



San Gabriel Valley Council of Governments

AGENDA AND NOTICE OF THE MEETING OF THE SGVCOG EXECUTIVE COMMITTEE

Monday, July 1, 2019 – 12:00 PM

SGVCOG Office

1000 S. Fremont Ave., Building 10, Suite 10210, Alhambra, California 91803

Thank you for participating in today's meeting. The Executive Committee encourages public participation and invites you to share your views on agenda items.

President
Cynthia Sternquist

1st Vice President
Margaret Clark

2nd Vice President
Becky Shevlin

3rd Vice President
Tim Hepburn

Past President
Vacant

Transportation Chair
John Fasana

Homelessness Chair
Becky Shevlin

EENR Chair
Denis Bertone

Water Policy Chair
Judy Nelson

ACE Chair
Victoria Martinez-Muela

MEETINGS: *Regular Meetings of the Executive Committee are held the first Monday of every month at 12:00 p.m. at the SGVCOG Office (1000 S. Fremont Ave., Building 10, Suite 10210, Alhambra, California 91803).* The Executive Committee 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@sgvcog.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.

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

TO ADDRESS THE EXECUTIVE COMMITTEE: 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. If several persons wish to address the Board on a single item, the Chair may impose a time limit on individual remarks at the beginning of discussion. **The Executive Committee may not discuss or vote on items not on the agenda.**

AGENDA ITEMS: The Agenda contains the regular order of business of the Executive Committee. Items on the Agenda have generally been reviewed and investigated by the staff in advance of the meeting so that the Executive Committee 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 Executive Committee.



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

1. Call to Order
2. Roll Call
3. Public Comment *(If necessary, the President may place reasonable time limits on all comments)*
4. Changes to Agenda Order: Identify emergency items arising after agenda posting and requiring action prior to next regular meeting *(It is anticipated that the Executive Committee may take action on these matters)*

CONSENT CALENDAR *(It is anticipated that the Executive Committee may take action on the following matters)*

5. Executive Committee Meeting Minutes – Page 1
Recommended Action: Approve Executive Committee minutes.

UPDATE ITEMS

- 3rd Quarter Financial Report / Treasurer's Report – Page 3
- Metro Board Support Contract Extension/Procurement Timeline – Page 27
- Caltrans Audit – Page 31

PRESIDENT'S REPORT

EXECUTIVE DIRECTOR'S REPORT

GENERAL COUNSEL'S REPORT

ACTION ITEMS *(It is anticipated that the Executive Committee may take action on the following matters)*

6. SB 592 (Wiener) – Page 47
Recommended Action: Discuss and provide direction to staff.
7. Draft Governing Board Agenda – Page 61
Recommended Action: Approve draft Governing Board agenda.

ANNOUNCEMENTS

CLOSED SESSION

8. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION – Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9: (One case)
Recommended Action: Discuss and provide direction.

ADJOURN



SGVCOG
Executive Committee Meeting Minutes
May 6, 2019
12:00 PM
SGVCOG Alhambra Office

PRELIMINARY BUSINESS

1. Call to Order

The meeting was called to order at 12:12 P.M.

2. Roll Call

Members Present

C. Sternquist, President
 M. Clark, 1st Vice President
 T. Hepburn, 3rd Vice President
 D. Bertone, EENR Chair
 B. Shevlin, 2nd Vice President/Homelessness Chair

Members Absent

J. Fasana, Transportation Chair
 V. Martinez-Muela, ACE Chair
 J. Nelson, Water Policy Chair

Staff/Guests:

M. Creter, Executive Director
 K. Ward, Staff
 P. Duyshart, Staff

3. Public Comment

There were no comments from the public.

4. Changes to Agenda Order:

No changes were requested.

CONSENT CALENDAR

5. Executive Committee Meeting Minutes

There was a motion to approve the consent calendar (M/S: B. Shevlin/T. Hepburn).

[MOTION PASSES]

AYES:	C. Sternquist, T. Hepburn, D. Bertone, M. Clark, B. Shevlin
NOES:	
ABSTAIN:	
ABSENT:	J. Nelson, J. Fasana, V. Martinez-Muela

UPDATE ITEMS

- SGVCOG 2019-2020 Appointments
 M. Creter reported on this item.

DISCUSSION ITEMS

- Executive Committee Meeting Schedule
 M. Creter reported on this item. The Committee decided to cancel the planned June 3rd meeting.
 The Committee discussed potentially meeting at 4:30 PM prior to the June 6 Board meeting.

PRESIDENT'S REPORT

- Appointment of Legal Services Technical Evaluation Committee
 C. Sternquist reported on this item. She reported that the individuals that were appointed to the Legal Services Technical Evaluation Committee are as follows:
 - Cynthia Sternquist
 - Tim Hepburn
 - Tim Sandoval

- Marisa Creter
- Mark Christoffels

She also updated the Committee on the status of the legal services proposal review process.

EXECUTIVE DIRECTOR'S REPORT

- M. Creter reported on this item. She called on P. Duyshart to present the SGVCOG legislative tracking sheet that has recently been updated. There was a request to consider support of SB 324.

GENERAL COUNSEL'S REPORT

- No report given.

ACTION ITEMS

6. Draft Governing Board Agenda

M. Creter reported on this item. There was a request to attach the EENR Committee meeting minutes to the National Recreation Area agenda item. C. Sternquist requested that Governing Board members should be encouraged to wear city shirts to the next meeting.

There was a motion to approve the Governing Board agenda as amended (M/S: B. Shevlin/ T. Hepburn).

[MOTION PASSES]

AYES:	C. Sternquist, T. Hepburn, D. Bertone, M. Clark, B. Shevlin
NOES:	
ABSTAIN:	
ABSENT:	J. Nelson, J. Fasana, V. Martinez-Muela

ANNOUNCEMENTS

ADJOURN

The meeting adjourned at 1:38 PM.

REPORT

DATE: July 1, 2019

TO: Executive Committee
Governing Board

FROM: Marisa Creter, Executive Director

RE: **3RD QUARTER FINANCIAL REPORT / TREASURER'S REPORT**

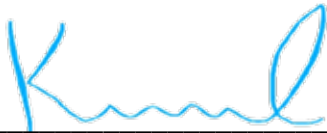
RECCOMENDED ACTION

Receive and file.

BACKGROUND

Staff is recommending to receive and file the Treasurer's report. The full 3rd Quarter Financial Reports for the SGVCOG and the ACE Project are included as attachments to the Treasurer's report. The Treasurer's report was prepared by the SGVCOG's Treasurer, CliftonLarsonAllen LLP. Renee Graves from CliftonLarsonAllen will present on this item.

Prepared by:



Katie Ward
Senior Management Analyst

Approved by:



Marisa Creter
Executive Director

ATTACHMENTS

Attachment A – 3rd Quarter Treasurer's Report

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

Quarterly Report Ended March 31, 2019

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I. Executive Summary

Background and Objective

CliftonLarsonAllen LLP (CLA) was retained by the San Gabriel Valley Council of Governments (SGVCOG) to perform consulting services related to the San Gabriel Valley Council of Governments (COG) and the Alameda Corridor-East Construction Authority (ACE). The objective is for CLA to read and assess SGVCOG's quarterly reports, perform selective ratio analysis, and report to the Board accordingly. Throughout the consulting engagement, CLA maintained regular contact with SGVCOG's Executive Director, Marisa Creter and ACE's Director of Finance, Maritza Ramos.

Professional Standards

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

Scope of Engagement

General

CLA reviewed the bank reconciliations, trial balance, and quarterly reports regarding financial position for the quarter ended March 31, 2019. CLA created or obtained various electronic files in order to prepare this report to the Executive Committee; the electronic files are available upon request.

Dollar values included in this report have been rounded; therefore the numbers included here may differ slightly when comparing the values included in this report to the underlying detail.

Results of Procedures Performed

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

Review of ACE Investments and Cash Balances

CLA was provided with a Fixed Income Investments Portfolio Summary report dated March 31, 2019. The report included the current book value and market values for ACE's: Government Securities, Certificates of Deposit, Corporate Bonds, Government Mortgages, Municipals, and Cash and Cash Equivalents. The portfolio's total market value of \$26,499,536 per ACE's Fixed Income Investments Portfolio report was verified against the Citizens Trust investment statement for the period ending March 31, 2019. The book value and market value of the Local Agency Investment Fund (LAIF) was substantiated through review of the LAIF balance confirmation as of March 2019. The amounts reported as current book value and market value on the March 31, 2019 Fixed Income Investments Portfolio report were reconciled.

ACE's bank account reconciliations and coordinating bank statements were reviewed and corroborated with the trial balance for the quarter ended March 31, 2019.

Review of ACE 3rd Quarter 2019 Reports

Expenditures vs. Reimbursements (Exhibit V): Approximately 99% of ACE's Income-to-Date (ITD) Expenditures have been reimbursed, an increase of 1% from the 98% reimbursement rate at the prior quarter ended December 31, 2018.

The remaining receivables total \$17,271,496 of which \$9,601,776 or 56%, was to be billed after the March 31 balance sheet date. Ratio analysis showed expenditures and reimbursements to be consistent with the prior quarter ended December 2018. Cash increased by 38.9%. The increase can be largely attributed to the decrease in the amount of receivables from the prior quarter.

Treasury/Banking Investments (Exhibit VII): Report amounts were agreed to the trial balance. Below is a summary of changes from current year Q2 to Q3.

		<u>Q3</u> 3.31.2019	<u>Q2</u> 12.31.18	% Increase/ (Decrease)
Cash		\$32,353,214	\$23,285,372	38.9%
Investments		\$28,452,200	\$28,306,924	0.5%
Receivables		\$17,271,496	\$26,883,726	-35.8%
Other Receivables, Prepaids and Deferred Costs		\$29,270,140	\$29,238,342	0.1%
Liabilities		\$93,932,841	\$94,338,640	-0.4%
Fund Balance before PERS Liability		\$13,414,209	\$13,375,724	0.3%

Review of COG Cash Balances, including LAIF

CLA was provided a Comparative Summary Balance Sheet for Q3 and Q2. Cash balances and Local Agency Investment Fund (LAIF) were verified with the Citizens Business Bank account statements for the period ended March 31, 2019 and the LAIF statement as of March 2019. Overall, COG's cash and cash equivalents decreased 20% since prior quarter from \$1,609,441 at the end of Q2 to \$1,287,443 for the period ended March 31, 2019.

COG's bank account reconciliations and coordinating bank statements were reviewed and corroborated with the trial balance for the quarter ended March 31, 2019.

Review of COG 3rd Quarter 2019 Reports

All balances on the Comparative Summary Balance Sheet as of March 31, 2019 were verified against the period trial balance as of March 31, 2019. The Grants Receivable Aging Detail report as of March 2019 was also verified to the trial balance.

Conclusion

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

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

- Section 17. Control and Investment of Council Funds. The Governing Board shall adopt a policy for the control and investment of its funds and shall require strict compliance with such policy. The policy shall comply, in all respects, with all provisions of applicable law.

A handwritten signature in black ink, appearing to read "Renee S. Graves". The signature is fluid and cursive, with a large initial "R" and a long, sweeping horizontal stroke at the end.

Renee S. Graves, CPA, CGFM

Principal

CliftonLarsonAllen LLP

II. Background and Scope of Engagement

A. Engagement Background and Objectives

CliftonLarsonAllen LLP (CLA), was retained by the San Gabriel Valley Council of Governments. Throughout the engagement, CLA maintained regular contact with the Executive Director, Marisa Creter, and ACE's Director of Finance, Maritza Ramos.

B. Professional Standards

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

C. Scope of Engagement

Attachment A to our agreement includes possible consulting procedures to be performed on a monthly basis. Correspondence between Renee Graves of CLA and SGVCOG's Executive Director, Marisa Creter, and ACE's Director of Finance, Maritza Ramos, occurred to clarify the scope of the engagement for the quarter ending March 31, 2019. The following areas were agreed to regarding 3rd Quarter 2019 Reports prepared as of March 31, 2019.

ACE

1. Investments and Cash Balances
2. Review the 3rd Quarter 2019 Report as of March 31, 2019
2. Information reported in the Quarterly Report reconciles to the general ledger

COG

1. Cash Balances, including LAIF
2. Review the 3rd Quarter 2019 Report as of March 31, 2019
3. Information reported in the Quarterly Report reconciles to the general ledger

D. General Disclosures

CLA created or obtained various electronic files in order to prepare this report to the Executive Committee; the electronic files are available upon request.

Dollar values included in this report have been rounded; therefore the numbers included here may differ slightly when comparing the values included in this report to the underlying detail.

E. Background Information

San Gabriel Valley Council of Governments (COG)

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

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

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

Alameda Corridor-East Construction Authority (ACE)

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

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

F. Acronyms Used

ACE - Alameda Corridor-East Construction Authority
CM – Construction Management
COG – San Gabriel Valley Council of Governments
LAIF – Local Agency Investment Fund
MTA – Metropolitan Transit Authority
PERS – Public Employee’s Retirement System
ROW – Right of Way

III. Review of identified areas for ACE

A. Review of Investments and Cash Balances

The March 31, 2019 Fixed Income Investments Portfolio report was verified with the Citizens Trust statement for the period of March 1, 2019 through March 31, 2019 and the LAIF statements as of March 31, 2019. The amounts reported as the market value and the current book value on the March 31, 2019 Fixed Income Investments Portfolio report were reconciled. The allocation of investments within the pool by the type of investment is consistent with the current Investment Policy.

Due to the daily volatility of investments, the balance is reported on a cost basis during the fiscal year and adjusted to fair value as of the fiscal year end. The applicable balances for the fiscal year ending March 31, 2019 are:

- Trial balance amount of \$26,114,211 offset by a “change in market value” account balance of \$699,366 for a balance of \$26,813,577.
- Book value and market value per Citizens Trust Investment Statement is \$26,813,577 and \$26,499,536, respectively.
- Exhibit VII Treasury/ Banking Investments Report amount of \$26,813,577.

B. Review of Information Provided by ACE

Exhibit V ACE Expenditures vs. Reimbursements and Exhibit VII Treasury/ Banking Investments reports as of March 31, 2019 were obtained and verified against the preliminary trial balance as of March 31, 2019.

Exhibit V ACE Expenditures vs. Reimbursements Report

Amounts shown under the reimbursement status for the categories of 1) *Current/ 30 days or less* of \$3.978m; 2) *Aged Receivable* of \$2.070m; 3) *To be billed* of \$9.602m; and 4) *MTA retention* of \$1.622m were verified against the accounts listed on the trial balance. The *Current/ 30 days or less* and *MTA retention* balances are each in a separate general ledger account. The *To be billed* amount is the aggregate balance of approximately 30 accounts for each individual project by various phases (CM, ROW, Design, Construction, Construction Management and Betterment). These amounts were verified with the accounts listed on the trial balance.

Exhibit VII Treasury/ Banking Investments Report

Each of the accounts listed on Exhibit VII were verified with the trial balance. Consistent with the previous quarterly report, Exhibit VII presents *other receivables, prepaids, surplus property and deferred costs* at the gross aggregate amount of \$29.27m from approximately 14 separate accounts, the most significant accounts being Surplus Property of \$27.28m. The applicable balances for the quarter ending March 31, 2019 are as shown herein.

Other receivables	\$ 68,661
Notes receivable	150,000
Unbilled receivables	1,458,528
Prepaid expenses	318,318
Surplus property	27,276,536
Deferred costs - indirect	697,463
Unrealized change in investments	(699,366)
	<u>\$ 29,270,140</u>

The PERS unfunded termination liability of \$6.347m was obtained from the September 30, 2016 CalPERS Actuarial Valuation Report. This liability is not reflected on the trial balance, but is shown on Exhibit VII to reflect the payout that could occur should ACE cease to exist. The actuarially determined PERS net pension liability of \$2.1m (excluding deferred outflows and deferred inflows) is reported on the June 30, 2018 audited financial statements in accordance with applicable GASB standards.

IV. Review of identified areas for COG

A. Review of Cash Balances, including LAIF

The March 31, 2019 Bank and LAIF balances reported on the Comparative Summary Balance Sheet were verified against each Citizens Business Bank statement and LAIF statement as of March 31, 2019.

B. Review of Third Quarter 2019 Reports

As of March 31, 2019, the Comparative Summary Balance Sheet report was verified to the trial balance. Individual balances on the trial balance were verified to reconciled bank statements and to the LAIF statement at March 31, 2019. All amounts reported were verified to the trial balance. The allocation of investments within the pool by the type of investment is consistent with the current Investment Policy.

Grants Receivable Aging Detail Report

The Grants Receivable Aging Detail report was reconciled to the trial balance. As of March 31, the receivable balance was \$406,097. As reported by ACE's Director of Finance, none of the reported balance was collected subsequent to the March 31 quarter end. Of the \$406,097 remaining receivables, 68% are aged 90+ days; management believes that all amounts are reasonably expected to be collected. The most significant amount in the aged 90+ days balance is \$250,148 outstanding from July 2018 related to the CIMP and EWMP projects.

The balance of the remaining receivables of \$406,097 as of the date of this report have increased 8% compared to the amount of remaining receivables in the second quarter report of \$376,260.

CitiCard Credit Card Charges

The CitiCard Credit Card Charges report provides a breakdown of the types of purchases made by credit card. Purchases for the period of December 2018 to March 2019 totaled \$14,814. During the quarter, \$5,479 was expended on meetings and travel, a 19% increase from last year's Q3 meetings and travel spending of \$4,622.

Quarterly purchases by credit card compared to the prior year quarter and a breakdown of fiscal year cumulative credit card purchases through March 31, 2019 is shown herein.

	<u>Q3</u> 03.31.2019	<u>Q3</u> 03.31.2018	% Increase/ (Decrease)
Total Credit Card Expenditures - Current Quarter	\$14,814	\$8,090	83.1%

	<u>YTD</u> 3.31.2019	<u>YTD</u> 3.31.2018	% Increase/ (Decrease)
Total Credit Card Expenditures - Year-to-Date	\$39,006	\$42,422	-8.1%

	<u>Q3</u> 3.31.2019	<u>Q3</u> 3.31.2018
Administrative Fees		
CEESP 3 - SCE	\$ 12	\$ -
Energy Wise - SCE	99	214
Equipment & Soft Acquisition	148	229
Homelessness Program - LAC	3,419	-
Maintenance & Operating Expenses	-	777
Meetings/Travel	-	328
Meetings/Travel - Board	4,085	3,437
Office Supplies	1,394	1,185
Open Streets - Event Day	602	877
Postage - Board	77	13
Prepaid expenses	86	112
Printing and Publications	1,246	-
Subscriptions	2,125	175
Webpage/ Software Services	852	381
	669	362
	<u>\$ 14,814</u>	<u>\$ 8,090</u>

Purchases by credit card are utilized for efficiencies in procurement of goods and services.

Budget to Actual Comparison Report*Budget v. Actual*

Actual balances through March 31, 2019 were reconciled to the trial balance. In the fiscal year, COG had year-to-date expenses totaling 50% of the 2019 fiscal budget, ending the quarter with \$104,438 net income. Member dues comprise approximately 93% of the operating revenue budget for FY 2019. As of March 31, Member Dues revenue was 73% of the 2019 fiscal budget.

A comparison of the quarterly budget, fiscal budget and percent of fiscal budget is presented herein.

	Q3 Actual 2018-2019	FY 2019 Revised Budget 2018-2019	Year-To-Date % of Budget 2018-19
Membership Dues	\$ 547,024	\$ 754,007	73%
Sponsorships	27,829	50,000	56%
Hero Program	3,426	6,000	57%
Interest	2,773	2,050	135%
Grants & Special Projects	508,369	1,161,082	44%
Total Revenue	\$ 1,089,421	\$ 1,973,139	55%
Personnel	\$ 289,258	\$ 382,858	76%
Board & Employee Expenses	14,092	60,000	23%
Professional Services	175,693	346,980	51%
Other Expenses	158,815	248,927	64%
Total Indirect Expenses	\$ 637,858	\$ 1,038,765	61%
Personnel	\$ 179,276	\$ 351,563	51%
Program Management	167,849	561,071	30%
Total Direct Expenses	\$ 347,125	\$ 912,634	38%
Total Expenditures	\$ 984,983	\$ 1,951,399	50%
Net Income (Loss)	\$ 104,438	\$ 21,740	N/A

V. List of Exhibits

ACE – Exhibit V – Expenditures vs. Reimbursements as of March 31, 2019

ACE – Exhibit VII – Treasury/ Banking Investments, Investments Portfolio and
Summary as of March 31, 2019

COG –2019 3rd Quarter Reports as of March 31, 2019 – Comparative
Summary Balance Sheet, Grants Receivable Aging Detail, CitiCard
Charges and Budget Report

Exhibit V

ACE Expenditures vs. Reimbursements

As of March 31 , 2019

Projects	Reimbursement Status (\$ 000)					
	ITD Expenditures	Received	Current / 30 Days or less	Aged Receivable	To Be Billed	MTA Retention
At Grade Crossing	\$ 3,175	\$ 3,145	\$ -	\$ -	\$ 26	\$ 4
Durfee	30,602	28,889	-	-	1,614	99
Fairway Drive	106,253	103,819	2,066	-	202	166
Fairway-Lemon Betterment	21,290	19,000	-	-	2,290	-
Fullerton	72,443	69,959	-	-	2,050	435
Montebello	8,843	8,673	-	-	141	29
Maple Ave.	558	556	-	-	2	-
Montebello At Grade	181	147	-	-	29	4
Nogales (LA)	119,316	115,610	-	2,070	1,176	460
Puente Ave.	87,127	86,194	-	-	856	76
SG Trench	288,640	285,883	1,911	-	830	16
Temple	94,708	94,471	-	-	18	219
Turnbull Cyn.	3,252	3,080	-	-	58	113
Baldwin	70,365	70,363	-	-	-	2
Brea Canyon	73,459	73,459	-	-	-	-
Crossing Safety / IRRIS	34,343	34,343	-	-	-	-
EE/Reservoir	78,960	78,960	-	-	-	-
Hamilton	1,789	1,789	-	-	-	-
Nogales (AH)	49,797	49,797	-	-	-	-
Ramona	53,091	53,091	-	-	-	-
Sunset	93,794	93,794	-	-	-	-
Sub-total Projects	\$ 1,291,985	\$ 1,275,023	3,978	2,070	9,292	1,622
Project Administration	20,402	20,135	-	-	266	-
Total ACE	\$ 1,312,387	\$ 1,295,158	\$ 3,978	\$ 2,070	\$ 9,559	\$ 1,622
Non-Grade Separation						
Rio Hondo	43	-	-	-	43	-
	\$ 1,312,430	\$ 1,295,158	\$ 3,978	\$ 2,070	\$ 9,602	\$ 1,622

Exhibit VII

Treasury / Banking Investments

As of March 31, 2019

	03.31.2019	Change	12.31.2018
<u>Cash on hand</u>			
Operating Account	\$ 2,566,005	\$ (315,957)	\$ 2,881,961
Money Market Account (2)	22,044,961	9,377,269	12,667,693
Money Market (UPRR Contributions)	7,742,248	6,530	7,735,718
Total cash on hand	32,353,214	9,067,842	23,285,372
<u>Investments</u>			
LAIF	1,638,623	9,842	1,628,781
CBT - Fixed Income at cost	26,813,577	135,434	26,678,143
Total investments	28,452,200	145,276	28,306,924
<u>Current - 30 days or less</u>	3,977,650	-	-
<u>Aged Receivable</u>	2,070,123	-	2,070,123
<u>To Be Billed</u>	9,601,776	(13,752,068)	23,353,845
<u>MTA Retention</u>	1,621,947	162,189	1,459,758
Total Exhibit V	17,271,496	(13,589,879)	26,883,726
Other receivables, unsold surplus properties, and deferred costs	29,270,140	31,798	29,238,342
Total Cash, Cash Equivalents & Receivables	107,347,050	(4,344,964)	107,714,364
<u>Liabilities</u>			
Payables & other Accruals	2,602,280	414,824	2,187,455
Unearned revenues	46,330,562 (a.)	(820,623)	47,151,184
MTA Working Capital Loan	45,000,000	-	45,000,000
Total liabilities	93,932,841	(405,798)	94,338,640
<u>Fund balance</u>			
Resources net of actual liabilities	13,414,209	38,485	13,375,724
Less estimated:			
CalPERS - Hypothetical termination liability	6,347,036 (b.)	-	6,347,036
Resources net of estimated liabilities	\$ 7,067,173 (c.)	\$ 38,485	\$ 7,028,688

- a.) Represents surplus property appraised value, net proceeds from sale of ROW surplus properties, advanced UPRR funding, disallowed retention, and Betterment funds billed in advance to City of Industry for Fairway Drive and Fullerton projects.
- b.) Updated based on CalPERS's annual valuation report as of June 30, 2017.
- c.) Decrease represents increase in 06/30/2018 hypothetical termination liability and effect of prior year's deficiency of expenses over revenues

Exhibit VII

Treasury / Banking Investments

As of March 31, 2019

Deposit/ Investment Amount 03.31.19	% of Invest- ments		Maximum Maturity	Maximum Percent of Portfolio	Maximum Investment in One Issuer
		Bank Deposits			
		Ace deposits are held by Citizens Business Bank (CBB) under a deposit agreement in amounts not to exceed \$50 million. Under the agreement, CBB maintains collateral deposits of at least 110% of the value of all ACE deposits at Bank of New York Mellon in eligible securities. The CBB deposits accounts are:			
\$ 2,566,005		Checking Account			
29,787,209		Money Market Accounts (3) *			
32,353,214		Total Deposits			
		Permitted Investments **			
12,646,664	44.45%	Government Securities (2.00 - 5.00 years)	5 years	50%	15%<=
7,501,726	26.37%	Corporate Bonds (0.83 - 4.99 years)	5 years	30%	10%<=
1,102,826	3.88%	Gov't Mortgages (4.13 - 4.80 years)	5 years	15%	None stated
656,622	2.31%	Municipals (1.42 - 4.27 years)	None stated	None stated	None stated
3,183,563	11.19%	CDs (2.95 - 5.00 years)	5 years	30%	10%<=
1,722,175	6.05%	Cash and Cash Equivalents	None stated	None stated	None stated
26,813,577	94.24%	Subtotal Investments - Book value *			
1,638,623	5.76%	State's Local Agency Investment Fund	None stated	None stated	None stated
28,452,200	100.00%	Total Investments			
\$ 60,805,415		Total			
* Note: Includes \$19,231,417 of available unearned revenues					

Fixed Income Investments Portfolio

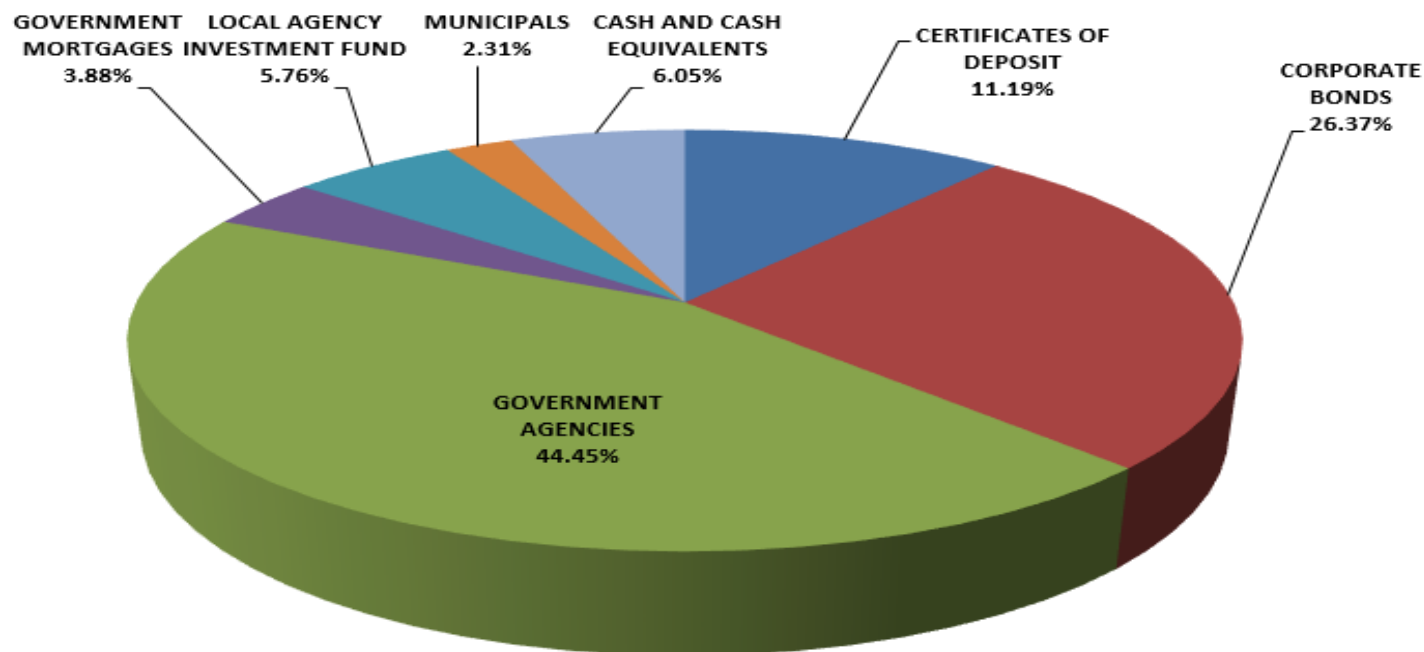
March 31, 2019

Cusip	Name	Coupon	Yield to Maturity	Purchase Date	Maturity Date	Current Price	Par Value	Market Value	Current Book Value
3136G3XZ3	Fannie Mae	1.50	1.870	7/28/2016	7/28/2021	98.242	300,000	294,726	300,000
3136G4EV1	Fannie Mae	1.63	1.974	10/28/2016	10/28/2021	98.347	250,000	245,868	249,898
3136G3C78	Fannie Mae	1.55	1.896	7/28/2016	7/28/2021	98.354	200,000	196,708	200,000
880591EL2	Tenn Valley Authority DTD	3.88	3.214	9/19/2016	2/15/2021	102.698	500,000	513,490	525,109
44.45% Government Securities (2.00 - 5.00 years)							12,650,000	12,511,445	12,646,664
87164YML5	Synchrony Bank DTD	1.55	1.931	6/29/2016	6/29/2021	98.190	250,000	245,474	249,463
05580AFA7	BMW Bank North America	1.20	1.402	9/13/2016	8/26/2019	99.418	250,000	248,544	250,000
02006LM42	Ally Bank Medium	1.30	1.512	9/15/2016	9/16/2019	99.380	250,000	248,450	250,000
140420QF0	Capital One Bank USA	2.15	2.215	7/7/2015	10/16/2019	99.734	163,000	162,567	163,231
02587DWK0	American Expr Centurion	2.20	2.272	7/1/2015	11/29/2019	99.700	170,000	169,489	170,312
05580ACZ5	BMW Bk North. America DTD	2.20	2.303	10/8/2015	9/30/2020	99.519	250,000	248,799	249,950
140420F21	Capital One Bank	1.65	2.009	9/14/2016	9/14/2021	98.300	250,000	245,749	250,000
140420YS3	Capital One Bank Medium	1.60	1.940	5/4/2016	5/4/2021	98.387	250,000	245,968	250,296
949763AW6	Wells Fargo Bank	1.30	1.513	9/14/2016	9/16/2019	99.377	250,000	248,444	250,000
619165GX5	Morton Community Bank	1.60	1.981	12/16/2016	6/16/2020	98.716	200,000	197,432	200,000
14042RAR2	Capital One NA Medium	2.20	2.312	10/8/2015	10/7/2020	99.472	200,000	198,944	199,230
254672W20	Discover Bank DTD	1.85	2.137	12/14/2016	12/14/2020	98.906	200,000	197,812	200,000
9497485W3	Wells Fargo Bank CD	1.75	2.039	6/17/2016	6/17/2021	98.632	250,000	246,581	251,081
949763AZ9	Wells Fargo Bank	1.65	2.011	9/14/2016	9/14/2021	98.292	250,000	245,731	250,000
11.19% CDs (2.95 - 5.00 years)							3,183,000	3,149,984	3,183,563
69353REX2	PNC Bank NA Series	1.45	1.947	9/28/2018	7/29/2019	99.591	500,000	497,955	496,974
06406HCW7	Bank of NY Mellon Corp	2.30	2.456	9/18/2018	9/11/2019	99.850	500,000	499,250	499,163
713448BN7	PepsiCo Inc	4.50	4.175	1/29/2015	1/15/2020	101.442	100,000	101,442	102,552
94988J5L7	Wells Fargo Bank NA	2.40	2.587	9/28/2018	1/15/2020	99.763	250,000	249,408	248,529
291011BC7	Emerson Electric Co	4.25	3.001	9/28/2018	11/15/2020	102.563	280,000	287,176	285,907
911312AMB	United Parcel Service DTD	3.13	2.853	6/10/2016	1/15/2021	101.167	185,000	187,159	190,631
440452AE0	Hormel Foods Corp	4.13	3.480	1/31/2017	4/15/2021	102.503	500,000	512,515	521,503
14912L6U0	Caterpillar Financial Serv Corp	1.70	2.126	9/9/2016	8/9/2021	98.023	1,746,000	1,711,482	1,738,545
02665WBG5	American Honda Finance	1.70	2.197	9/15/2016	9/9/2021	97.664	1,400,000	1,367,296	1,392,034
06406RAA5	Bank of NY Mellon Corp	2.60	2.614	10/18/2017	2/7/2022	99.943	1,011,000	1,010,424	1,019,479
166764AT7	Chevron	2.60	2.638	7/26/2017	3/3/2022	99.835	370,000	369,390	372,490
244199BE4	Deere & Co	2.60	2.612	7/26/2017	6/8/2022	99.946	150,000	149,919	152,162
037833DC1	Apple Inc	2.10	2.529	9/25/2018	9/12/2022	98.391	500,000	491,955	481,756
26.37% Corporate Bonds (0.83 - 4.99 years)							7,492,000	7,435,370	7,501,726
31407RTU8	Fannie Mae Pool #838563	5.00	4.436	4/29/2016	10/1/2020	102.245	27,174	27,784	28,855
3137A6B27	Freddie Mac	4.33	3.784	9/7/2016	10/25/2020	102.082	155,458	158,695	171,733
3137A8PP7	Freddie Mac	4.19	3.643	9/7/2016	12/25/2020	102.144	321,608	328,502	355,226
3137ABFH9	Freddie Mac	3.99	3.490	9/7/2016	6/25/2021	102.187	496,000	506,849	547,013
3.88% Gov't Mortgages (4.13 - 4.80 years)							1,000,240	1,021,830	1,102,826
91412GS71	Univ of California	1.61	1.688	12/13/2017	5/15/2019	99.891	310,000	309,662	309,544
13066YT22	California State Dept of Water Resources F	2.00	2.332	1/22/2018	5/1/2022	98.656	150,000	147,984	146,965
13063DFZ6	California State Dept of Water Resources F	2.60	2.502	4/25/2018	4/1/2020	100.184	100,000	100,184	100,110
13063DGA0	California State Dept of Water Resources F	2.80	2.479	4/25/2018	4/1/2021	100.903	100,000	100,903	100,003
2.31% Municipals (1.42 - 4.27 years)							660,000	658,733	656,622
31607A208	Fidelity Prime Mon Mar-Ins	1.00		10/7/2015		100.000	1,722,175	1,722,175	1,722,175
6.05% Cash and Cash Equivalents							1,722,175	1,722,175	1,722,175
TOTAL (Dollars)							\$ 26,707,415	\$ 26,499,536	\$ 26,813,577

Fixed Income Investments at 03-31-2019 - Summary

ASSET ALLOCATION

Assets (Dollars)	Current Book Value		Market Value	Mkt/Book
CERTIFICATES OF DEPOSIT	3,183,563	11.19%	3,149,984	98.95%
CORPORATE BONDS	7,501,726	26.37%	7,435,370	99.12%
GOVERNMENT AGENCIES	12,646,664	44.45%	12,511,445	98.93%
GOVERNMENT MORTGAGES	1,102,826	3.88%	1,021,830	92.66%
LOCAL AGENCY INVESTMENT FUND	1,638,623	5.76%	1,638,623	100.00%
MUNICIPALS	656,622	2.31%	658,733	100.32%
CASH AND CASH EQUIVALENTS	1,722,175	6.05%	1,722,175	100.00%
Totals (Dollars)	28,452,200		28,138,160	98.90%



Fixed Income Composition by Book Value

Comparative Summary Balance Sheet

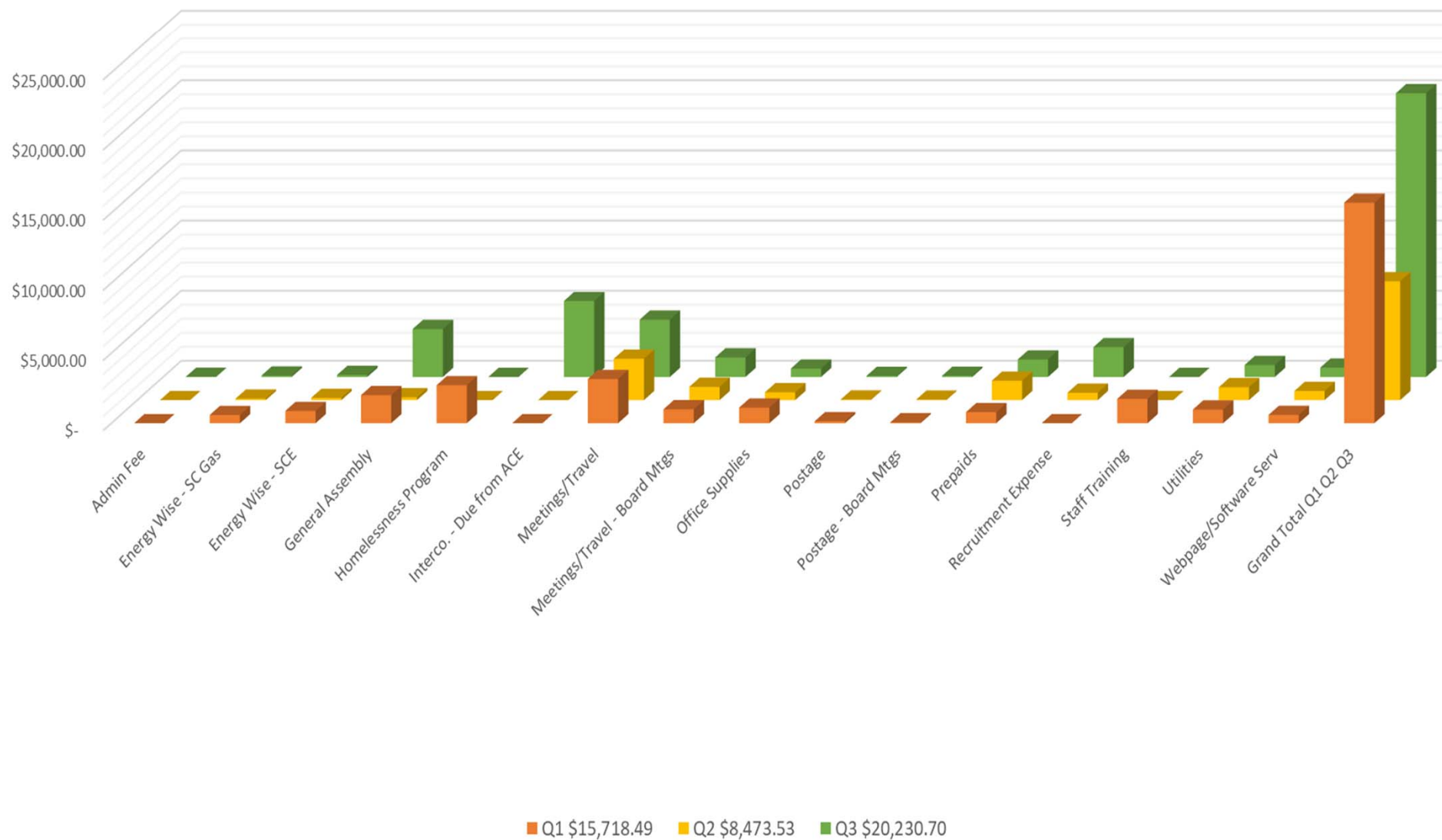
As of March 31, 2019

	03.31.2019	Change	12.31.18
CBB - Checking	\$ 938,473	\$ (323,445)	\$ 1,261,918
CBB- 242-034-325 CD	55,659	13	55,646
CBB - 2766 Savings	1,590	0	1,590
CBB -242-034-953 CD	54,892	13	54,879
Petty Cash	400	-	400
LAIF	236,342	1,419	234,923
LAIF Maket Value	86	(0)	86
Cash and equivalents	<u>1,287,443</u>	<u>(321,999)</u>	<u>1,609,442</u>
Member Receivable	-	-	-
Grants/Contracts Receivable	406,098	29,837	376,261
Sponsorships Receivable	1,125	(4,225)	5,350
Rental Deposit Receivable	5,489	-	5,489
Unbilled Grant Receivable	35,174	34,684	490
Receivables - other	57,956	(10,218)	68,174
Receivables	<u>505,842</u>	<u>50,078</u>	<u>455,764</u>
Prepays and deferrals	<u>204,089</u>	<u>47,810</u>	<u>156,279</u>
Total assets	<u>1,997,374</u>	<u>(224,112)</u>	<u>2,221,485</u>
Accounts Payable	12,155	(17,605)	29,760
Citi Bank Card	4,446	3,065	1,381
Payroll Payable	381	(0)	381
Accrued Vacation	36,536	4,175	32,361
Unearned Revenues - Member Cities Dues	206,984	(185,919)	392,903
Accruals, deferrals and other payables	674,006	(66,242)	740,248
Total liabilities	<u>934,507</u>	<u>(262,527)</u>	<u>1,197,034</u>
Net Position, beginning of period **	958,429	(0)	958,429
Change in net position	104,438	38,417	66,021
Net Position, end of period	<u>\$ 1,062,867</u>	<u>\$ 38,418</u>	<u>\$ 1,024,450</u>

Grants Receivable Aging Detail As of March 31, 2019

Month	SC Edison - Energy Wise	SC Gas - Energy Wise	SC Edison - EAP	SC Gas - EAP	MTA - Board Suppt	LA County - Homelessness Planing Grant	Various Cities - Homlessness Planning Grant	Various Cities - CIMP & EWMP	MTA - Measure M	Various Cities - Service Delivery Cost Study	Totals	Notes
Jul-18	-	-	-	-	-	-	-	250,148	-	-	\$ 250,148	
Aug-18	-	-	-	-	-	-	-	-	-	-	\$ -	
Sep-18	-	-	-	-	-	-	-	-	-	-	\$ -	
Oct-18	-	-	-	-	-	13,167	-	-	-	-	\$ 13,167	
Nov-18	-	-	-	-	-	13,167	-	-	-	-	\$ 13,167	
Dec-18	-	-	-	-	-	13,167	-	-	-	-	\$ 13,167	
Jan-19	3,789	5,366	7,137	-	-	13,167	-	-	-	-	\$ 29,459	
Feb-19	-	2,823	4,518	3,023	-	13,167	8,500	-	-	-	\$ 32,030	
Mar-19	4,426	2,951	3,389	2,266	8,129	13,167	-	-	2,483	18,150	\$ 54,961	
	\$ 8,215	\$ 11,139	\$ 15,043	\$ 5,289	\$ 8,129	\$ 79,000	\$ 8,500	\$ 250,148	\$ 2,483	\$ 18,150	\$ 406,097	

CITICARD CHARGES



SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS
Consolidated Budget to Actual
FY 2019 Second Quarter Report
As of March 31, 2019

		Jul 18 - Mar 19 Actual		FY 2019 Budget	% of Budget
1	General Operating Income				
2	Member Dues	\$ 547,024	\$	754,007	73%
3	Sponsorships	27,829		50,000	56%
4	Hero Program	3,426		6,000	57%
5	Interest	2,773		2,050	135%
6	<i>Total General Operating Income</i>	\$ 581,052	\$	812,057	72%
7					
8	Grants & Special Project Income				
9	Transportation Administration (Local)	73,162		96,611	76%
10	Homelessness (Local)	118,800		158,000	75%
11	Energy Efficiency (Local)	110,306		288,400	38%
12	Measure M Subregional Administration (Local)	29,298		32,000	92%
13	Transportation Implementation (Local) (Bike Share)	34,684		10,000	347%
14	Stormwater (Local)	\$124,270		483,071	26%
15	Miscellaneous (Local) *	\$17,850		93,000	19%
16	<i>Total Grants & Special Project Income</i>	\$ 508,369	\$	1,161,082	44%
17	Total Income	\$ 1,089,421	\$	1,973,139	55%
18					
19	Indirect Expenses				
20	Personnel	\$289,258		382,858	76%
21	Board & Employee Expenses	\$14,092		60,000	23%
22	Professional Services	\$175,693		346,980	51%
23	Other Expenses	\$158,815		248,927	64%
24	<i>Total Indirect Expenses</i>	\$ 637,858	\$	1,038,765	61%
25					
26	Direct Expenses				
27	Personnel	179,276		351,563	51%
28	Program Management	167,849		561,071	30%
29	<i>Total Direct Expenses</i>	\$ 347,125	\$	912,634	38%
30	Total Expenditures	\$ 984,983	\$	1,951,399	50%
31	Net income (Loss)	\$ 104,438	\$	21,740	N/A

* Includes: Cost Comparison/Joint Study - LAC

REPORT

DATE: July 1, 2019

TO: Executive Committee
Governing Board

FROM: Marisa Creter, Executive Director

RE: **METRO BOARD SUPPORT CONTRACT EXTENSION/PROCUREMENT
TIMELINE**

RECCOMENDED ACTION

For information only.

BACKGROUND

On September 21, 2017, the San Gabriel Valley Council of Governments (SGVCOG) executed a contract with Mary Lou Echternach to provide Board Support services for the Los Angeles County Metropolitan Transportation Authority (Metro). The Metro Board of Directors includes one member appointed by the City Selection Committee to represent the San Gabriel Valley as the SGVCOG representative. John Fasana (Duarte) currently serves in this role.


Metro recognizes the need for the SGVCOG representative to have staff support to perform the duties of a Board Member. As a result, the SGVCOG currently has an approved Memorandum of Understanding (MOU) with Metro to assist with funding these support services. 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. The current agreement with Mary Lou Echternach is set to expire on August 31, 2019. Staff is recommending a 1-month extension to this agreement to September 30, 2019.


This additional time will allow staff to conduct a procurement for these board support services that align with best practices. The following is a proposed procurement timeline to select a consultant to perform these services:

Metro Board Support Services Procurement Timeline

Activity	Date
Issue Request for Proposals	June 28, 2019
Due Date for Proposals	July 26, 2019
Anticipated Contract Award Date	September 19, 2019

In order to mitigate disruption of current tasks, staff is proposing an extension of the current contract with Mary Lou Echternach to September 30, 2019. The monthly retainer in the amount of \$10,500 and all other terms/conditions of the contract shall remain the same.

Prepared by: 
Katie Ward
Senior Management Analyst

Approved by: 
Marisa Creter
Executive Director

ATTACHMENTS

Attachment A – Mary Lou Echternach Contract Amendment

AMENDMENT ONE
TO
AGREEMENT FOR PROFESSIONAL SERVICES
BY AND BETWEEN
SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS
AND
MARY LOU ECHTERNACH

The Agreement for Professional Services for Cities Representative (Metro Board Member) by and between the San Gabriel Valley Council of Governments (the "SGVCOG") and Mary Lou Echternach ("CONSULTANT"), dated September 1, 2017 (the "AGREEMENT") is amended as follows:

1. **TERM OF AGREEMENT. CHANGED.** Section 1, Term of Agreement, is deleted in its entirety and is replaced with the following:

This Agreement shall cover services rendered from September 1, 2017 through September 30, 2019 unless earlier terminated as provided herein.

2. **SCOPE OF SERVICES. UNCHANGED.**

3. **COMPENSATION AND PAYMENT. CHANGED.** Section 3, Compensation and Payment, is deleted in its entirety and is replaced with the following:

The SGVCOG shall pay Consultant a retainer of \$10,500 (1/13th of \$136,500) per month for the term of this Agreement, unless this Agreement is terminated early in accordance with Section 6 hereof, in which case payment to the Consultant shall be made only for those months, or fraction thereof, for which this Agreement is in effect. The SGVCOG shall be reimbursed by LACMTA for the payments for Consultant's services pursuant to this Agreement. The compensation amount for Consultant's services may be adjusted in an amount reflecting any increases to LACMTA's reimbursement limit. It shall be Consultant's responsibility to request any such adjustment and provide confirmation satisfactory to the SGVCOG of increases to LACMTA's reimbursement limit.

Consultant shall be responsible for all expenses incurred by her in the performance of services pursuant to this Agreement, including but not limited to office expenses, insurance, automobile, travel, and any other expense incurred relating to this Agreement. There shall be no additional compensation for expenses unless pre-approved by the SGVCOG.

It shall be the responsibility of the Consultant to regularly advise SGVCOG of the progress of the work and expenditures incurred. Consultant shall submit monthly invoices with a monthly activity report for services rendered. SGVCOG shall pay uncontested invoices within fifteen (15) days of receipt of funds from LACMTA. Consultant shall submit invoices addressed to:

SGVCOG, c/o San Gabriel Valley Council of Governments
Attention: Executive Director
1000 South Fremont, Unit 42
Suite 10210
Alhambra, CA 91803

4. **EFFECTIVE DATE.** This Amendment 1 is effective as of June 24, 2019.
5. **NO OTHER CHANGES.** Except as specifically modified by this Amendment 1, all terms and conditions contained in the Agreement remain fully in effect and may not be modified except by a written document that is approved by both parties to the AGREEMENT.

The parties hereby agree to and accept this Amendment 1.

**ALAMEDA CORRIDOR-EAST CONSTRUCTION AUTHORITY
OF THE
SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS**

By: _____
Marisa Creter

Date: _____

Title: _____
Executive Director

MARY LOU ECHTERNACH

By: _____

Date: _____

Title: _____
Consultant

REPORT

DATE: July 1, 2019

TO: Executive Committee

FROM: Marisa Creter, Executive Director

RE: **CALTRANS AUDIT**

RECOMMENDED ACTION

Receive and file.

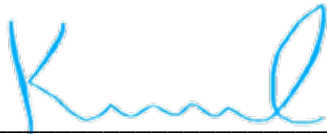
BACKGROUND

Staff is recommending to receive and file the Caltrans Indirect Cost Rate Proposal Audit for FY 17-18 and FY 18-19. The report found two findings: 1) overstatement in the ICAP for FY 18-19 and 2) unallowable excess unfunded liability CalPERS payments. Staff has responded to these findings and taking the appropriate corrective action.

The overstatement of the ICAP was due to a calculation error made by the prior Director of Finance, which resulted in overcharging when seeking reimbursements. This has been corrected by reducing the remaining charges for FY 18-19. Additionally, staff is currently implementing new system of checks and balances to have multiple staff check ICAP calculations before submittal to Caltrans for FY 19-20.

The unallowable CalPERS liability payments will be addressed by reclassifying these payments to another funding source (railroad contributions), which is an allowable funding source for these excess liability payments. To address these liability payments going forward, staff is working to establish a Section 115 Trust with CalPERS. Additionally, staff is working with CalPERS to utilize the "Fresh Start" option to recalculate the unfunded accrued liability (UAL) amortization schedule from a 20-year schedule to a 5-year (or shorter) schedule to allow for accelerated payment of the UAL. These factors will result in funding the remaining unfunded termination liability associated with employees working on the ACE Project when the ACE Project is closed.

Prepared by:



Katie Ward
Senior Management Analyst

Approved by:



Marisa Creter
Executive Director

ATTACHMENTS

Attachment A – Caltrans Indirect Cost Rate Proposal Audit

Memorandum

*Making Conservation
a California Way of Life.*

To: RIHUI ZHANG
Chief
Division of Local Assistance

Date: June 24, 2019

File: P1594-0089

From: MARSUE MORRILL, CPA *Marsue*
Chief
Planning and Modal Office
Independent office of Audits and Investigations

Subject: **INDIRECT COST RATE PROPOSAL AUDIT – ALAMEDA CORRIDOR-EAST
CONSTRUCTION AUTHORITY**

At the request of the Independent Office of Audits and Investigations, the California State Department of Finance, Office of Audits and Evaluations (Finance) completed an audit of the Alameda Corridor-East Construction Authority (ACE) Indirect Cost Rate Proposal (ICRP) for fiscal year (FY) 2017/18 and 2018/19. The purpose of the audit was to determine whether the FY 2017/18 and 2018/19 ICRPs, including fringe benefit rates, were presented in accordance with Title 2 Code of Federal Regulations (CFR) Part 200 and Caltrans Local Assistance Procedures Manual (LAPM). The complete audit report is attached.

Based on the audit, Finance determined the ACE's 2017/18 and 2018/19 ICRPs were not in compliance with 2 CFR 200 and the LAPM. Finance identified weaknesses in the ACE's review process when preparing the ICRPs resulting in unallowable costs impacting the 2017/18 and 2018/19 ICRP rates. The audited rates are as follows:

Fiscal Year	Proposed Rate	Audited Rate*
2017/18	184.6%	132.2%
2018/19	282.2%	151.4%

***Base: Total Direct Salaries and Wages plus Fringe Benefits**

Please provide our office with a corrective action plan, including time lines, by August 21, 2019.

If you have any questions, contact Luisa Ruvalcaba, Audit Manager, at luisa.ruvalcaba@dot.ca.gov

Attachment

Alameda Corridor-East Construction Authority Audit

cc: Maritza Ramos, Director, Finance, San Gabriel Valley Council of Governments
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Veneshia Smith, Financial Program Manager, Federal Highway Administration
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Audits & Investigations
P1594-0089



Alameda Corridor-East Construction Authority

Indirect Cost Rate Proposal
Fiscal Years 2017-18 and 2018-19

Report No. 19-2660-010
June 2019

Team Members

Cheryl L. McCormick, CPA, Chief
Rebecca G. McAllister, CPA, Assistant Chief
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You can contact our office at:

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DEPARTMENT OF
FINANCE

GAVIN NEWSOM - GOVERNOR

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Transmitted via e-mail

June 19, 2019

Ms. MarSue Morrill, Chief, Planning and Modal Office
Independent Office of Audits and Investigations
California Department of Transportation
1304 O Street, Suite 200
Sacramento, CA 95814

Dear Ms. Morrill:

**Final Report—Alameda Corridor-East Construction Authority, Indirect Cost Rate
Proposal Audit**

The California Department of Finance, Office of State Audits and Evaluations, has completed its audit of the Alameda Corridor-East Construction Authority's (ACE) Indirect Cost Rate Proposal for fiscal years 2017-18 and 2018-19.

The enclosed report is for your information and use. ACE's response to the report findings is incorporated into this final report. We appreciate their assistance and cooperation during the engagement, and willingness to implement corrective actions.

If you have any questions regarding this report, please contact Rick Cervantes, Manager, or Jeremy Jackson, Supervisor, at (916) 322-2985.

Sincerely,

Cheryl L. McCormick, CPA
Chief, Office of State Audits and Evaluations

cc: Ms. Luisa Ruvalcaba, Audit Manager, Planning and Modal Office, Independent Office of
Audits and Investigations, California Department of Transportation

BACKGROUND, SCOPE, AND METHODOLOGY

BACKGROUND

The California Department of Transportation's (Caltrans) Local Assistance Program oversees more than \$1 billion dollars annually available to over 600 cities, counties, and regional agencies for the purpose of improving their transportation infrastructure or providing transportation services. This funding comes from various Federal and State programs specifically designed to assist the transportation needs of local agencies.¹

The San Gabriel Valley Council of Governments, a joint powers authority comprised of 31 cities and Los Angeles County, created the Alameda Corridor-East Construction Authority (ACE) in 1998 to provide direction and oversight of the ACE Project to mitigate the impacts of significant increases in freight rail traffic over 70 miles of mainline railroad in the San Gabriel Valley. The ACE Project consists of a comprehensive program of safety improvements and mobility upgrades at 39 railroad crossings and 19 roadway-railroad crossing grade separation projects.²

At the discretion of local governmental agencies (LGA), indirect costs may be recovered when seeking reimbursement for federal-aid transportation projects and state funded projects. To recover indirect costs, LGAs submit an Indirect Cost Rate Proposal (ICRP), which may also include a fringe benefit rate to Caltrans' Independent Office of Audits and Investigations (IOAI). IOAI reviews the documentation supporting the rate(s) and issues an acceptance letter allowing the LGAs to bill Caltrans and seek reimbursement of indirect costs, which IOAI may audit for compliance with Title 2 Code of Federal Regulations Part 200 (2 CFR 200) and Caltrans' Local Assistance Procedures Manual Chapter 5 (LAPM).

SCOPE

At the request of IOAI, the California Department of Finance, Office of State Audits and Evaluations, audited ACE's ICRPs for fiscal years 2017-18 and 2018-19.

The audit objectives were to:

1. Determine if the 2017-18 and 2018-19 ICRPs, including fringe benefit rates, were in compliance with 2 CFR 200 and the LAPM.
2. Recalculate the proposed ICRP rate if unallowable costs impacting the rate by 1 percent or greater are identified.

The 2017-18 and 2018-19 ICRPs and fringe benefit rates include transactions related to actual costs incurred and billed to Caltrans in 2015-16 and 2016-17.

ACE is responsible for preparing its ICRP in accordance with state and federal requirements, which includes implementing internal controls and maintaining an adequate financial management system to accumulate and segregate reasonable, allowable, and allocable costs.

¹ Caltrans, Division of Local Assistance website <http://www.dot.ca.gov/localassistance/index.html>

² Excerpts obtained from Alameda Corridor-East Construction Authority website <http://www.theaceproject.org/>

METHODOLOGY

In planning the audit, we gained an understanding of ACE's operations, and identified relevant ICRP requirements by reviewing 2 CFR 200, the LAPM, and applicable ACE policies and procedures, and interviewing IOAI and ACE personnel.

We conducted a risk assessment, including evaluating whether key internal controls relevant to our audit objectives such as reviews and approvals, separation of duties, reconciliations, knowledge of tasks, and separation of indirect and direct costs were properly designed, implemented, and operating effectively. Our assessment included observing processes and testing transactions related to accounts payable, time keeping/payroll, billing, and cash disbursements for effectiveness of existing documented processes and procedures. Deficiencies in internal controls that were identified during our audit and determined to be significant within the context of our audit objectives are included in this report.

Additionally we assessed the reliability of data from ACE's financial management system, Microsoft Dynamics GP, and ACE's electronic time reporting system, Unanet. Our assessment included reviewing information process flows, testing transactions for completeness and accuracy, and determining if costs were separately categorized by tracing to the accounting records. We determined the data were sufficiently reliable for the purpose of this audit.

Based on the results of our planning, we developed specific methods for gathering evidence to obtain reasonable assurance to address the audit objectives. Our methods are detailed in the Table of Methodologies on the following page.

Table of Methodologies

Audit Objective	Methods
<p>Objective 1: Determine whether the 2017-18 and 2018-19 ICRPs, including the fringe benefit rates, are in compliance with 2 CFR 200 and the LAPM.</p>	<ul style="list-style-type: none"> • Selected significant and high-risk cost categories to verify compliance with 2 CFR 200 and the LAPM. Specifically, costs were selected from direct and indirect salaries and wages, fringe benefits, and the indirect costs pool. <ul style="list-style-type: none"> ○ Selected items for direct and indirect salaries and wages was based on quantitative factors such as total hours charged; and qualitative factors such as the type (i.e. description) of costs. ○ The most quantitatively significant fringe benefit costs were selected for testing. ○ Selected items for indirect costs pool were based on quantitative factors such as costs with a potential impact to the ICRP rate by 1 percent or greater; and qualitative factors such as the timing and type (i.e. description) of costs. • Determined if direct and indirect salaries and wages were allowable, supported, segregated, and allocated, by tracing amounts and task coding to accounting and time reporting records, reviewing timesheets and payroll records, interviewing staff, and reviewing project description codes in the Unanet time reporting system. • Determined if fringe benefit costs were allowable, supported, segregated, and allocated by interviewing staff, tracing amounts to accounting records, payroll records and electronic fund transfers, and reviewing retirement contracts and the California Public Employees Retirement System (CalPERS) pension plan actuarial valuation reports. • Determined if indirect costs pool were allowable, supported, segregated, and allocated, by interviewing staff, reviewing invoices for descriptions and accurate coding, reviewing vendor lease agreements and contracts, reviewing depreciation schedules, and agreeing costs to cleared checks. • Verified the actual indirect costs recovered by ACE were billed at the IOAI approved indirect cost rate by reviewing invoices, verifying support for direct labor hours, and recalculating the indirect cost billed to Caltrans. • Verified the actual fringe benefit costs recovered by ACE were billed at the IOAI approved fringe benefit cost rate by reviewing invoices, verifying support for direct labor hours, and recalculating the fringe benefit costs billed to Caltrans.
<p>Objective 2: Recalculate the proposed ICRP rate if unallowable costs impacting the ICRP rate by 1 percent or greater are identified.</p>	<ul style="list-style-type: none"> • Recalculated the proposed ICRP rates as a result of indirect costs pool audit adjustments greater than 1 percent. <ul style="list-style-type: none"> ○ Removed ineligible excess unfunded liability costs from the indirect costs pool. • Recalculated the carry forward adjustments based on fiscal year 2015-16 and 2016-17 audited actual amounts.

We conducted this performance 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 based on our audit objectives.

CONCLUSION

Based on the procedures performed and evidence gathered, we determined ACE's 2017-18 and 2018-19 ICRPs are not in compliance with 2 CFR 200 and the LAPM. We identified weaknesses in ACE's review process when preparing the ICRPs as noted in Finding 1. Additionally, as described in Finding 2, we identified unallowable costs that impacted the 2017-18 and 2018-19 ICRP rates and recommend a rate change decrease of 52.4 percent and 130.8 percent as identified in Table 1 below. No change to the fringe benefit rates were identified.

Table 1 – Accepted and Audited 2017-18 and 2018-19 ICRP and Fringe Benefit Rates³

Fiscal Year	Rate Type	Accepted Rate	Audited Rate	Difference
2017-18	ICRP	184.6%	132.2%	(52.4%)
	Fringe Benefit	38.59%	38.59%	0%
2018-19	ICRP	282.2%	151.4%	(130.8%)
	Fringe Benefit	40.02%	40.02%	0%

See Appendix A and Appendix B for the Summary of Accepted and Audited Costs and Rates for the Indirect Cost Rate Proposals and the Fringe Benefit Rates.

FINDINGS AND RECOMMENDATIONS

Finding 1: Carry Forward Calculation Procedures Need Improvement

ACE included the incorrect beginning carry forward cost in its calculation to determine the 2018-19 ICRP rate submitted to IOAI.⁴ ACE used \$872,051 as the beginning carry forward amount. However, ACE subsequently determined the amount was incorrectly calculated and the correct carry forward amount should be \$167,648. We verified the accurate carry forward amount of \$167,648 in the 2016-17 ICRP rate submission letter that was accepted by IOAI, and additionally recalculated it. The \$704,403 difference overstates the indirect cost rate by 39.4 percent. According to ACE, as of September 17, 2018, it has not billed Caltrans indirect costs for 2018-19. ACE does not have a review process to ensure the accuracy of the ICRP rate calculation. Additionally, ACE does not perform a reconciliation of estimated fringe benefits to actual fringe benefit costs to ensure the difference between actual and estimated costs is recovered in a subsequent period. Although the variance was not significant for 2017-18 or 2018-19, the lack of reconciliation increases the risk of over or under billing fringe benefits.

³ The ICRPs and Fringe Benefit Rates submitted by ACE were accepted by IOAI on July 18, 2017, and August 21, 2018.

⁴ ACE uses a schedule of estimated direct and indirect costs to determine the annual indirect cost rate. These estimates are reconciled to actual costs. The difference between the actual costs and the estimated costs is carried forward and is included in the calculation of a future ICRP rate. This is referred to as the carry forward calculation.

2 CFR 200, Appendix VII to Part 200-States and Local Government and Indian Tribe Indirect Cost Proposals, B. Definitions, 5, states the difference between the estimated costs and the actual, allowable costs of the period covered by the rate is carried forward as an adjustment to the rate computation of a subsequent period.”

LAPM section 5.13, Documentation of Proposal, section 1B states subsidiary worksheets should include a schedule showing the calculation of the over/under carry forward provision when a fixed rate is used.

2 CFR 200.411 (a) (2) states negotiated indirect cost rates based on a proposal later found to have included costs that are unallowable because they are not allocable to the Federal award(s), must be adjusted, or a refund must be made, in accordance with the requirements of this section. These adjustments or refunds are designed to correct the proposals used to establish the rates and do not constitute a reopening of the rate negotiation.

Recommendations:

- A. Adjust the 2018-19 carry forward adjustment by \$704,403 and submit a revised ICRP for 2018-19 to IOAI.
- B. Develop review procedures to ensure the ICRP rate calculation is accurate.
- C. Implement a reconciliation process to calculate the difference between the estimated direct fringe benefit and actual direct fringe benefit costs. The difference between the actual and the estimated costs should be included in the calculation of subsequent fringe benefit rates.

Finding 2: Unallowable Excess Unfunded Liability Payments

In 2014-15, ACE began making payments in excess of the required payments listed in the CalPERS amortization schedules for its employee retirement plan unfunded liability. The excess payments were from a payment schedule developed by ACE to pay the entire unfunded liability balance over a period of three years. ACE stated the excess payments were made because it estimated all projects would be completed and the agency would close in approximately four years. The excess payments were included in the indirect costs pool for 2015-16 through 2018-19. ACE did not follow the actuarial amortization payment schedule of 20, 25, or 30 years provided in the CalPERS Annual Valuation report as of June 30, 2013. Therefore, the payments made in excess of the amortization schedule are unallowable and should not be included in the indirect cost pool. To calculate the unallowable indirect costs, we used the 20 year CalPERS amortization schedule. The 20 year schedule allows for the largest allowable payment based on the CalPERS actuarial schedule. Table 2 on the following page shows the unallowable costs for each fiscal year.

2 CFR 200.431 (g) (6) (ii) and (iii) state that pension plan costs are allowable provided that costs are calculated using an actuarial cost-based method recognized by Generally Accepted Accounting Principles and amounts funded in excess of the actuarially determined amount for a fiscal year may be used as the entity's contribution in future periods.

Table 2 – Unallowable Unfunded Liability Payments

Fiscal Year ⁵	Amount Paid/Budgeted (a)	Payment per 20 Year Amortization Schedule (b)	Unallowable Costs (c = a – b)	Audit Adjustment in Appendix A
2015-16	\$ 339,392	\$ 77,690	\$ 261,702	2017-18 Carry Forward
2016-17	900,000	80,021	819,979	2018-19 Carry Forward
2017-18	900,000	82,421	817,579	2017-18 Fringe Benefits
2018-19	900,000	84,894	815,106	2018-19 Fringe Benefits
Total	\$ 3,039,392	\$ 325,026	\$ 2,714,366	

Recommendations:

- A. Adjust the 2017-18 indirect costs pool by \$817,579 and the 2018-19 indirect costs pool by \$815,106 for the unallowable employee retirement payments in excess of the CalPERS amortization schedule and ensure these costs are not included in future indirect costs pools.
- B. Adjust the 2015-16 carry forward amount by \$261,702 and the 2016-17 carry forward amount by \$819,979, as a result of the unallowable indirect costs described above.
- C. Reconcile the 2017-18 and 2018-19 billings using the audited rate of 132.2 percent and 151.4 percent, respectively, and reimburse Caltrans any over payments.

⁵ ACE began making excess payments in 2014-15; however, those payments were not included in the 2017-18 and 2018-19 ICRP calculations and are outside our audit scope. ACE included excess payments made in 2015-16 through 2018-19 in the ICRP calculations for 2017-18 and 18-19; those payments were included in our audit scope.

APPENDIX A

Summary of Accepted and Audited Costs and Rates Indirect Cost Rate Proposal Alameda Corridor-East Construction Authority 2017-18

Description	Accepted Amounts ⁶	Audit Adjustments	Audited Amounts	Finding No.
Direct Costs				
Salaries and Wages	\$ 1,485,000	\$ 0	\$ 1,485,000	
Fringe Benefits ⁷	573,000	0	573,000	
Total Direct Salaries and Wages plus Fringe Benefits	\$ 2,058,000	\$ 0	\$ 2,058,000	
Indirect Costs Pool				
Salaries and Wages	\$ 1,499,700	\$ 0	\$ 1,499,700	
Fringe Benefits	1,316,000	(817,579)	498,421	2
Legal - Agency Support	25,000	0	25,000	
Auto/Travel	4,700	0	4,700	
Training/Memberships	27,200	0	27,200	
Auditing/Accounting	42,000	0	42,000	
Risk Management	52,000	0	52,000	
Insurance	224,000	0	224,000	
Equipment Expense	119,000	0	119,000	
Office Expense	251,000	0	251,000	
Office Operations	51,000	0	51,000	
Other	7,000	0	7,000	
Total Indirect Costs Pool	\$ 3,618,600	\$ (817,579)	\$ 2,801,021	
Carry Forward (2015-16)	\$ 180,870	\$ (261,702)	\$ (80,832)	
Adjustments to Indirect Costs	0	(817,579)	(817,579)	2
Total Carry Forward Adjustment	\$ 180,870	(1,079,281)	\$ (898,411)	2
Budgeted Indirect Costs	\$ 3,618,600	\$ (817,579)	\$ 2,801,021	2
Total Indirect Costs*	3,799,470	(1,079,281)	2,720,189	2
Total Direct Salaries and Wages plus Fringe Benefits	2,058,000	0	2,058,000	
Indirect Cost Rate**	184.6%	-52.4%	132.2%	2
Fringe Benefit Rate***	38.59%	0.0%	38.59%	
* Total Indirect Costs is the sum of Total Carry Forward Adjustments and Budgeted Indirect Costs				
** Indirect Cost Rate is the quotient of Total Indirect Costs divided by Total Direct Salaries and Wages plus Fringe Benefits				
*** Fringe Benefit Rate is the quotient of Direct Fringe Benefits divided by Direct Salaries and Wages				

⁶ The ICRP and Fringe Benefit Rate submitted by ACE was accepted by IOAI on July 18, 2017.

⁷ Fringe benefits include dental insurance, life insurance, short and long term disability, medical insurance, retirement, vision insurance, worker's compensation, and employer taxes.

APPENDIX B

Summary of Accepted and Audited Costs and Rates Indirect Cost Rate Proposal Alameda Corridor-East Construction Authority 2018-19

Description	Accepted Amounts ⁸	Audit Adjustments	Audited Amounts	Finding No.
Direct Costs				
Salaries and Wages	\$ 1,277,000	\$ 0	\$ 1,277,000	
Fringe Benefits ⁹	511,000	0	511,000	
Total Direct Salaries and Wages plus Fringe Benefits	\$ 1,788,000	\$ 0	\$ 1,788,000	
Indirect Costs Pool				
Salaries and Wages	\$ 1,539,846	\$ 0	\$ 1,539,846	
Fringe Benefits	1,327,753	(815,106)	512,647	2
Legal - Agency Support	25,000	0	25,000	
Auto/Travel	6,200	0	6,200	
Training/Memberships	31,700	0	31,700	
Auditing/Accounting	42,345	0	42,345	
Risk Management	65,000	0	65,000	
Insurance	171,000	0	171,000	
Equipment Expense	84,723	0	84,723	
Office Expense	256,038	0	256,038	
Office Operations	47,800	0	47,800	
Other	6,250	0	6,250	
Total Indirect Costs Pool	\$ 3,603,655	\$ (815,106)	\$ 2,788,549	
Carry Forward (2016-17)	\$ 1,442,382	\$ (1,524,382)	\$ (82,000)	1, 2
Adjustments to Indirect Costs	0	(815,106)	(815,106)	2
Total Carry Forward Adjustment	\$ 1,442,382	\$ (2,339,488)	\$ (897,106)	1, 2
Budgeted Indirect Costs	\$ 3,603,655	\$ (815,106)	\$ 2,788,549	2
Total Indirect Costs*	5,046,037	(2,339,488)	2,706,549	1, 2
Total Direct Salaries and Wages plus Fringe Benefits	1,788,000	0	1,788,000	
Indirect Cost Rate**	282.2%	-130.8%	151.4%	1, 2
Fringe Benefit Rate***	40.02%	0.0%	40.02%	
* Total Indirect Costs is the sum of Total Carry Forward Adjustments and Budgeted Indirect Costs				
** Indirect Cost Rate is the quotient of Total Indirect Costs divided by Total Direct Salaries and Wages plus Fringe Benefits				
*** Fringe Benefit Rate is the quotient of Direct Fringe Benefits divided by Direct Salaries and Wages				

⁸ The ICRP and Fringe Benefit Rate submitted by ACE was accepted by IOAI on August 21, 2018.

⁹ Fringe benefits include dental insurance, life insurance, short and long term disability, medical insurance, retirement, vision insurance, worker's compensation, and employer taxes.



STAFF

Executive Director
Marisa Creter
Chief Engineer
Mark Christoffels
Director of Finance
Maritza Ramos

June 4, 2019

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CalTRANS Audit Department

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Fourth District, LA County
Unincorporated Communities
Fifth District, LA County
Unincorporated Communities
SGV Water Districts

I am responding to your draft audit report of the Alameda Corridor – East Construction Authority's FY 17/18 & 18/19 ICAP Audit. I appreciate your efforts during the audit process to provide timely, constructive advice on how to improve the authority's internal controls and processes for the ICAP preparation.

Management has reviewed the findings noted in the ICAP audit. After discussion with management the findings will be corrected as follows. The overstated ICAP rate for FY 17-18 will be reduced from the FY 19-20 ICAP rate. The overstated ICAP rate for the current year FY 18-19 will be adjusted within this year since the accounting period is still open and the changes can be made prior to the closeout of the books. The calculation issues that were noted with the carry-forward spreadsheet will be resolved by using a new template for completing the new ICAP proposal for FY 19-20. Budget vs actual costs will also be reconciled moving forward as part of the ICAP and closeout process. Implementing these steps will ensure that the noted issues are corrected and a system would be in place to avoid this occurring again.

I appreciate the continuing professional, cooperative relationship that exists with CalTRANS and the Alameda Corridor – East Construction Authority.

Sincerely,

Maritza Ramos
Director of Finance

San Gabriel Valley Council of Governments
1000 South Fremont Avenue, Unit #42 ♦ Alhambra, California 91803
4900 Rivergrade Road, Suite A120 ♦ Irwindale, California 91706

DATE: July 1, 2019

TO: Executive Committee

FROM: Marisa Creter, Executive Director

RE: **SB 592: HOUSING ACCOUNTABILITY ACT (WIENER)**

RECOMMENDED ACTION

Discuss and provide direction to staff.

BACKGROUND AND INFORMATION

SB 592 was originally introduced into the California State Senate by Senator Scott Wiener on February 22, 2019. This was a minor bill which, if passed, would move the due date of the Department of Housing and Community Development's annual report for each fiscal year from December 31 of each year to June 30 of each year.

SB 592 was then gutted-and-amended on March 27, 2019, and pertained to procedures of the State Board of Barbering and Cosmetology. This version of the bill would require this board to make necessary changes related to the registration information of barbering and cosmetology licensees, and would require the board to update the licensees' public profiles that are maintained on the board's internet website.

However, once again, on June 13, 2019, Senator Wiener executed a complete gut-and-amend of SB 592, which transformed it from a bill related to barbering and cosmetology to the "Housing Accountability Act." This is a significant piece of legislation which actually reflects portions of SB 50 (Wiener) and SB 330 (Skinner). SB 592 is intended to significantly strengthen the Housing Accountability Act, which was originally enacted in 1982. SB 592 has the following provisions and stipulations related to planning and zoning decisions related to approving housing projects:

- Regarding affordability, SB 592 requires the approval of any "housing development project" for "very low, low-, or moderate-income households or any emergency shelter" no matter how inconsistent the project is with local zoning ordinances and procedures, except for on rare, narrowly defined grounds. The bill further restricts lower density requirements that have a "substantially adverse effect on the viability or affordability of a housing development for very low, low, or moderate-income households.
- SB 592 places significant and onerous burdens of proof on local jurisdictions which disapprove of any and all housing development projects on the grounds of density restrictions. A local agency would only be able to be granted an exception in this case if, within 30 days, it makes specific and detailed written findings based on the preponderance of the evidence that three main conditions and items are true.

- SB 592 defines “housing development project” to include “mixed-use developments consisting of residential and nonresidential uses” and “transitional housing or supportive housing.” This bill also includes “a single unit” and “the addition of one or more bedrooms to an existing residential unit.”
- The 1982 Housing Accountability Act states that a local agency is not allowed to vote to reject a housing project which complies with its general plan and approved zoning. SB 592 would actually change the language of this provision from “vote” to “take action,” because some projects do not have to go to a voting body, such as a city council or a planning commission for a vote, but can be approved by city staff.
- This bill could render the work and role of local planning commissions to be moot in some cases, since the bill supersedes and trumps most already-established local zoning ordinances and rules.
- SB 592 would effectively make it so that a single-family home project has to be approved no matter how large it is and how many bedrooms it includes. These can create residential uses which are not in line with zoning that is tailored to a certain neighborhood.
- Under this piece of legislation, if a developer wins a court case over a local agency that relates to a city rejecting a housing project, then the developer would be able to charge the city for compensatory damages and attorney’s fees.
- Residential zoning is rendered moot in same cases since any “non-residential” use is permitted up to 1/3 of the space of a project.

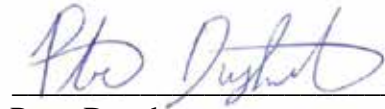
SB 592 has a plethora of provisions which essentially re-write local planning and zoning rules and plans, and take away local planning control from cities when it comes to making housing decisions. Local zoning ordinances, decisions, and general plans are devised and drafted with the input, feedback, and perspectives of local residents who understand the idiosyncrasies and characteristics of their neighborhoods. Local governments are still adjusting to the implementation of the zoning, land-use, and housing development changes that were brought about by the housing bill package of 2017, which was crafted and passed with the input of local governments. Moreover, the existing Housing Accountability Act was recently been made stronger by means of recent legislation. The strengthening of this act has already seen more cities getting taken to court for violations of the HAA. Additionally, since SB 592 has been drafted through the gut-and-amend process, the bill is able to go through a shortened and truncated public review and input process at the state level, which gives local governments and members of the public less time to provide comments on this bill through the deliberative and thorough legislative committee process.

NEXT STEPS

SB 592 (Wiener) is quickly moving through the Assembly committee process in its new transformed form, as it is set to be heard by the Assembly Committee on Housing and Community Development at its next hearing on July 3, 2019. SGVCOG staff is bringing this piece of legislation to the Planning TAC for input and direction. If the TAC takes action and takes a position on this bill, then its recommendation will go to the SGVCOG Governing Board for approval and adoption in July.

REPORT

Prepared by:



Peter Duyshart
Project Assistant

Approved by:



Marisa Creter
Executive Director

ATTACHMENTS

Attachment A – SB 592 Legislative Counsel’s Digest and Bill Text
Attachment B – SB 592 Bill History



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SB-592 Housing Accountability Act. (2019-2020)

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Date Published: 06/13/2019 09:00 PM

AMENDED IN ASSEMBLY JUNE 13, 2019

AMENDED IN SENATE MARCH 27, 2019

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

SENATE BILL

No. 592
Introduced by Senator Wiener
February 22, 2019

~~An act to amend Section 7400 of the Business and Professions Code, relating to professions and vocations.~~ *An act to amend Section 65589.5 of the Government Code, relating to housing.*

LEGISLATIVE COUNSEL'S DIGEST

SB 592, as amended, Wiener. ~~State Board of Barbering and Cosmetology: licensee information.~~ *Housing Accountability Act.*

(1) The Housing Accountability Act, among other things, prohibits a local agency from disapproving or conditioning approval in a manner that renders infeasible a housing development project that complies with applicable, objective general plan, zoning, and subdivision standards and criteria in effect at the time the application for the project is deemed complete within the meaning of the Permit Streamlining Act, unless the local agency makes specified written findings based on a preponderance of the evidence in the record.

This bill would provide that the act applies to any form of land use decision by a local agency, including a ministerial or use by right decision and a discretionary approval. The bill would require an application that is not subject to the Permit Streamlining Act to be deemed or determined to be complete for purposes of the act at the time the application is submitted to the local agency, and would make conforming changes. The bill would specify that a general plan, zoning, or subdivision standard or criterion is not "applicable" for purposes of the act if its applicability to a housing development project is discretionary or if the project could be approved without the standard or criterion being met. By increasing the duties on local agencies, this bill would impose a state-mandated local program.

(2) The act provides that disproving a housing development project includes, among other things, any instance in which a local agency votes on the proposed housing development project application, or the local agency fails to comply with the time periods specified in the Permit Streamlining Act.

This bill would provide that disproving a housing development project for purposes of the act includes any instance in which a local agency takes action on the proposed housing development project application and disproves the project, or in the case of a ministerial project, if the local agency fails to comply with the time periods specified in the applicable law authorizing the ministerial project.

(3) The act requires a local agency that considers a proposed housing development project to be inconsistent, not in compliance, or not in conformity with applicable law to provide the applicant with a written document, within a specified amount of time, identifying the provisions the application is not in compliance with and an explanation of the reasons for the decision.

This bill would require a local agency that determines an application that was revised after the agency's initial denial is inconsistent, not in compliance, or not in conformity with applicable law to provide a similar written document within 30 days providing an explanation of the reasons for the decision. By requiring local agencies to provide additional specified written documents and explanations, this bill would impose a state-mandated local program.

(4) The act defines a housing development project to mean a use consisting of residential units only, specified mixed-use developments, and transitional housing or supportive housing.

The bill would define a housing development project for purposes of the act to also include a single unit, including an accessory dwelling unit, or the addition of one or more bedrooms to an existing residential unit.

(5) The act requires a local agency that proposes to impose a condition on a housing development project that the project be developed at a lower density to base its decision upon specified findings. The act defines "lower density" to mean any conditions that have the same effect or impact on the ability of the project to provide housing.

The bill would specify that conditions that have the same effect or impact on the ability of the project to provide housing include a reduction in the number of bedrooms or other normal residential features, or the substantial impairment of the housing development project's economic viability.

(6) Existing law authorizes the applicant to bring an action to enforce the act, and authorizes a court to issue an order or judgment directing the local agency to approve the housing development project or emergency shelter if the court finds that the local agency acted in bad faith when it disapproved or conditionally approved the housing development project or emergency shelter. Existing law requires the court to award reasonable attorney's fees and costs of suit to the plaintiff or petitioner, unless an exception applies.

This bill would authorize a plaintiff or petitioner who is the project applicant to seek compensatory damages for a violation of the act. The bill would specify that in an action brought to enforce the act, evidence is required to be taken and discretion in the determination of facts is vested in an inferior tribunal, corporation, board, or officer, regardless of whether the local agency's action was made at a legally required hearing.

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

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law, the Barbering and Cosmetology Act, establishes the State Board of Barbering and Cosmetology for the licensure and regulation of barbers and cosmetologists. Existing law requires the board to carry out a list of duties, including keeping a registration record of each licensee containing the name, address, license number, date issued, and any facts that the applicant may have stated in the application for examination for licensure. Existing law requires specified licensees to, within 30 days after a change of address, notify the board of the new address, and, upon receipt of the notification, the board is required to make the necessary changes in the register.~~

~~This bill would revise this provision to require the board, upon receipt of a licensee's change of address, to make the necessary changes in any board records and, where applicable, in the licensee's public profile maintained on the board's internet website.~~

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: ~~no~~yes

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

SECTION 1. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) (1) The Legislature finds and declares all of the following:

(A) The lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California.

(B) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(C) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(D) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing development projects, reduction in density of housing projects, and excessive standards for housing development projects.

(2) In enacting the amendments made to this section by the act adding this paragraph, the Legislature further finds and declares the following:

(A) California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state's environmental and climate objectives.

(B) While the causes of this crisis are multiple and complex, the absence of meaningful and effective policy reforms to significantly enhance the approval and supply of housing affordable to Californians of all income levels is a key factor.

(C) The crisis has grown so acute in California that supply, demand, and affordability fundamentals are characterized in the negative: underserved demands, constrained supply, and protracted unaffordability.

(D) According to reports and data, California has accumulated an unmet housing backlog of nearly 2,000,000 units and must provide for at least 180,000 new units annually to keep pace with growth through 2025.

(E) California's overall homeownership rate is at its lowest level since the 1940s. The state ranks 49th out of the 50 states in homeownership rates as well as in the supply of housing per capita. Only one-half of California's households are able to afford the cost of housing in their local regions.

(F) Lack of supply and rising costs are compounding inequality and limiting advancement opportunities for many Californians.

(G) The majority of California renters, more than 3,000,000 households, pay more than 30 percent of their income toward rent and nearly one-third, more than 1,500,000 households, pay more than 50 percent of their income toward rent.

(H) When Californians have access to safe and affordable housing, they have more money for food and health care; they are less likely to become homeless and in need of government-subsidized services; their children do better in school; and businesses have an easier time recruiting and retaining employees.

(I) An additional consequence of the state's cumulative housing shortage is a significant increase in greenhouse gas emissions caused by the displacement and redirection of populations to states with greater housing opportunities, particularly working- and middle-class households. California's cumulative housing shortfall therefore has not only national but international environmental consequences.

(J) California's housing picture has reached a crisis of historic proportions despite the fact that, for decades, the Legislature has enacted numerous statutes intended to significantly increase the approval, development, and affordability of housing for all income levels, including this section.

(K) The Legislature's intent in enacting this section in 1982 and in expanding its provisions since then was to significantly increase the approval and construction of new housing for all economic segments of California's communities by meaningfully and effectively curbing the capability of local governments to deny, reduce the

density for, or render infeasible housing development projects and emergency shelters. That intent has not been fulfilled.

(L) It is the policy of the state that this section should be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing.

(3) It is the intent of the Legislature that the conditions that would have a specific, adverse impact upon the public health and safety, as described in paragraph (2) of subdivision (d) and paragraph (1) of subdivision (j), arise infrequently.

(b) It is the policy of the state that a local government not reject or make infeasible housing development projects, including emergency shelters, that contribute to meeting the need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code, for very low, low-, or moderate-income households, or an emergency shelter, or condition approval in a manner that renders the housing development project infeasible for development for the use of very low, low-, or moderate-income households, or an emergency shelter, including through the use of design review standards, unless it makes written findings, based upon a preponderance of the evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the housing development project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of an emergency shelter, the jurisdiction shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The housing development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the ~~specific~~ *specific*, adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed *or determined to be* complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the housing development project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.

(4) The housing development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The housing development project or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed *or determined to be* complete, and the jurisdiction has adopted a revised

housing element in accordance with Section 65588 that is in substantial compliance with this article. For purposes of this section, a change to the zoning ordinance or general plan land use designation subsequent to the date the application was deemed *or determined to be* complete shall not constitute a valid basis to disapprove or condition approval of the housing development project or emergency shelter.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the housing development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low, low-, and moderate-income categories.

(C) If the local agency has failed to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit, has failed to demonstrate that the identified zone or zones include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7) of subdivision (a) of Section 65583, or has failed to demonstrate that the identified zone or zones can accommodate at least one emergency shelter, as required by paragraph (4) of subdivision (a) of Section 65583, then this paragraph shall not be utilized to disapprove or conditionally approve an emergency shelter proposed for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses. In any action in court, the burden of proof shall be on the local agency to show that its housing element does satisfy the requirements of paragraph (4) of subdivision (a) of Section 65583.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the congestion management program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). ~~Neither shall anything~~ *Nothing* in this section *shall* be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) (1) Nothing in this section shall be construed to prohibit a local agency from requiring the housing development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development.

(2) Nothing in this section shall be construed to prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies that are consistent with paragraph (4) of subdivision (a) of Section 65583 and appropriate to, and consistent with, meeting the jurisdiction's need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. However, the development standards, conditions, and policies shall be applied by the local agency to facilitate and accommodate the development of the emergency shelter project.

(3) This section does not prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the housing development project or emergency shelter.

(4) For purposes of this section, a housing development project or emergency shelter shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing, including emergency shelter, is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

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

(2) ~~(A)~~ "Housing development project" means a use consisting of any of the following:

~~(A)~~

~~(i)~~ Residential units only.

~~(B)~~

~~(ii)~~ Mixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use.

~~(C)~~

~~(iii)~~ Transitional housing or supportive housing.

(B) A "housing development project" may solely be, or may include, a single unit, including an accessory dwelling unit as defined in Section 65852.2.

(C) A "housing development project" may solely be, or may include, the addition of one or more bedrooms to an existing residential unit.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to persons and families of moderate income as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(5) "Disapprove the housing development project" includes any instance in which a local agency does either of the following:

(A) ~~votes~~ *Takes action* on a proposed housing development project application and the application is disapproved, including any required land use approvals or entitlements necessary for the issuance of a building permit.

(B) Fails to comply with the time periods specified in subdivision (a) of Section ~~65950~~ *65950 or, in the case of a ministerial project, the time period specified in the applicable law authorizing that ministerial project*. An extension of time pursuant to Article 5 (commencing with Section 65950) *or the time period specified in the applicable law authorizing that ministerial project* shall be deemed *or determined to be* to be an extension of time pursuant to this paragraph.

(6) "Conditions that have the same effect or impact on the ability of the housing development project to provide housing" shall include, but are not limited to, each of the following:

(A) Reduction in the number of bedrooms or other normal residential features, such as a living room or kitchen.

(B) The substantial impairment of the housing development project's economic viability.

(i) If any city, county, or city and county denies approval or imposes conditions, including design changes, lower density, or a reduction of the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed *or determined to be* complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of conditions on the development is the subject of a court action which challenges the denial or the imposition of conditions, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by a preponderance of the evidence in the record. For purposes of this section, "lower density" includes any conditions that have the same effect or impact on the ability of the project to provide housing.

(j) (1) ~~(A)~~ When a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the housing development project's application is *deemed or* determined to be complete, but the local agency proposes to disapprove the project or to impose a condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by a preponderance of the evidence on the record that both of the following conditions exist:

~~(A)~~

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

~~(B)~~

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

(B) For purposes of this section, a general plan, zoning, or subdivision standard or criterion is not "applicable" if its applicability to a housing development project is discretionary or if the project could be approved without the standard or criterion being met.

(2) (A) If the local agency considers a proposed housing development project to be inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision as specified in this subdivision, it shall provide the applicant with written documentation identifying the provision or provisions, and an explanation of the reason or reasons it considers the housing development to be inconsistent, not in compliance, or not in conformity as follows:

(i) Within 30 days of the date that the application for the housing development project is *deemed or* determined to be complete, if the housing development project contains 150 or fewer housing units.

(ii) Within 60 days of the date that the application for the housing development project is *deemed or* determined to be complete, if the housing development project contains more than 150 units.

(B) If an applicant elects to revise the application in response to any comments, and the local agency considers a proposed housing development project to be inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision as specified in this subdivision, the local agency shall provide the applicant with written documentation identifying the provision or provisions, and an explanation of the reason or reasons it considers the housing development to be inconsistent, not in compliance, or not in conformity within 30 days of the date that the revisions are submitted.

~~(B)~~

(C) If the local agency fails to provide the required documentation pursuant to subparagraph ~~(A)~~, (A) or (B), the housing development project shall be deemed consistent, compliant, and in conformity with the applicable plan, program, policy, ordinance, standard, requirement, or other similar provision.

(3) For purposes of this section, the receipt of a density bonus pursuant to Section 65915 shall not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in

~~conformity~~, *conformity* with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision specified in this subdivision.

(4) For purposes of this section, a proposed housing development project is not inconsistent with the applicable zoning standards and criteria, and shall not require a rezoning, if the housing development project is consistent with the objective general plan standards and criteria but the zoning for the project site is inconsistent with the general plan. If the local agency has complied with paragraph (2), the local agency may require the proposed housing development project to comply with the objective standards and criteria of the zoning which is consistent with the general plan, however, the standards and criteria shall be applied to facilitate and accommodate development at the density allowed on the site by the general plan and proposed by the proposed housing development project.

(5) For purposes of this section, "lower density" includes any conditions that have the same effect or impact on the ability of the *housing development* project to provide housing.

(k) (1) (A) The applicant, a person who would be eligible to apply for residency in the *housing development project* or emergency shelter, or a housing organization may bring an action to enforce this section. If, in any action brought to enforce this section, a court finds that either (i) the local agency, in violation of subdivision (d), disapproved a housing development project or conditioned its approval in a manner rendering it infeasible for the development of an emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making findings supported by a preponderance of the evidence, or (ii) the local agency, in violation of subdivision (j), disapproved a housing development project complying with applicable, objective general plan and zoning standards and criteria, or imposed a condition that the project be developed at a lower density, without making the findings required by this section or without making findings supported by a preponderance of the evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the housing development project or emergency ~~shelter~~. *shelter, including approval of all necessary entitlements for construction thereof.* The court may issue an order or judgment directing the local agency to approve the housing development project or emergency shelter if the court finds that the local agency acted in bad faith when it disapproved or conditionally approved the housing development *project* or emergency shelter in violation of this section. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. *A plaintiff or petitioner who is the project applicant may seek compensatory damages for a violation of this section.* For purposes of this section, "lower density" includes conditions that have the same effect or impact on the ability of the *housing development* project to provide housing.

(B) (i) Upon a determination that the local agency has failed to comply with the order or judgment compelling compliance with this section within 60 days issued pursuant to subparagraph (A), the court shall impose fines on a local agency that has violated this section and require the local agency to deposit any fine levied pursuant to this subdivision into a local housing trust fund. The local agency may elect to instead deposit the fine into the Building Homes and Jobs *Trust* Fund, if Senate Bill 2 of the 2017-18 Regular Session is enacted, or otherwise in the Housing Rehabilitation Loan Fund. The fine shall be in a minimum amount of ten thousand dollars (\$10,000) per housing unit in the housing development project on the date the application was deemed *or determined to be* complete pursuant to Section 65943. In determining the amount of fine to impose, the court shall consider the local agency's progress in attaining its target allocation of the regional housing need pursuant to Section 65584 and any prior violations of this section. Fines shall not be paid out of funds already dedicated to affordable housing, including, but not limited to, Low and Moderate Income Housing Asset Funds, funds dedicated to housing for very low, low-, and moderate-income households, and federal HOME Investment Partnerships Program and Community Development Block Grant Program funds. The local agency shall commit and expend the money in the local housing trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. After five years, if the funds have not been expended, the money shall revert to the state and be deposited in the Building Homes and Jobs *Trust* Fund, if Senate Bill 2 of the 2017-18 Regular Session is enacted, or otherwise in the Housing Rehabilitation Loan Fund, for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households.

(ii) If any money derived from a fine imposed pursuant to this subparagraph is deposited in the Housing Rehabilitation Loan Fund, then, notwithstanding Section 50661 of the Health and Safety Code, that money shall be available only upon appropriation by the Legislature.

(C) If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency and to approve the housing development project, in which case the application for the housing development project, as proposed by the applicant at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed to be approved unless the applicant consents to a different decision or action by the local agency.

(2) For purposes of this subdivision, "housing organization" means a trade or industry group whose local members are primarily engaged in the construction or management of housing units or a nonprofit organization whose mission includes providing or advocating for increased access to housing for low-income households and have filed written or oral comments with the local agency prior to action on the housing development project. A housing organization may only file an action pursuant to this section to challenge the disapproval *or reduction in density* of a housing development *project* by a local agency. A housing organization shall be entitled to reasonable attorney's fees and costs if it is the prevailing party in an action to enforce this section. *Nothing in this section is intended to limit the application of Section 1021.5 of the Code of Civil Procedure.*

(l) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in subdivision (k), the court, in addition to any other remedies provided by this section, shall multiply the fine determined pursuant to subparagraph (B) of paragraph (1) of subdivision (k) by a factor of five. For purposes of this section, "bad faith" includes, but is not limited to, an action that is frivolous or otherwise entirely without merit.

(m) *Irrespective of whether the local agency's action was made as a result of a proceeding in which by law a hearing is required to be given, evidence is required to be taken in any action brought to enforce the provisions of this section and discretion in the determination of facts is vested in an inferior tribunal, corporation, board, or officer.* Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency, unless the petitioner elects to prepare the record as provided in subdivision (n) of this section. A petition to enforce the provisions of this section shall be filed and served no later than 90 days from the later of (1) the effective date of a decision of the local agency imposing conditions on, disapproving, or any other final action on a housing development project or (2) the expiration of the time periods specified in subparagraph (B) of paragraph (5) of subdivision (h). Upon entry of the trial court's order, a party may, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow, or may appeal the judgment or order of the trial court under Section 904.1 of the Code of Civil Procedure. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) *For purposes of this section, an application that is not subject to Chapter 4.5 of Division 1 of Title 7 (commencing with Section 65920) shall be deemed or determined to be complete at the time the application is submitted to the local agency.*

(p) *This section shall apply to any form of land use decision by a local agency, including, but not limited to, a ministerial or use by right decision or a discretionary approval.*

~~(e)~~

(q) This section shall be known, and may be cited, as the Housing Accountability Act.

SEC. 2. *No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.*

~~SECTION 1. Section 7400 of the Business and Professions Code is amended to read:~~

~~7400. Every licensee of the board, except establishments shall, within 30 days after a change of address, notify the board of the new address, and, upon receipt of the notification, the board shall make the necessary changes in any board records and, where applicable, in the licensee's public profile maintained on the board's internet website.~~



California

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SB-592 Housing Accountability Act. (2019-2020)

Date	Action
06/13/19	From committee with author's amendments. Read second time and amended. Re-referred to Com. on H. & C.D.
06/13/19	Referred to Coms. on H. & C.D. and L. GOV.
05/24/19	In Assembly. Read first time. Held at Desk.
05/23/19	Read third time. Passed. (Ayes 38. Noes 0. Page 1282.) Ordered to the Assembly.
05/21/19	Ordered to special consent calendar.
05/16/19	Read second time. Ordered to third reading.
05/16/19	From committee: Do pass. (Ayes 6. Noes 0. Page 1104.) (May 16).
05/10/19	Set for hearing May 16.
04/29/19	April 29 hearing: Placed on APPR. suspense file.
04/18/19	Set for hearing April 29.
04/08/19	From committee: Do pass and re-refer to Com. on APPR. with recommendation: To consent calendar. (Ayes 9. Noes 0. Page 599.) (April 8). Re-referred to Com. on APPR.
04/04/19	Set for hearing April 8.
04/03/19	Re-referred to Com. on B., P. & E.D.
03/27/19	From committee with author's amendments. Read second time and amended. Re-referred to Com. on RLS.
03/07/19	Referred to Com. on RLS.
02/25/19	Read first time.
02/25/19	From printer. May be acted upon on or after March 27.
02/22/19	Introduced. To Com. on RLS. for assignment. To print.



AGENDA AND NOTICE OF THE REGULAR MEETING OF THE
SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS GOVERNING BOARD
JULY 18, 2019 - 5:30 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
Becky Shevlin

3rd Vice President
Tim Hepburn

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
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 5:30 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.

PUBLIC 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

LIAISON REPORTS

10 MINUTES

6. Gold Line Foothill Extension Construction Authority
7. Foothill Transit
8. Los Angeles County Metropolitan Transportation Authority
9. San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy
10. San Gabriel Valley Mosquito & Vector Control District
11. Southern California Association of Governments
12. League of California Cities
13. San Gabriel Valley Economic Partnership
14. South Coast Air Quality Management District

PRESIDENT'S REPORT

5 MINUTES

EXECUTIVE DIRECTOR'S REPORT

5 MINUTES

GENERAL COUNSEL'S REPORT

5 MINUTES

COMMITTEE REPORTS

10 MINUTES

15. Transportation Committee
16. Homelessness Committee
17. Energy, Environment and Natural Resources Committee
18. Water Committee
19. Capital Projects and Construction Committee

CONSENT CALENDAR

5 MINUTES

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

20. Governing Board Meeting Minutes
Recommended Action: Adopt Governing Board minutes.
21. Monthly Cash Disbursements/Balances/Transfers
Recommended Action: Approve Monthly Cash Disbursements/Balances/Transfers.
22. Committee/TAC/Governing Board Attendance
Recommended Action: Receive and file.
23. 3rd Quarter Financial and Treasurer Reports
Recommended Action: Receive and file.
24. Committee Appointments
Recommended Action: Appoint the following members to standing SGVCOG Policy Committees, and Technical Advisory Committees:
 - Planning TAC: City of Azusa
 - City Managers' Steering Committee: 2019-2020 Appointments
25. Contract for Metro Board of Director Support Services
Recommended Action: Authorize Executive Director to execute contract amendment with Mary Lou Echternach for Metro Board support services to extend contract duration until September 30, 2019.

26. FY 18-19 Budget Amendment #2
Recommended Action: Adopt Resolution 19-28 amending the FY 18-19 budget.
27. AB 302 (Berman) - Oppose
Recommended Action: Adopt Resolution 19-29 opposing AB 302 (Berman).
28. AB 1500 (Carrillo) - Support
Recommended Action: Adopt Resolution 19-30 supporting AB 1500 (Carrillo).
29. SB 592 (Wiener) – Oppose
Recommended Action: Adopt Resolution 19-31 opposing SB 592 (Wiener).
30. Legal Services Contract
Recommended Action: Authorize the Executive Director to negotiate a contract with Woodruff, Spradlin & Smart to provide legal services.
31. Regional Coyote Management Framework and Implementation Plan
Recommended Action: Adopt Resolution 19-32 adopting the San Gabriel Valley Regional Coyote Management Framework and Implementation Plan.
32. Amendment to Executive Director Employment Agreement
Recommended Action: Authorize the President to execute an Amendment to the Agreement for Executive Director services with Marisa Creter.
33. Updated Salary Resolution
Recommended Action: Adopt Resolution 19-33 adding the Contracts Administrator and Management Aide classifications for future use.
34. Cancel August 2019 Governing Board Meeting
Recommended Action: Adopt Resolution 19-34, taking the following actions: 1) Cancel the SGVCOG August 2019 Governing Board meeting and 2) Authorize the President, in consultation with the other officers, to act on the Governing Board's behalf by undertaking all actions that are necessary for the proper administration and operation of the SGVCOG and that cannot be delayed until the next Regular Meeting of the Governing Board.
35. Executive Director Delegated Authority
Recommended Action: Adopt Resolution 19-35 granting the Executive Director delegated authority of up to \$250,000 to execute contracts.

ACTION ITEM

30 MINUTES

36. San Gabriel Mountains Foothills and Rivers Protection Act
Recommended Action: Adopt Resolution 19-36 supporting the San Gabriel Mountains Foothills and Rivers Protection Act in accordance with the following items:
 - The expansion of the San Gabriel Mountains National Monument;
 - The establishment of the San Gabriel Mountains National Recreation Area;
 - The classifications of Yerba Buena and Condor Peak as Wilderness Areas;
 - The expansions of the San Gabriel and Sheep Mountain Wilderness Areas; and,
 - The classifications of WF San Gabriel River PWSR, Little Rock Creek PWSR, Cooper Canyon PWSR, SF Cooper Canyon PWSR, NF San Gabriel River PWSR, and EF San Gabriel River PWSR as Wild and Scenic Rivers.

ADJOURN