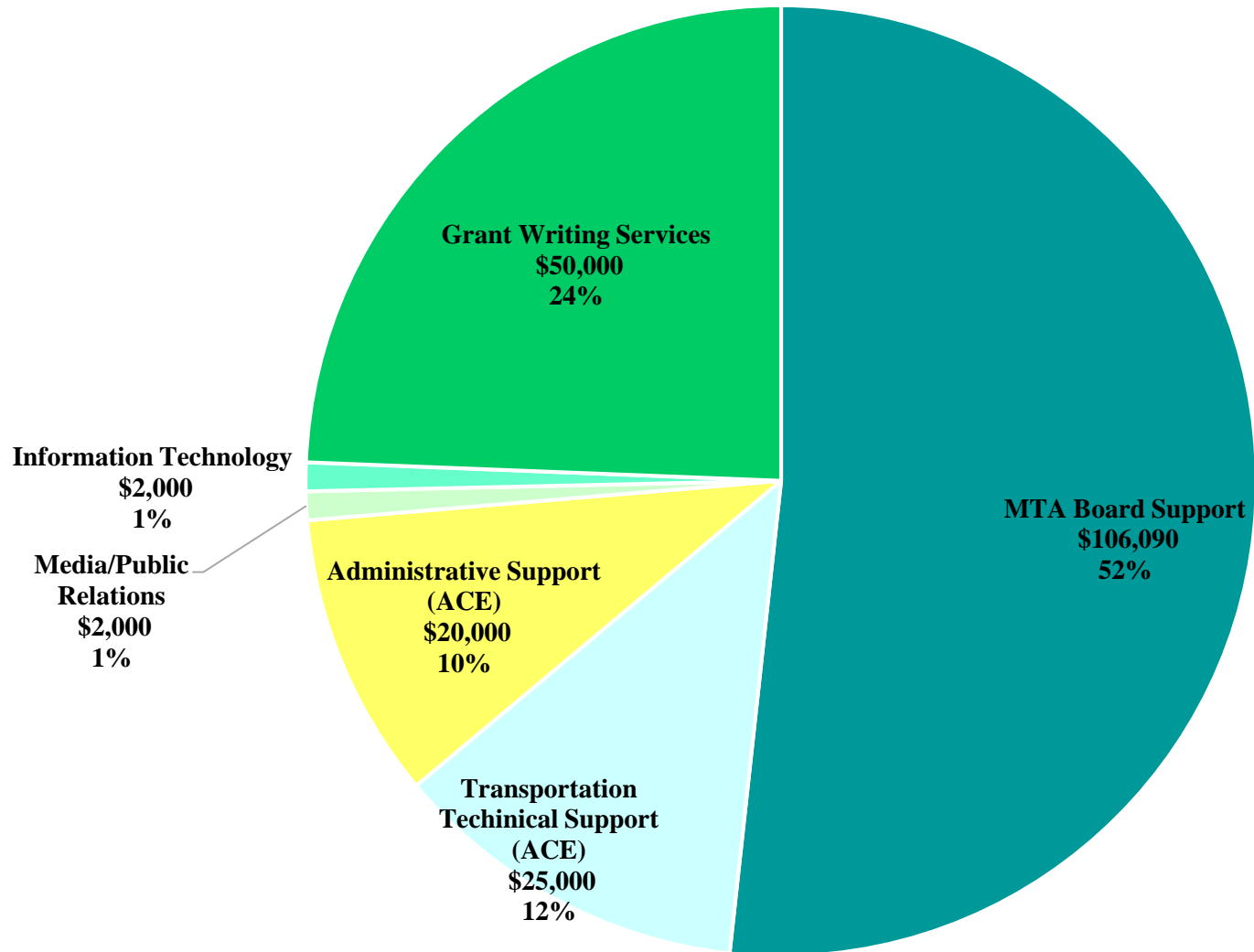
	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17 (Est.)	FY 2017-18 (Proposed)
Interim Executive Director		58,250	156,000	65,000	
MTA Board Support	81,249	95,832	102,750	106,090	106,090
Strategic Plan		22,000	9,998		
Transportation Technical Support (ACE)		6,543	50,000	30,000	25,000
Administrative Support (ACE)	7,238		18,958	25,000	20,000
Media/Public Relations		3,200	1,150	2,000	2,000
Information Technology		5,546	2,532	2,000	2,000
Annual Executive Director Evaluation	4,867				
Management Services Support		55,652	27,293		
Grant Writing Services		7,000	29,553	50,000	50,000
Stormwater Consultant			7,313		
Total	\$ 93,354	\$ 254,023	\$ 405,547	\$ 280,090	\$ 205,090

⁶ Both transportation planning and administrative support services are provided by ACE via MOUs that were approved by the Governing Board in February 2015 and February 2016 respectively.

SGVCOG Consultant Services 2013-2018

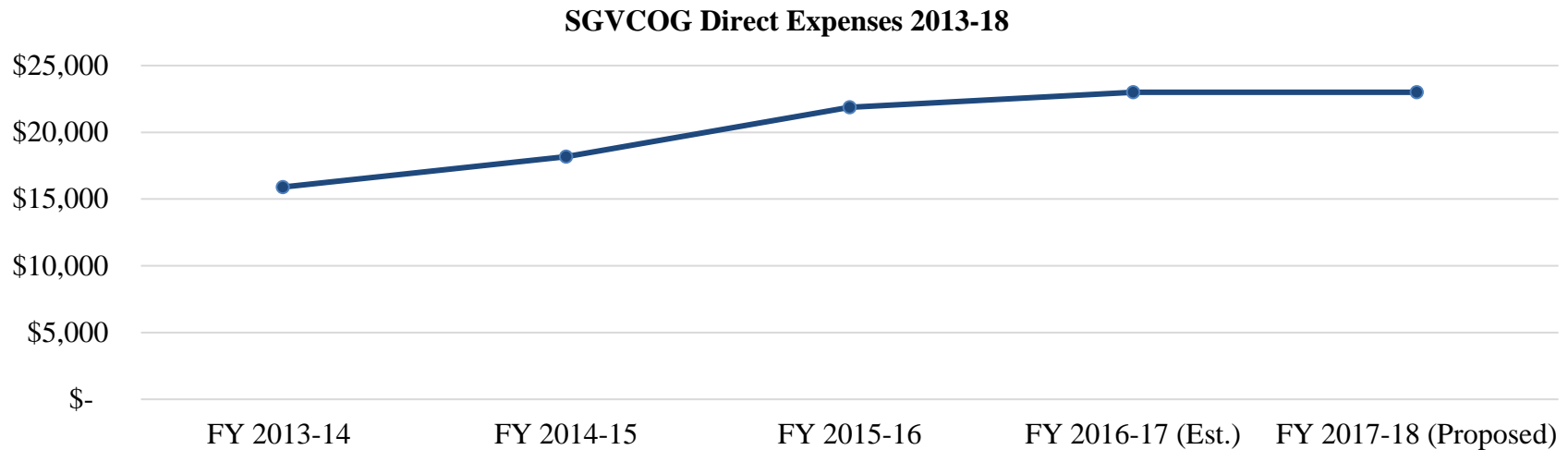


**FY 2017-18 – SGVCOG Consultant Services
Expenditures
\$205,090**



Direct Expenses- This category includes board stipends and printing/publication. Governing Board members are paid a stipend of \$50 per meeting. Stipend expenditures vary based on the number of meetings and attendance at these meetings. The SGVCOG has a lease arrangement to provide printing equipment. Large quantities and special order materials are generally outsourced. In May 2015, the Governing Board authorized a new five-year lease agreement for copier equipment and supplies.

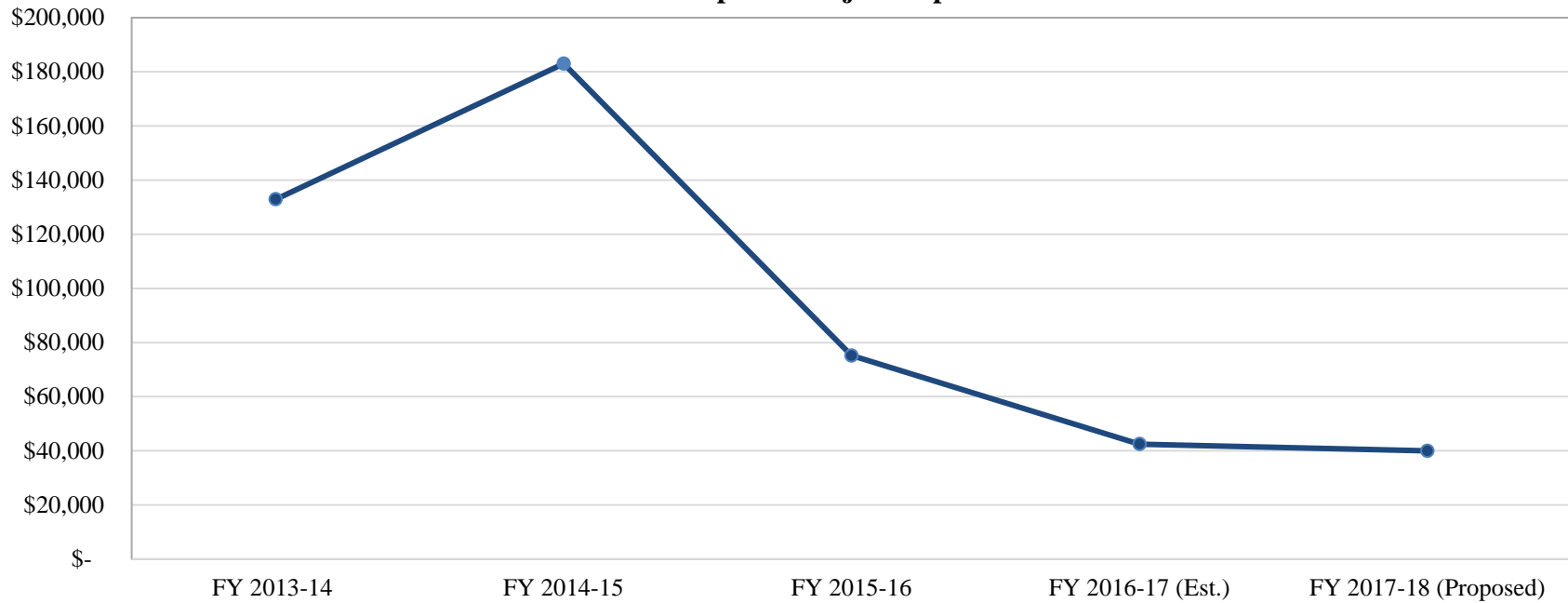
	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17 (Est.)	FY 2017-18 (Proposed)
Board Stipends & Taxes	8,550	10,800	13,739	11,000	11,000
Printing / Publication	7,347	7,377	8,143	12,000	12,000
Total	\$ 15,897	\$ 18,177	\$ 21,882	\$ 23,000	\$ 23,000



Grants & Special Projects Expenses- This expenditure category reflects direct program expenditures related to the SGVCOG’s grant funded projects. In FY 2017-18, the SGVCOG will have two active grant programs: San Gabriel Valley Energy Wise Partnership and SCE Strategic Planning. These programs are described in further detail under “Revenues.”

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17 (Est.)	FY 2017-18 (Proposed)
SGVEWP Edison & Gas Expenses	29,035	71,433	28,770	40,000	40,000
SCE CEESP Expenses ⁷	103,844	111,589	46,453	2,475	
Total	\$ 132,879	\$ 183,022	\$ 75,223	\$ 42,475	\$ 40,000

SGVCOG Grants and Special Project Expenses 2013-2018



⁷ The SCE CEESP Grant was completed in September 2015.

Memorandum

*Serious drought.
Help Save Water!*

To: MARK SAMUELSON
Acting Chief
Division of Local Assistance

Date: March 23, 2017

File: P1560-0016

From: MARSUE MORRILL, CPA
Chief
External Audits – Local Governments
Audits & Investigations

Subject: **PRE-AWARD AUDIT – SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS**

Audits & Investigations (A&I) performed a Pre-award Audit of the San Gabriel Valley Council of Governments (SGVCOG) to determine whether the SGVCOG's financial management system is adequate to accumulate and segregate reasonable, allowable, and allocable project costs and to determine whether corrective action items from the prior audit report dated September 7, 2011 have been resolved. The audit period covered expenditures from February 1, 2016 through November 30, 2016.

Based on our audit, we determined the SGVCOG's financial management system is adequate to accumulate, segregate, and allocate reasonable and allowable project labor costs. SGVCOG contracts with the Alameda Corridor-East Construction Authority (ACE) to perform their financial management activities and adopts ACE's processes and procedures to perform procurement and grant management. The audit determined the SGVCOG also completed and addressed the corrective action of findings identified in A&I Incurred Cost Audit Report dated September 7, 2011. The final audit report is attached.

If you have any questions, please contact Mandy Ip, Auditor, at (916) 323-7861, or me, at (916) 323-7105.

Attachment

MARK SAMUELSON

March 23, 2017

Page 2 of 2

- c: Phil Hawkey, Executive Director, San Gabriel Valley Council of Governments
Marisa Creter, Assistant Executive Director, San Gabriel Valley Council of Governments
Carlos Monroy, Director of Finance, Alameda Corridor-East Construction Authority
Aimee Kratovil, Acting Director, Financial Services, Federal Highway Administration
Tashia Clemons, Director, Program Development, Federal Highway Administration
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MarSue Morrill, CPA, Chief, External Audits - Local Governments, Audits & Investigations, Caltrans
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Office Chron

San Gabriel Valley Council of Governments Pre-Award Audit



Audit Report

March 2017



PREPARED BY:

California Department of Transportation

Audits and Investigations – MS 2

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P1560-0016

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ATTACHMENTS

- I. Corrective Action Analysis

SUMMARY, OBJECTIVES, SCOPE, METHODOLOGY, BACKGROUND, AND CONCLUSION

SUMMARY

The California Department of Transportation (Caltrans), Audits and Investigations (A&I) performed a Pre-award Audit of the San Gabriel Valley Council of Governments (SGVCOG) and found the SGVCOG's financial management system is capable of accumulating and segregating reasonable, allowable, and allocable project labor costs. SGVCOG also completed and addressed the corrective action of findings identified in A&I's Incurred Cost Audit Report dated September 7, 2011.

OBJECTIVES

Caltrans A&I performed the Pre-award Audit to determine whether the SGVCOG's financial management system can accumulate and segregate costs that are reasonable, allowable, and properly allocated to projects, which included assessing whether internal controls are in place to ensure the SGVCOG's compliance with applicable laws and regulations. In addition, our audit was performed to determine whether corrective action items from the prior audit report dated September 7, 2011 have been resolved.

SCOPE

The scope of the audit was limited to select financial and compliance activities. The audit included a review of the SGVCOG's billing procedures, procurement procedures, project management, internal controls, and accounting policies to ensure compliance with applicable Caltrans agreement provisions, and state and federal regulations. The audit also included a review of the SGVCOG's Single Audit Report for fiscal year ending June 30, 2015, review of corrective action implementation from the September 2011 audit, and inquiries of the SGVCOG's personnel. The audit included tests of individual accounts to the general ledger and supporting documentation to assess allowability, allocability, and reasonableness of costs based on a risk assessment, as well as an assessment of the internal control system as related to the financial management system as of March 20, 2017. Financial management changes subsequent to this date were not tested and, accordingly, our conclusion does not pertain to changes arising after this date. We believe that our audit provides a reasonable basis for our conclusion.

The SGVCOG is responsible for implementing internal controls and maintaining an adequate financial management system to accumulate and segregate reasonable, allowable, and allocable costs in accordance with state and federal requirements. Because of inherent limitations in any financial management system, misstatements due to error or fraud may occur and not be detected. Also, any projection or evaluation of the financial management system in future periods using the results of this audit are subject to the risk that the financial management system may become

inadequate because of changes in conditions, or that the degree of compliance with the policies and procedures may deteriorate.

METHODOLOGY

We conducted this Pre-award Audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions. The audit was less in scope than an audit performed for the purpose of expressing an opinion on the financial statements of the SGVCOG. Therefore, we did not audit and are not expressing an opinion on the SGVCOG's financial statements.

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the data and records selected. An audit also includes assessing the accounting principles used and significant estimates made, as well as evaluating the overall presentation.

BACKGROUND

Caltrans A&I conducts Pre-award Audits on local agencies receiving state and federal funds to determine if the agencies are complying with state and federal requirements. Caltrans requires Pre-award Audits to be performed by A&I prior to establishing a Master Agreement with agencies for state and federal funded projects.

CONCLUSION

Based on our audit we determined the SGVCOG's financial management system is adequate to accumulate and segregate reasonable, allowable, and allocable project costs. SGVCOG contracts with the Alameda Corridor-East Construction Authority (ACE) to perform their financial management activities and adopts ACE's processes and procedures to perform procurement and grant management thereby addressing and resolving corrective action items from the September 7, 2011 Caltrans A&I audit. SGVCOG also completed and addressed all the corrective action items. See Attachment 1 for corrective action analysis.

This report is intended as information for Caltrans management, California Transportation Commission, Federal Highway Administration, and SGVCOG. The report is a matter for public record and will be placed on Caltrans' website, which can be viewed at <www.dot.ca.gov/hq/audits/reports_issued.html>.

If you have any questions, please contact Mandy Ip, Auditor at (916) 323-7861, or Tami Gill, Audit Manager at (916) 323-7899.



MARSUE MORRILL, CPA
Chief
External Audits – Local Government Agency
Audits and Investigations

March 23, 2017

**ATTACHMENT I.
Corrective Action Analysis**

Action Item	San Gabriel Valley Council of Governments (SGVCOG) Corrective Action Items from Caltrans September 7, 2011 audit report	Audits & Investigation (A&I) Analysis of SGVCOG's Implementation of the Corrective Action Items
1	<p>SGVCOG will continue to be designated a high-risk agency as set forth in 49 Code of Federal Regulations (CFR), Part 18.12. The high risk designation will remain until Caltrans determines that the corrective actions are accomplished. Federal and State funds from Caltrans will not be provided to SGVCOG until the high-risk designation is repealed.</p>	<p>Corrective action is complete.</p> <ul style="list-style-type: none"> • A&I completed and issued a pre-award audit of SGVCOG March 2017. • The objective of the audit was to: 1) Ensure SGVCOG has a financial management system capable of accumulating and segregating project costs and 2) Follow-up on the corrective action items from the September 7, 2011 audit. • The audit found the SGVCOG's financial management system is capable of accumulating and segregating reasonable, allowable, and allocable project labor costs. SGVCOG also completed and addressed the corrective action items from the Caltrans A&I audit dated September 7, 2011.
2	<p>SGVCOG will develop and implement organizational changes to remove the conflict of interest created by Arroyo Associates, Inc., acting as Executive Director and staff for SGVCOG. The required organizational change is part of the operational plan in action #11 with the same timeframes for review and adoption.</p>	<p>Corrective action is complete.</p> <ul style="list-style-type: none"> • SGVCOG implemented changes in their organizational structure. The conflict of interest issue was resolved as of September 30, 2015. • SGVCOG has a strategic plan that details their goals and key actions. Their mission, vision and core values statement is posted on the agency website. • SGVCOG's adopted budget for FY 2016/17 includes its annual budget; estimated revenue and

		expenditures, including personnel costs.
3	SGVCOG must undergo a follow-up audit performed by Caltrans Audits and Investigations.	<p>Correction action is complete.</p> <ul style="list-style-type: none"> • A&I completed a pre-award audit of SGVCOG March 2017. The pre-award also included follow-up to corrective action items from the September 7, 2011 audit.
4	SGVCOG shall reimburse Caltrans \$36,937 paid to Arroyo Associates, Inc. Caltrans shall receive reimbursement by June 1, 2012.	<p>Corrective action is complete.</p> <ul style="list-style-type: none"> • SGVCOG reimbursed Caltrans \$36,937 for funds paid to Arroyo Associates, Inc. • The check deposit date was September 6, 2012.
5	SGVCOG will provide written administrative procedures by June 1, 2012 for procurement that comply with federal and state regulations.	<p>Corrective action is complete.</p> <ul style="list-style-type: none"> • SGVCOG has adopted and implemented Alameda Corridor-East Construction Authority's (ACE) procurement policy. <i>A contract or project that will be funded by state and/or federal funds will be procured and administered according to ACE's procurement policy.</i> • The procurement policy conforms to the federal procurement standards. • A&I tested an ACE procurement transaction and determined the contract was procured in accordance with SGVCOG and ACE's procurement policy, and state and federal guidelines.

6	SGVCOG will ensure its financial management system is in compliance with state and federal rules and regulations, including procurement billings procedures, local match, and contract management procedures addressed in 49 CFR, Part 18, and 2 CFR Part 225.	<p>Corrective action is complete.</p> <ul style="list-style-type: none"> • SGVCOG utilizes ACE's financial management system for accounting, budgeting, finance and information technology and ACE staff for administrative support. • ACE's financial management system is in compliance with state and federal rules and regulations. • SGVCOG adopted ACE's Accounting and Financial policies and procedures October 20, 2016.
7	SGVCOG shall reimburse Caltrans \$5,750 for unsupported consultant costs from IBI Group. Caltrans shall receive reimbursement by June 1, 2012.	<p>Corrective action is complete.</p> <ul style="list-style-type: none"> • SGVCOG reimbursed Caltrans for \$5,750 for unsupported consultant costs for IBI Group. • The check deposit date was September 6, 2012.
8	SGVCOG shall develop and maintain a grant management system for federal and state funds that includes staff and management familiar with requirements of funding agreements, adequate supporting documentation for billings, and appropriate review and approval of grant invoices before they are submitted to Caltrans.	<p>Corrective action is complete.</p> <ul style="list-style-type: none"> • SGVCOG adopted an updated procurement policy on September 18, 2014. • SGVCOG utilizes ACE's Procurement Policy which states, "if any contract/project will be funded by state and/or federal funds, those contract/project will be procured and administered by ACE." • ACE currently manages state and federal transportation grants and has active transportation projects. • Tested an ACE procurement transaction and determined the contract was procured in accordance with SGVCOG and ACE's procurement policy, and state and federal guidelines.

<p>9</p>	<p>SGVCOG shall maintain an adequate contract management system.</p>	<p>Corrective action is complete.</p> <ul style="list-style-type: none"> • SGVCOG will utilize ACE for managing any state and/or federal funds projects. • Tested the payable process and determined SGVCOG maintains an adequate contract management over its professional services contract, management service contract, and legal services agreement.
<p>10</p>	<p>SGVCOG shall develop and implement a project costing system that can accumulate and segregate allowable project costs and create written policies and procedures as well as controls to ensure the policies and procedures are followed.</p>	<p>Corrective action is complete.</p> <ul style="list-style-type: none"> • SGVCOG utilizes ACE for its financial management system operations for accounting, budgeting, finance and information technology and ACE staff for administrative support. • ACE's accounting system can accumulate and segregate allowable project costs. Labor costs and receivable transactions were tested. • SGVCOG adopted ACE's accounting and financial policies and procedures as of October 20, 2016. Policies are communicated to staff through staff meetings.

11	SGVCOG will prepare an operational plan that details the agency's purpose and goals, estimated annual budget, staff resources, anticipated projects/activities, funding sources, and other pertinent information for FYs 2011/12, 2012/13, and 2013/14.	Corrective action is complete. <ul style="list-style-type: none">• SGVCOG has a strategic plan that details the agency's goals and key actions. Their mission, vision and core values statement is posted on the agency website.• SGVCOG's adopted budget for FY 2016/17 includes its annual budget; estimated revenue and expenditures, including personnel costs and financial policies.
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