

AGENDA

Legislative Committee

The next meeting of the Legislative Committee will be as follows.

Date: Thursday, May 12, 2016 - 5:30 p.m. to 6:30 p.m.
 Place: San Mateo County Transit District Office¹
 1250 San Carlos Avenue
2nd Floor Auditorium
 San Carlos, California

PLEASE CALL Jean Higaki (599-1462) IF YOU ARE UNABLE TO ATTEND.

1	Public comment on related items not on the agenda.	Presentations are limited to 3 Minutes	
2	Approval of Minutes from March 10, 2016.	Action (Gordon)	Pages 1-3
3	Update from Shaw/Yoder/Antwih	Information (Shaw/Yoder/Antwih)	
4	Review and recommend approval of the C/CAG legislative policies, priorities, positions, and legislative update (A position may be taken on any legislation, including legislation not previously identified).	Action (Gordon)	Page 4- 16
5	Discussion of “Lobby Day” logistics	Action (Higaki)	Page 17-18
6	Adjournment	Action (Gordon)	

NOTE: All items appearing on the agenda are subject to action by the Committee. Actions recommended by staff are subject to change by the Committee.

¹From Route 101 take the Holly Street (west) exit. Two blocks past El Camino Real go left on Walnut. The entrance to the parking lot is at the end of the block on the left, immediately before the ramp that goes under the building. Enter the parking lot by driving between the buildings and making a left into the elevated lot. Follow the signs up to the levels for public parking.

For public transit access use SamTrans Bus lines 390, 391, 292, KX, PX, RX, or take CalTrain to the San Carlos Station and walk two blocks up San Carlos Avenue.

**CITY/COUNTY ASSOCIATION OF GOVERNMENTS
LEGISLATIVE COMMITTEE**

**MEETING MINUTES
March 10, 2016**

At 5:30 P.M. Chair Gordon called the Legislative Committee meeting to order in the 2nd Floor auditorium at the San Mateo Transit District Office.

Guests or Staff Attending:

Matt Robinson - Shaw/ Yoder/ Antwih Inc. (call in)
Sandy Wong, Jean Higaki, Matt Fabry - C/CAG Staff

1. Public comment on related items not on the agenda.

None

2. Approval of Minutes from March 10, 2016.

Member Garbarino moved and Member Carlton seconded approval of the February 11, 2015 minutes. Member Ervin abstained. Motion passed.

3. Update from Shaw/ Yoder/ Antwih (SYA).

Matt Robinson, from Shaw/ Yoder/ Antwih provided an update from Sacramento.

Speaker Anthony Rendon was sworn into office as speaker of the House. He is appointing new committee chairs and leadership team members. Mullin will remain speaker pro-tem. Jim Frazier will remain chair of the Transportation Committee.

AB 2126 was introduced by Mullin which is expected to increase the number of statewide authorized Construction Management/ General Contractor (CM/GC) contracts that Caltrans can propose. This is a method of expediting the project delivery process. Caltrans is considering utilizing this method for the US 101 corridor project. A letter of support was sent using the approved "urgent" process.

There is not much movement with regards to transportation funding. C/CAG supports Frazier's Transportation Bill AB 1591. C/CAG also supports the Governor's proposal. There are rumors that the Governor may scale down his proposal in an effort to get additional support and an effort to pass the proposal with a majority vs two thirds vote. It is not clear if this proposal will work.

The excise tax was lowered from 18¢ to 12¢ to 9.8¢ per gallon by July. This new estimate reduces funding for Transportation by another \$300 million for local streets and roads and the State Transportation Improvement Program (STIP). The reduction in the STIP will affect our

new proposed US 101 corridor project. MTC has proposed that \$71 million be pushed out of the STIP from the region. Of that, \$18.2 million is from San Mateo County for the 92/101 interchange construction phase. The share pushed out for San Mateo County is higher because other Counties have advanced and spent their fund shares in advance, therefore only a few counties have capacity to push out funds.

Member Gordon asked how the economic recovery in the state would affect transportation funding. Because transportation funding is tied to the gas tax, and the price of oil is low, there is not much impact that the overall economic recovery has on transportation funding. The best hope is to look at the fixing the fluctuating excise tax issue at this time. Currently vehicle miles travelled and road user charge is being considered in Sacramento as another means of funding transportation.

4. Review and recommend approval of the C/CAG legislative policies, priorities, positions, and legislative update (A position may be taken on any legislation, including legislation not previously identified).

There is no action to take at this time.

5. Discussion of “Lobby Day” and “Lobby Day” Topics

The committee decided to reserve both June 6 and 8 as a possible Lobby Day. The preferred day June 6 with a backup of June 8 if scheduling becomes an issue with representatives in Sacramento. For this year, the proposal is to have the delegates meet with C/CAG at a designated meeting room instead of going to delegates offices.

In regards to the Lobby Day Topics, member Gordon wanted to bring up formula distributions and how it should also consider the economic contributions made to the state. Member Nihart also wanted to bring up the issue of California being a “donor” state as well as bring up transportation revenue sustainability.

For the HOV/HOT Lane project the committee requested to research how the implementation of SR 237 in Santa Clara is performing before they would feel comfortable advocating for this project in Sacramento. There is still pressure coming from the Governor’s office to address congestion on the US 101 corridors. For storm water, the committee requested to keep the green infrastructure integration topic.

For the handout materials, namely stormwater, member Gordon asked to include a source and a date for the information on the slides.

6. Adjournment

The meeting adjourned at approximately 6:26 P.M.

Legislative Committee 2015 Attendance Record

Agency	Name	Jan 14	Feb 11	March 10	April 14	May 12	June 9	July	August 11	Sept 8	Oct	Nov	Dec 8
Portola Valley	Maryann Moise Derwin (C/CAG Vice Chair)		N/A	N/A									
Menlo Park	Catherine Carlton		x	x									
Millbrae	Gina Papan		N/A		Canceled								
Pacifica	Mary Ann Nihart		x	x									
Pacifica	Karen Ervin			x									
Redwood City	Alicia Aguirre (C/CAG Chair)		x	x									
San Bruno	Irene O'Connell		x	x									
Sounth San Francisco	Richard Garbarino			x									
Woodside	Deborah Gordon (Leg Chair)		x	x									

 no meeting

C/CAG AGENDA REPORT

Date: May 12, 2016

To: C/CAG Legislative Committee

From: Sandy Wong, Executive Director

Subject: Review and recommend approval of C/CAG legislative policies, priorities, positions, and legislative update (A position may be taken on any legislation, including legislation not previously identified)

(For further information or questions contact Jean Higaki at 599-1462)

RECOMMENDATION

That the C/CAG Legislative Committee recommend the C/CAG Board to take a position on any legislation or direct staff to monitor any legislation for future positions to be taken.

FISCAL IMPACT

Unknown.

SOURCE OF FUNDS

NA.

BACKGROUND

Attached are two letters of opposition:

The first is a letter opposing a construction contract indemnity bill - SB 885 (Wolk). This bill would require local governments to front attorney's fees for consultant design professionals on public works contracts if an action arises on a project for which the engineering firm is found partially at fault. The League of California Cities and California State Association of Counties (CSAC) are opposed to this bill as it would result public dollars being used to defend private entities. It is recommended to oppose this bill per C/CAG adopted legislative policy "Policy #1 Protect against the diversion of local revenues - 1.1 Support League and CSAC Initiatives to protect local revenues."

The second is a letter opposing Stormwater Pollution Prevention Plan delegation prohibition - SB 1170 (Wieckowski). This bill would prohibit public agencies from delegating storm water pollution prevention plans (SWPPPs) to a contractor on public works contracts. It would also prohibit public agencies from requiring contractors to assume responsibility for the completeness and accuracy of a plan developed by that entity. Local agencies often require contractors to design and submit SWPPPs because a contractor's approach for construction dictates the sequence of excavation, backfill, and temporary stockpiling of material on a typical project. The League of California Cities and California State Association of Counties (CSAC) are both opposed to this bill. It is recommended to oppose this bill per C/CAG adopted legislative policy "Policy #3 -Support actions that help to meet municipal stormwater permit requirements and secure stable funding to pay for current and future regulatory

mandates. – 3.4 Support efforts to place the burden/ accountability of reporting, managing, and meeting municipal stormwater requirements on the responsible source rather than the cities or county, such as properties that are known pollutant hot spots and third party utility purveyors.

For discussion:

The County of San Mateo Office of Sustainability is requesting a letter of support from C/CAG for a trailer bill (RN 16 12792) / AB 2293 (Garcia) to fund the California Green Business Network Program from the Cap and Trade, Affordable Housing and Sustainable Communities Program (AHSC). This bill would essentially carve out approximately \$2.5 mil per year from the AHSC program to fund the statewide California Green Business Program.

The AHSC is currently a competitive program intended to fund land-use, housing, transportation, and land preservation projects that support infill and compact development to reduce greenhouse gas ("GHG") emissions.

ATTACHMENTS

1. May 2016 Legislative update from Shaw/ Yoder/ Antwih, Inc.
2. Letter of opposition for Construction Contract Indemnity Bill - SB 885 (Wolk)
3. Letter of opposition for Stormwater Pollution Prevention Plan Delegation Prohibition- SB 1170 (Wieckowski)
4. Full Legislative information is available for specific bills at <http://leginfo.legislature.ca.gov/>



SHAW/YODER/ANTWIH, *inc.*
LEGISLATIVE ADVOCACY • ASSOCIATION MANAGEMENT

DATE: May 2, 2016
TO: Board Members, City/County Association of Governments, San Mateo County
FROM: Andrew Antwih and Matt Robinson, Shaw / Yoder / Antwih, Inc.
RE: STATE LEGISLATIVE UPDATE – May 2016

Legislative Update

The last day for each house to report to the Floor non-fiscal bills introduced in their house is May 6, with June 3 marking the last day for each house to move bills to the other house. The Legislature will break for Summer Recess on July 1 for about a month. In this report we highlight the most relevant bills – bills on which the Board has adopted a position or on which we are recommending a position – introduced in the second half of the 2015-16 Regular Session; those are discussed under ***Bills of Interest***, below.

Senate Bill X1 1 (Beall) Transportation Funding Bill Amended to Address Transit and Truck Weight Fees

The Board SUPPORTS Senator Beall’s special session bill to increase transportation funding for highways and for local streets & roads. The bill previously in print mainly focused on increasing several taxes and fees, related to motor vehicle operation, to address issues of deferred maintenance on state highways, local streets and roads, and the goods movement system. Senator Beall recently amended his bill to add two new sources of public transit funding, and, he added several new policy provisions, including items related to: bond debt service and truck weight fees; the creation of an advance transportation project mitigation program; and, extension of a CEQA exemption for road rehabilitation projects. He also makes minor adjustments to some of the fees previously contained in the bill.

Specifically, this bill would now provide approximately \$6.5 billion for improving California’s highways, streets & roads, public transit and commuter/intercity rail systems, and goods movement projects. The amended version of the bill builds on the principles established by Senator Beall’s SB 16 of last year, and the previous version of SBX1 1, and incorporates key elements of transit-supporting bills introduced in last year’s Extraordinary Session on Transportation Infrastructure.

More specifically, SBX1 1 would create these new funding sources:

- Eliminate the Board of Equalization’s annual adjustment of the gas excise tax, increase the gas excise tax by 12 cents and index it to the Consumer Price Index (**generating \$1.7 billion annually**)
- Increase the diesel excise tax by 22 cents and index it to the Consumer Price Index (**generating \$600 million annually**)
- Increase the incremental diesel sales tax to 5.25% (**generating \$300 million annually**)
- Introduce an annual road access fee of \$35 per vehicle and index it to the Consumer Price Index (**generating \$1 billion annually**)
- Introduce an annual zero-emission vehicle fee of \$100 per vehicle (**generating \$10 million annually**)

- Increase the vehicle registration fee by \$35 and index it to the Consumer Price Index (**generating \$1 billion annually**)
- Redirect certain truck weight fees that are currently allocated to transportation debt service to transportation purposes (**with a goal of repurposing about \$500 million annually**)
- Allocate additional cap and trade auction proceeds as follows:
 - +10% to the Transit and Intercity Rail Capital Program (**netting \$200 million annually**)
 - +5% to the Low Carbon Transit Operations Programs (**netting \$100 million annually**)
- Institute Caltrans Reforms and Efficiencies (**netting \$100 million annually**)
- Require repayment of outstanding transportation loans (**freeing \$1 billion in one-time revenue**)

The bill would set aside 5% of annual revenues to counties that adopt local sales tax measures, and otherwise directs revenue on a 50-50 split between state and local agencies for transportation maintenance and rehabilitation needs.

The bill would benefit public transit capital projects by doubling the allocation to the TIRCP; benefit transit operations and capital programs by the trebling of the incremental diesel sales tax going to the State Transit Assistance program; redirecting \$550 million (sourced from Cap and Trade auction proceeds currently directed to the California High-Speed Rail Authority) to intercity and commuter rail projects; and, the bill would benefit public transit operations by doubling the allocation to the LCTOP.

Additionally, the bill carves out \$300 million annually to projects that support goods movement.

Finally, the bill would put into place constitutional protections that would prohibit the Legislature from borrowing or redirecting new revenues for purposes other than those specifically outlined in Article XIX of the State Constitution; and, put into place efficiency measures such as expanded public-private partnership authorization, CEQA streamlining, and advanced mitigation designed to expedite project delivery and reduce overall project costs.

Attached to our report is a side-by-side we prepared, comparing the Governor’s January transportation proposal, AB 1591 (Frazier), and the latest version of SBX1 1 (Beall).

C/CAG Legislative Committee Visit

On June 8, members of the C/CAG Legislative Committee and staff plan to travel to Sacramento to meet with members of the San Mateo County legislative delegation (Senator Hill and Assembly Members Gordon, Mullin, and Ting), policy committee chairs and staff, and state agency & department heads. The purpose of the visit is to provide an update on programs and projects of importance to San Mateo County and discuss the various transportation funding proposals & the impacts of recent STIP adjustments.

Special Session Bills

ABX1 1 (Alejo) Vehicle Weight Fees

This bill would undo the statutory scheme that allows vehicles weight fees from being transferred to the general fund from the State Highway Account to pay debt-service on transportation bonds and requires the repayment of any outstanding loans from transportation funds by December 31, 2018. **The Board is in SUPPORT of this bill.**

SBX1 1 (Beall) Transportation Funding

This bill, like the author’s SB 16, would increase several taxes and fees, beginning in 2016, to address issues of deferred maintenance on state highways and local streets and roads, as well as provide new funding for public transit. Specifically, this bill would increase both the gasoline and diesel excise taxes by 12 and 22 cents, respectively; increase the vehicle registration fee by \$35; create a new \$100 vehicle registration fee applicable to zero-emission motor vehicles; create a new \$35 road access charge on

each vehicle; increase Cap and Trade funding for transit; increase the sales tax on diesel by 3.5% for the State Transit Assistance Program, limit the borrowing of weight-fee revenues, and repay outstanding transportation loans. As a result, transportation funding would increase by approximately \$6-\$6.5 billion per year. **The Board SUPPORTED the previous version of this bill. We recommend the Board continue to SUPPORT this bill.**

ABX1 7 (Nezarian) and SBX1 8 (Hill) Cap and Trade Increase for Rail and Transit

This bill would increase the amount of funding continuously appropriated to two Cap and Trade programs dedicated to transit - 20% of the annual proceeds to the Transit and Intercity Rail Capital Program and 10% of the annual proceeds to the Low Carbon Transit Operations Program. **The Board is in SUPPORT of these bills.**

Regular Session Bills of Interest

ACA 4 (Frazier) Lower-Voter Threshold for Transportation Taxes

This bill would lower voter approval requirements from two-thirds to 55 percent for the imposition of special taxes used to provide funding for transportation purposes. **The Board is in SUPPORT of this bill.**

AB 516 (Mullin) Temporary License Plates

This bill would, beginning January 1, 2017, require the Department of Motor Vehicles (DMV) to develop a temporary license plate to be displayed on vehicles sold in California and creates new fees and penalties associated with the processing and display of the temporary tag. **The Board is in SUPPORT of this bill.**

AB 779 (Garcia) Congestion Management Programs

This bill would delete the level of service standards as an element of a congestion management program in infill opportunity zones and revise and recast the requirements for other elements of a congestion management program.

AB 1591 (Frazier) Transportation Funding

This bill would increase several taxes and fees beginning in 2016, to address issues of deferred maintenance on state highways and local streets and roads, freight corridor improvements, and transit and intercity rail needs. Specifically, this bill would increase both the gasoline and diesel excise taxes by 22.5 and 30 cents, respectively; increase the vehicle registration fee; dedicated additional shares of Cap and Trade revenues; redirect truck weight fees; and repay outstanding transportation loans. As a result, transportation funding would increase by approximately \$7 billion per year. **The Board is in SUPPORT of this bill.**

AB 2126 (Mullin) Alternative Project Delivery

This bill would increase the number of projects for which Caltrans has the authority to use the construction manager/general contractor (CM/GC) method of procurement from six to 12. **The Board is in SUPPORT of this bill.**

SB 885 (Wolk) Construction Contract Indemnity

This bill would specify that for construction contracts entered into on or after January 1, 2017, that a design professional only has the duty to defend against claims or lawsuits pertaining to negligence, recklessness, or willful misconduct of the design professional. Under the bill, a design professional would not have a duty to defend claims or lawsuits against any other person or entity arising from a construction project, except that person's or entity's reasonable defense costs arising out of the design professional's degree of fault. **We recommend the Board OPPOSE this bill.**

SB 1128 (Glazer) Bay Area Commute Benefit Policy

Current law authorizes, until January 1, 2017, the Metropolitan Transportation Commission and the Bay Area Quality Management District to jointly adopt and enforce an ordinance requiring employers to take a more active role in providing commute benefits to their employees, with the goal of attracting new riders to public transit; and, delivering air quality benefits, traffic congestion relief and additional fare revenue to help sustain and grow quality public transit service. Under this ordinance, impacted employers were required to offer their employees one of a series of commute benefits. This bill would indefinitely extend the statutory authorization for the Bay Area commute benefit ordinance. **The Board is in SUPPORT of this bill.**

SB 1170 (Wieckowski) Stormwater Pollution Prevention Plans

This bill prohibits a public entity, charter city, or charter county from delegating to a contractor the development of a plan used to prevent or reduce water pollution or runoff on a public works contract and prohibits from requiring a contractor on a public works contract that includes compliance with a plan to assume responsibility for the completeness and accuracy of a plan developed by that entity. **We recommend the Board OPPOSE this bill.**

Transportation Funding Proposals - Comparison Table			
	Governor's Proposal	AB 1591 (Frazier)	SBX1 1 (Beall)
Funding			
Ongoing Sources	<ul style="list-style-type: none"> *Stabilized 18 cents/gal. tax on gasoline <i>(generating approx. \$500 million)</i> *11 cents/gal. tax increase on diesel fuel <i>(generating approx. \$500 million)</i> *\$65 "road improvement charge" <i>(generating approx. \$2 billion)</i> *CalTrans efficiencies <i>(generating approx. \$100 million)</i> 	<ul style="list-style-type: none"> *22.5 cents/gal. tax increase on gasoline <i>(generating approx. \$3.5 billion)</i> *30 cents/gal. tax increase on diesel fuel <i>(generating approx. \$800 million, dedicated exclusively to trade corridor improvements)</i> *\$38 vehicle registration fee <i>(generating approx. \$1 billion)</i> *\$165 zero emission vehicle fee <i>(generating approx. \$35 million)</i> *30% of Cap and Trade revenues <i>(generating approx. \$600 million)</i> *Restoration of truck weight fees 	<ul style="list-style-type: none"> *12 cents/gal. tax increase on gasoline <i>(generating approx. \$1.7 billion)</i> *22 cents/gal. tax increase on diesel fuel <i>(generating approx. \$600 million)</i> *Tripling of incremental diesel sales tax to 5.25% <i>(generating approx. \$300 million)</i> *\$35 vehicle registration fee <i>(generating approx. \$1 billion)</i> *\$35 annual road access fee <i>(generating approx. \$1 billion)</i> *\$100 zero emission vehicle fee <i>(generating approx. \$10 million)</i> *15% of Cap and Trade revenues <i>(generating approx. \$300 million)</i> *Partial restoration of truck weight fees <i>(repurposing approx. \$500 million)</i> *CalTrans efficiencies <i>(generating approx. \$100 million)</i>
One-Time Sources	<ul style="list-style-type: none"> *\$879 million in loan repayments <i>*\$500 million in Cap and Trade revenues</i> 	<ul style="list-style-type: none"> *\$879 million in loan repayment (50% before 6/30/16, 50% after 6/30/17) 	<ul style="list-style-type: none"> *\$1 billion in loan repayment
Estimated Annual Funding Increase	Approx. \$3.6 billion/year	Approx. \$7 billion/year	Approx. \$5.5 billion/year
Expenditures			
Transit and Intercity Rail	\$665 million in Cap and Trade Revenues - TIRCP ((\$400 million expected to be ongoing)	Additional 10% in Cap and Trade Revenues - TIRCP (approx. \$200 million)	<ul style="list-style-type: none"> *Additional 10% in Cap and Trade Revenues – TIRCP (approx. \$200 million) *Additional 5% in Cap and Trade Revenues – LCTOP (approx. \$100 million) *\$550 million in Cap and Trade Revenues from HSR *\$300 million in Additional State Transit Assistance Program Revenues
Complete Streets	\$100 million to Low Carbon Road Program (expected to be ongoing)	N/A	*Requires Caltrans to update the Highway Design Manual to Incorporate the "Complete Streets" design concept by January 1, 2017
Goods Movement	<ul style="list-style-type: none"> *\$200 million/year to newly-created Trade Corridor Enhancement Account (to be used in manner consistent with TCIF) *One-time \$334 million to Trade Corridor Enhancement Account 	<ul style="list-style-type: none"> *\$840 million/year to trade corridor improvements *20% in Cap and Trade revenues to TCIF (approx. \$400 million) 	\$300 million/year to Trade Corridor Improvement Fund
Self-Help Incentives	\$250 million/year	5% to counties that approve transaction and use tax on or after July 1, 2016	5% to counties that approve transaction and use tax on or after July 1, 2016

Distribution of Remainder	*60% to SHOPP/year *40% to Local Streets & Roads/year *One-time \$148 million to Traffic Congestion Relief Program *One-time \$132 million to SHOPP	*50% to SHOPP/year (CTC required to allocate all capital and support costs for each project in the SHOPP on or after February 1, 2017) *50% to Local Streets & Roads/year	*50% for maintenance of state highway system *50% for maintenance of local streets & roads
Inflation Adjustment	Excise tax adjusted annually beginning 2017	Excise tax adjusted for inflation every three years	Excise tax adjusted annually beginning
Other			
Local Streets and Road Fund Flexibility	"Other transportation priorities" allowed if PCI exceeds 85	"Other transportation priorities" allowed if PCI exceeds 85	"Other transportation priorities" allowed if PCI exceeds 85
Active Transportation Eligibility	Active transportation and pedestrian and bicycle safety projects in conjunction with any other allowable project	Active transportation and pedestrian and bicycle safety projects in conjunction with any other allowable project	\$100 million from the State Highway Account for Active Transportation Program
CalTrans Accountability	*CTC to annually evaluate Caltrans for effectiveness in reducing deferred maintenance, improving road maintenance and other goals *Caltrans to identify at least \$100 million in cost savings/year *Increase annual use of contract staff to 20% of capital outlay support staff by FY 20-21	N/A	*Caltrans to present plan to California Transportation Commission to increase department's efficiency by 30% *Caltrans to present to CTC to generate additional income from properties owned by the department
Local Streets and Road Fund Accountability	CTC to annually evaluate cities and counties for effectiveness in reducing deferred maintenance, improving road maintenance and other goals	CTC develops performance criteria	CTC develops performance criteria, CTC to annually evaluate cities and counties for effectiveness in reducing maintenance and improving roadway conditions

C/CAG

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May 12, 2016

The Honorable Lois Wolk
California State Senate
State Capitol, Room 3086
Sacramento, CA 95814

RE: **OPPOSE** SB 885 (Wolk)

Dear Senator Wieckowski:

On behalf of the City/County Association of Governments of San Mateo County (C/CAG), I must regrettably inform you of C/CAG's **OPPOSITION to SB 885 (Wolk)**, which would require design professionals used on public works projects to only defend against claims and lawsuits stemming from the "negligence, recklessness, or willful misconduct of the design professional." The bill would also obligate the design professional to reimburse reasonable defense costs incurred by public agencies and will be limited only to the design professional's degree of fault as determined by a court, arbitration, or negotiated settlement.

This bill unnecessarily places a financial burden on local government entities engaged in the construction of public works projects by requiring these agencies to front all, or a portion of, the costs incurred from defending against litigation on public works projects for which a design professional has been found to be wholly, or partially, responsible. While the bill provides for reimbursement of any legal costs accrued as a result of the design professional's level of involvement, the reimbursement occurs only after a determination is made by a court, arbitrator, or through a settlement. This leaves local agencies to shoulder the cost while a level of fault is determined. If the level of fault, and thus the fair share of defense costs, is not satisfactory to the local agency, it must take additional steps to recover its costs, which will surely prove to be another arduous process.

While we believe that a design professional should not have to defend against claims unrelated to the design professional's involvement in a public works project, we do not agree that these same professionals should be excused from any responsibility in defending claims in which they bare some or all of the responsibility until after a court has ruled that such is true. Local agency budgets are already stretched extremely thin and paying for litigation on behalf of design professionals is not something that is easily borne.

For the reasons stated above, we must respectfully **OPPOSE** SB 885. Please feel free to contact Sandy Wong, the C/CAG Executive Director, at slwong@smcgov.org with any questions or concerns.

Sincerely,

Alicia Aguirre, Chair
City/County Association of Governments of San Mateo County

Cc: Assembly Member Richard Gordon
Assembly Member Kevin Mullin
Assembly Member Phil Ting
Senator Jerry Hill

C/CAG

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May 12, 2016

The Honorable Bob Wieckowski
California State Senate
State Capitol, Room 3086
Sacramento, CA 95814

RE: **OPPOSE** SB 1170 (Wieckowski)

Dear Senator Wieckowski:

On behalf of the City/County Association of Governments of San Mateo County (C/CAG), which manages the San Mateo Countywide Water Pollution Prevention Program (Program), I must regrettably inform you of C/CAG's **OPPOSITION to SB 1170 (Wieckowski)** related to stormwater pollution prevention. Unfortunately, as currently written, SB 1170 raises significant concerns related to our ability to meet the goals established by San Mateo County's Program and meet our National Pollution Discharge Elimination System (NPDES) permit requirements.

In San Mateo County, the Program is a partnership between C/CAG, each incorporated city and town in the county, and the County of San Mateo, which share a common NPDES permit. The County and the 20 cities and towns in San Mateo County are all permittees under one regional urban stormwater NPDES permit, which also regulates municipalities in Contra Costa, Alameda, and Santa Clara Counties, as well as the cities of Fairfield, Suisun City, and Vallejo.

On projects that encompass at least one acre of land, Stormwater Pollution Prevention Plans (SWPPPs) must be developed to ascertain potential sources of stormwater pollution on construction sites and identify the control measures needed to be taken during the construction process. SWPPPs must be written, amended, and certified by qualified personnel who are knowledgeable in the principles and practice of erosion and sediment controls and possess the skills needed to assess conditions at the construction site that could impact stormwater quality. C/CAG and our local agencies rely on the expertise of qualified SWPPP developers, known as QSDs, to conduct this work, as agencies do not have the resources nor the regular workload required to employ such personnel throughout the year.

SWPPPs are currently created in accordance with the general contractor's construction plans. As construction progresses, SWPPPs must often be modified to accommodate the constantly changing conditions of a construction site. The general contractor is in the best position to create the construction plan and contract for the corresponding SWPPP. A general contractor-developed SWPPP can incorporate an optimal construction sequence selected by the contractor, thereby maximizing efficiency and reducing costs.

SB 1170 would turn this standing process on its head by prohibiting public agencies from contracting with the general contractor to develop a SWPPP and statutorily restricting the

agencies' remaining options to an engineer or architect. A separate entity developing a SWPPP would have to assume a sequence of work that might occur under one construction scenario but not another. Public agencies do not have the direct control over the day-to-day construction, let alone the expertise, to perform this function.

Ultimately, the success or failure of a SWPPP lies with the general contractor carrying out the plan. If the legislature statutorily shifts the development and liability of the SWPPP to the public agency, or to a design professional or architect, it will create confusion and conflict within the public works process. SB 1170 will only further disconnect the entity responsible for the development of the SWPPP from the entity that performs the work related to the SWPPP.

Fro the reasons stated above, we must **OPPOSE** SB 1170. Please feel free to contact Sandy Wong, the C/CAG Executive Director, at slwong@smcgov.org with any questions or concerns.

Sincerely,

Alicia Aguirre, Chair
City/County Association of Governments of San Mateo County

Cc: Assembly Member Richard Gordon
Assembly Member Kevin Mullin
Assembly Member Phil Ting
Senator Jerry Hill

C/CAG AGENDA REPORT

Date: March 12, 2016
To: C/CAG Legislative Committee
From: Sandy Wong, Executive Director
Subject: Discussion of “Lobby Day” logistics

(For further information or questions contact Jean Higaki at 599-1462)

RECOMMENDATION

That the C/CAG Legislative discusses “Lobby Day” logistics

FISCAL IMPACT

Unknown.

SOURCE OF FUNDS

NA.

BACKGROUND

The Legislative Committee is planning a “Lobby Day” on June 8, 2016 to meet delegates in Sacramento and voice concerns regarding issues of importance to C/CAG.

Attached are the talking point issues to discuss with Sacramento delegates and handouts to leave with delegates. Draft talking points and handouts were presented, discussed, and revised at the March Legislative Committee meeting.

ATTACHMENTS

1. Lobby Day talking points
2. Lobby Day draft materials (handouts at meeting)

Talking Points

C/CAG Sacramento Visit – June 8, 2016

San Mateo County Transportation Funding Needs:

- *Excise Tax Needs Stabilizing*
 - \$3B is needed for Local Street and Roads over the next 24 years to maintain roadways in San Mateo County to a state of good repair.
 - Over \$200M is needed to fund capital projects on the highway system in San Mateo County.
 - We have heavy congestion on all of our State Highway Systems in our County. US 101, SR 92, I-280
 - Industry is putting a lot of pressure on everyone to fix highway corridors serving major economic engines in the Bay Area.
 - Excise tax reductions between current and next fiscal year equates to \$1.1B in lost revenues to the STIP and Local Streets & Roads.
 - The CTC proposing to cut over \$750M from the STIP. According to CTC formula the cut to San Mateo share is \$10 mil but could be more due to advance of funds from other counties.
 - Asking for Legislature to act to restore excise tax funding to previous levels, eliminate annual adjustments, and index for inflation.

- *Redirect Existing/New Revenues*
 - C/CAG supports Governor's Budget proposal and Frazier's bill AB 1591, but preference is higher level of funding contained in AB 1591.
 - Support the redirection of truck weight fees back to the State Highway Account (\$1B loss annually which could go to STIP/Local Streets& Roads).
 - C/CAG urges lawmakers to look for alternative strategies to generate revenues for transportation maintenance and improvements. C/CAG supports alternate revenue funding such as a road user charge.
 - New or redirected revenue should be returned locally to the source and should consider the economic contributions made to the state and region.

US Highway 101 HOV/HOT Lane:

- C/CAG will eventually need some sort of toll authority to implement an express lane on the US 101 Corridor. We hope that any new

legislated authority would respect local control and return to source revenues.

- The environmental phase of this project has started. Political support is key to the success of this project as it is regional in nature and crosses many jurisdictions. We appreciate all the work Kevin Mullin's office is doing for this project.
- A project of this magnitude requires funding that is hard to get in this economic climate. We hope that state funding would be made available for this type of project.
- Recent STIP action is currently jeopardizing planning dollars.

San Mateo Countywide Stormwater Program and Funding:

- *Proposition 218 Reform* - Support efforts by the League of Cities (LOC) and California State Association of Counties (CSAC), including a potential statewide ballot initiative, to implement an alternative constitutionally authorized fee process for stormwater programs and projects, as well as any legislative solution that may arise as a result of the LOC and CSAC efforts. Until stormwater is on equal footing with water and wastewater in terms of the ability to generate local revenue without a requirement for voter approval, municipalities will continue to be dependent upon funding from state or federal sources to meet mandated water quality requirements. The Public Policy Institute estimates \$500-800 million per year annual shortfall statewide to meet stormwater quality requirements.
- *Green infrastructure* - provides significant benefit beyond water quality improvement, including climate change adaptation, flood control, groundwater recharge, and urban heat island reduction. Green infrastructure needs to be integrated into other statewide priorities and investments, such as cap and trade, active transportation, sustainable community strategies, and climate change adaptation. There is especially a need to facilitate easier pairing of transportation planning and funding with stormwater planning and funding to implement integrated green infrastructure/transportation projects.
- *Unified approach statewide on stormwater management*- Discussions about stormwater capture, use, and recharge for water supply concerns are not consistent with the water quality mandates from the State and Regional Water Boards. Stormwater resource planning is now mandated to access bond funds, but costly permit mandates may not be consistent or related to stormwater capture projects (e.g., trash control or water quality monitoring). All state agencies need to be on the same page in discussing the entirety of stormwater management.

C/CAG Legislative Priorities:

- *Copies of Legislative Priorities are included in our packet*