



**TRANSPORTATION AGENCY FOR MONTEREY COUNTY
SERVICE AUTHORITY FOR FREEWAYS EMERGENCIES
AND
MONTEREY COUNTY REGIONAL DEVELOPMENT IMPACT FEE
JOINT POWERS AGENCY**

EXECUTIVE COMMITTEE

Members are: Robert Huitt (Chair), Luis Alejo (1st Vice Chair), Ed Smith (2nd Vice Chair), John Phillips (Past Chair), Mary Adams (County Representative), Mike LeBarre (City Representative)

**Wednesday, June 5, 2019
Transportation Agency Conference Room
55-B Plaza Circle, Salinas**

****9:00 AM****

1. ROLL CALL

Call to order and self-introductions. If you are unable to attend, please contact Elouise Rodriguez, Senior Administrative Assistant. Your courtesy to the other members to assure a quorum is appreciated.

2. PUBLIC COMMENTS

Any member of the public may address the Committee on any item not on the agenda but within the jurisdiction of Transportation Agency and Executive Committee. Comments on items on today's agenda may be given when that agenda item is discussed.

3. BEGINNING OF CONSENT AGENDA

Approve the staff recommendations for items listed below by majority vote with one motion. Any member may pull an item off the Consent Agenda to be moved to the end of the **CONSENT AGENDA** for discussion and action.

3.1 APPROVE the Executive Committee draft minutes of May 1, 2019.

-Rodriguez

- 3.2 **RECOMMEND** that Board of Directors **APPROVE** evaluation form, procedure, and timeline for completing annual evaluation for Executive Director and Counsel.

-Goel

The Agency Bylaws require an annual evaluation of the Executive Director and Counsel

END OF CONSENT AGENDA

4. **RECEIVE** update on state legislative activities and **RECOMMEND** the Board adopt positions on legislation.

- Watson

Staff will present a legislative update and a bill list for consideration and recommendation to the Board.

5. **FORA Transition Agreement Negotiating Principles**

1. **RECEIVE** presentation on the status of the FORA transition planning process; and
2. **PROVIDE FEEDBACK** on Transportation Agency staff negotiating principles with FORA on a Transition Implementation Agreement

- Zeller

The Fort Ord Reuse Authority currently sunsets in June 2020 and FORA staff is in the process of preparing agreements to implement their Transition Plan. Currently, the Regional Development Impact Fee program is identified as a successor to addressing regional transportation mitigation for new development within the FORA area post-2020. Transportation Agency staff is seeking Board policy direction on several items related to the funding of regional transportation improvements for inclusion in a transition agreement with FORA.

6. **RECOMMEND** the Board support draft legislation regarding Federal Aviation Administration fuel sales tax.

- Watson

The Federal Aviation Administration (FAA) adopted a rule on aviation fuel sales taxes in 2014 that reinterpreted federal law on aviation fuel taxes. Previously, fuel excise taxes were used for airport expenses, but sales taxes were exempt from this diversion. Now, the FAA is also applying that rule to sales taxes, including local transportation sales taxes, which could decrease the amount of funding available for surface transportation projects and set a precedent for other entities to take similar action.

7. **DISCUSS** and **RECOMMEND** Board adoption of Policy for Reviewing Unsolicited Proposals.

- Watson

Occasionally, TAMC receives unsolicited proposals from consultants wishing to do business with TAMC or from companies interested in public-private partnerships and/or joint development. This Policy for Reviewing Unsolicited Proposals is designed to address those situations in a manner that is fair to all and of benefit to the Agency.

8. **RECEIVE** report on draft TAMC Board meeting agenda of June 26, 2019.

- Muck

9. **ANNOUNCEMENTS**

10. **ADJOURN**

**Next Executive Committee meeting is:
Wednesday, August 7, 2019**

There will be no Executive Committee meeting in July.

Please mark your calendars.

Documents relating to an item on the open session that are distributed to the Committee less than 72 hours prior to the meeting shall be available for public inspection at the office of the Transportation Agency for Monterey County, 55-B Plaza Circle, Salinas, CA. Documents distributed to the Committee at the meeting by staff will be available at the meeting; documents distributed to the Committee by members of the public shall be made available after the meeting.

**Transportation Agency for Monterey County
55-B Plaza Circle, Salinas, CA 93901-2902
Monday thru Friday 8:00 a.m. - 5:00 p.m.
TEL: 831-775-0903
FAX: 831-775-0897**

CORRESPONDENCE, MEDIA CLIPPINGS, AND REPORTS - No items this month.



Memorandum

To: Executive Committee
From: Elouise Rodriguez, Senior Administrative Assistant
Meeting Date: June 5, 2019
Subject: **Executive Draft Minutes of May 2019**

RECOMMENDED ACTION:

APPROVE the Executive Committee draft minutes of May 1, 2019.

ATTACHMENTS:

- ▣ Executive Committee Draft Minutes of May 1, 2019

DRAFT MINUTES

**TRANSPORTATION AGENCY FOR MONTEREY COUNTY SERVICE AUTHORITY
FOR FREEWAYS EMERGENCIES AND MONTEREY COUNTY REGIONAL
DEVELOPMENT IMPACT FEE JOINT POWERS AGENCY**

EXECUTIVE COMMITTEE MEETING

*Members are: Robert Huitt (Chair),
Luis Alejo (1st Vice Chair), Ed Smith (2nd Vice Chair),
John Phillips (Past Chair),
Mary Adams (County representative), Michael LeBarre (City representative)*

Wednesday, May 1, 2019

*** 9:00 a.m. ***

Transportation Agency Conference Room
55-B Plaza Circle, Salinas

EXECUTIVE COMMITTEE	JUN 18	AUG 18	SEPT 18	OCT 18	NOV 18	JAN 19	FEB 19	MAR 19	APR 19	MAY 19	JUN 19
Luis Alejo, 1st Vice Chair Supr. Dist. 1 (L. Gonzales; J. Gomez)	P(A)	P	P	P(A)	P(A)	P(A)	P	P(A)	P	P(A)	
Michael LeBarre, City Representative King City (C. DeLeon)	P	P	P	E	P	P	P	P	P	P	
Robert Huitt, Chair Pacific Grove (D. Gho)	P(A)	P	P	P	P	P	P	P	P	P	
John Phillips, Past Chair Supr. Dist. 2 (J. Stratton)	P	P(A)	P	P	P	P	P	P(A)	P	P	
Mary Adams, County Representative Supr. Dist. 5 (Y. Anderson)	P	P(A)	P	P	P		P	P(A)	P(A)	P	
Ed Smith, 2nd Vice Chair Monterey (A. Renny)	E	P	P	P	E	P	E	P	P	P	

- 1. CALL TO ORDER:** Chair Huitt called the meeting to order at 9:00 a.m. Roll call was taken, and a quorum was confirmed.

Staff present: Muck, Goel, Rodriguez and Zeller

Others present: Agency Counsel Kay Reimann and Paula Getzelman and Kevin Dayton from the Measure X Oversight Committee.

- 2. PUBLIC COMMENTS:** None.

3. CONSENT AGENDA:

On a motion by Past Chair Phillips and seconded by Committee Member Smith, the committee voted 6-0 to approve the consent agenda.

3.1 Approved minutes from the Executive Committee meeting of April 3, 2019.

END OF CONSENT

4. THREE-YEAR BUDGET AND FY 19/20 OVERALL WORK PROGRAM

On a motion by Past Chair Phillips and seconded by Committee Member Smith, the committee voted 6-0 to recommend that the Board approve Resolution 2019-05 adopting the fiscal year 19/20 budget and overall work program, and estimated budgets for fiscal years 20/21 and 21/22.

Rita Goel, Director of Finance & Administration, highlighted the changes of the final budget for the three-year period from July 1, 2019 to June 30, 2022. She reported that the Agency budget separates expenditures into two parts: operating and direct programs. The operating expenditures includes salaries and benefits, materials and supplies, and equipment. The direct program expenditures include project specific delivery, outside consultants, and contracts. She noted that the Agency expects to have enough revenues and reserves to cover operations and the planned activities in the proposed overall work program.

Todd Muck, Deputy Executive Director, reported that the final fiscal year 2019/20 overall work program adds the Active Transportation Program grant received to expand Safe Route to School outreach efforts and otherwise contains only minor changes made in response to comments by Caltrans.

5. MEASURE X ANNUAL AUDIT RESULTS FOR 2017/18

The Committee received an update on the results of the Measure X annual audit and compliance reporting for 2017/18.

Mike Zeller, Principal Transportation Planner, reported on the first full year of Measure X reporting, for fiscal year 2017/18, was due on December 31, 2018. As this was the first year of the independent audits' requirements, there has been a learning curve for all entities involved. As of April 30, 2019, of the thirteen recipient jurisdictions, ten have fully complied and three have only partially complied with the independent audit requirements. At this time, staff is continuing to work with the non-compliant jurisdictions to ensure all reporting materials are submitted. Staff will then evaluate lessons learned this year's process and develop a set of recommend changes to help clarify the requirements and avoid reporting delinquencies in the future.

Public comment:

Paula Getzelman, Chair for Measure X Oversight Committee, reported that their mission is to see that the Measure X funds are spent in accordance to the ordinance. She noted that many jurisdictions did not meet the compliance timeline, noting this is the first year, but that in the future the oversight committee will expect the jurisdictions to be on time and fully compliant to the Measure X reporting requirements.

6. TAMC DRAFT AGENDA FOR MAY 22, 2019

Deputy Executive Director Muck reviewed the draft regular and consent agenda for the TAMC Board meeting of May 22, 2019. After Executive Committee discussion, the following items will be considered on the regular agenda:

- Receive presentation and approve the Canyon Del Rey (SR 218) Corridor Study;
- Receive presentation on the Measure X First Year Audit results and the Measure X First Year Audit Report;
- Receive a presentation on the reporting process and comments received from jurisdictions related to the Measure X annual reporting requirements; and
- Approve Resolution 2019-05 adopting the fiscal year 19/20 budget and overall work program, and estimated budgets for fiscal years 20/21 and 21/22.

On the consent agenda, the Board will:

- Authorize the Executive Director to execute a contract with Access Monterey Peninsula to provide digital recording, production, broadcasting and live stream services of the Transportation Agency Board meetings;
- Adopt Policy for Unsolicited Proposals; and
- Release the draft Measure X Senior & Disabled Transportation program guidelines and draft needs assessment for public review.

7. ANNOUNCEMENTS

Committee member LeBarre requested an item be agendaized at a future meeting to discuss using Measure X revenue in excess of forecasted amounts to construct sidewalks for the schools in San Ardo and San Lucas.

8. ADJOURNMENT

Chair Huitt adjourned the meeting at 9:45 a.m.



TRANSPORTATION AGENCY FOR MONTEREY COUNTY

Memorandum

To: Executive Committee
From: Rita Goel, Director of Finance & Administration
Meeting Date: June 5, 2019
Subject: **Evaluation of Executive Director & Counsel**

RECOMMENDED ACTION:

RECOMMEND that Board of Directors **APPROVE** evaluation form, procedure, and timeline for completing annual evaluation for Executive Director and Counsel.

SUMMARY:

The Agency Bylaws require an annual evaluation of the Executive Director and Counsel

FINANCIAL IMPACT:

None.

DISCUSSION:

Attached with this report are evaluation forms for the Agency's Executive Director Debra L. Hale and Counsel Kathryn Reimann. The attached evaluation forms were revised in 2016 in response to recommendations from Board Members. Forms will be sent out to Board Members via e-mail and regular mail and upon completion, the Board Members are requested to return the evaluation to the chair either via e-mail or regular mail. The proposed procedure and timeline for completing the annual evaluation is:

1. June 28, 2019 – Staff e-mails and mails to voting members of the Board of Directors the enclosed evaluation forms for the Executive Director and Counsel.
2. August 2, 2019 - All voting Board Members complete evaluation forms and e-mail or mail to the Chair for his receipt no later than August 2, 2019.
3. August 3 – 23, 2019 – The Chair reviews completed evaluation forms and prepares summary of results to present to Executive Committee on September 4, 2019.

4. September 4, 2019 - Executive Committee meets in Closed Session to review the evaluations, formulate a recommendation to the Board of Directors and confer with the Executive Director and Agency Counsel regarding the recommendations.
5. September 25, 2019-Board Chair hands out completed evaluations to Board members for their review prior to discussion at the next Board meeting. (NOTE: These will be confidential documents to be handled by Board members appropriately)
6. October 23, 2019 – Board of Directors meets in Closed Session to receive presentation from the Executive Committee, to review the evaluations and recommendations of the Executive Committee and take any appropriate actions.

ATTACHMENTS:

- ▣ Evaluation Forms
- ▣ Evaluation Forms

TRANSPORTATION AGENCY FOR MONTEREY COUNTY (TAMC)
 PERFORMANCE EVALUATION OF
EXECUTIVE DIRECTOR DEBRA L. HALE

In evaluating the performance of the Executive Director, consider the factors below in arriving at your overall rating. Check the box in each category that you think best applies.

- 1 = Unsatisfactory, performance does not meet job requirements.
- 2 = Improvement needed, performance partially meets requirements of job.
- 3 = Satisfactory, performance adequately meets requirements of job.
- 4 = Good, performance generally meets or exceeds standards or expectations.
- 5 = Exceptional, performance is excellent, exceeding job requirements.

Dimension	1*	2*	3	4	5
Accessible to elected officials, staff and the public.					
Attitude. Is enthusiastic, cooperative, adaptive, energetic, willing to spend whatever time is necessary to do a good job.					
Communication. Keeps Board Members fully informed of issues affecting the Agency.					
Community Relations. Skilled in representing Agency policies to other agencies, the public, and news media.					
Community and professional reputation. Is regarded as a person of high integrity and ability for the agency.					
Decisiveness. Is able to reach timely decisions and initiate action, but is not impulsive.					
Execution of Policy. Understands and complies with the policies and objectives of the organization. Efforts lead to successful accomplishment of goals.					
Expertise and knowledge of transportation issues.					
Imagination. Shows originality in approaching problems. Is able to visualize the implications of various approaches					
Non-political but understands and works effectively in the political arena.					
Leadership. Motivates others to maximum performance.					
Loyalty. Genuine interest in work, job and the agency. Concerned with agency's image and reputation.					
Personnel Development. Appoints and trains effective subordinates; retains excellent staff.					
Presents thoughts in an orderly, understandable manner.					
Responds quickly and effectively to requests from Board Members for information, advice, and service.					
Strategic Thinking. Thinks ahead on how the organization can best approach change.					
Unbiased. Takes a reasonable and rational viewpoint based on facts and qualified opinions.					
Written reports are clear, concise, and accurate.					

***NOTE: Please explain any rating of a "1" or a "2" in the comment section below, or use the space to provide any additional comments.**

General Comments:

Please provide specific comment:

(1) Leadership and management skills:

(2) Staff development:

(3) Reputation in the community:

(4) Reputation with Transportation Agency member agencies:

(5) Opportunities for development/ Recommendations for more emphasis or improvement

Overall Rating: (Consider all factors listed on page 1 in arriving at an overall rating.)

- Unsatisfactory, performance does not meet job requirements.
- Improvement needed, performance partially meets requirements of job.
- Satisfactory, performance adequately meets requirements of job.
- Good, performance generally meets or exceeds standards or expectations.
- Exceptional, performance is excellent, exceeding job requirements.

Signature: _____

Date: _____

Print Name: _____

Please complete and return evaluation to Chair via e-mail: huit@comcast.net

Thank you.

**TRANSPORTATION AGENCY FOR MONTEREY COUNTY (TAMC)
PERFORMANCE EVALUATION OF
TAMC Counsel Kathryn Reimann**

In evaluating the performance of Counsel, consider the factors below in arriving at your overall rating. Check the box in each category that you think best applies.

- 1 = Unsatisfactory, performance does not meet job requirements.
- 2 = Improvement needed, performance partially meets requirements of job.
- 3 = Satisfactory, performance adequately meets requirements of job.
- 4 = Good, performance generally meets or exceeds standards or expectations.
- 5 = Exceptional, performance is excellent, exceeding job requirements.

Dimension	1*	2*	3	4	5
Accessible to elected officials, staff and the public.					
Attitude. Is enthusiastic, cooperative, adaptive, energetic, willing to spend whatever time is necessary to do a good job.					
Communication. Keeps Board of Directors fully informed on legal issues affecting the Agency. Advises Board Members so that all actions are in accord with Agency By-laws, state and federal law.					
Conflict of interest. Keeps Board Members informed of any possible conflicts of interest.					
Decisiveness. Is able to reach timely decisions and initiate action, but is not impulsive.					
Execution of Policy. Understands and complies with the policies and objectives of the organization. Efforts lead to successful accomplishment of Board directives.					
Expertise and knowledge of legal issues.					
Imagination. Shows originality in approaching problems. Is able to visualize the implications of various approaches					
Non-political but understands and works effectively in the political arena.					
Loyalty. Genuine interest in work, job and the agency. Concerned with agency's image and reputation.					
Presents thoughts in an orderly, understandable manner.					
Unbiased. Takes a reasonable and rational viewpoint based on facts and qualified opinions.					
Quarterly written reports are clear, concise, and accurate.					

General Comments:

Please provide specific comment:

(1) Leadership and management skills:

(2) Knowledge of legal requirements affecting TAMC:

(3) Reputation in the community:

(4) Reputation with member agencies:

(5) Opportunities for development / Recommendations for more emphasis or improvement:

Overall Rating: (Consider all factors listed on page 1 in arriving at an overall rating.)

- Unsatisfactory, performance does not meet job requirements.
- Improvement needed, performance partially meets requirements of job.
- Satisfactory, performance adequately meets requirements of job.
- Good, performance generally meets or exceeds standards or expectations.
- Exceptional, performance is excellent, exceeding job requirements.

Signature: _____

Date: _____

Print Name: _____

***Please complete and return evaluation to Chair via e-mail: huitt@comcast.net
Thank you.***



TRANSPORTATION AGENCY FOR MONTEREY COUNTY

Memorandum

To: Executive Committee
From: Christina Watson, Principal Transportation Planner
Meeting Date: June 5, 2019
Subject: State Legislative Update

RECOMMENDED ACTION:

RECEIVE update on state legislative activities and **RECOMMEND** the Board adopt positions on legislation.

SUMMARY:

Staff will present a legislative update and a bill list for consideration and recommendation to the Board.

FINANCIAL IMPACT:

Some of the bills on the draft list would have funding impacts on the agency if enacted.

DISCUSSION:

Attachment 1 is a summary of the Governor's May Revision to his Proposed FY 2019-20 State Budget from Agency legislative analyst Gus Khouri. Online as a **web attachment** is a news release from the League of California Cities on that subject. The Governor's Budget continues to tie housing goals to Senate Bill 1 (SB1) transportation funding, despite opposition from many legislators and constituents due to the promises made to voters with the passage of Proposition 69 in June 2018, which requires certain tax and fee revenue related to transportation be used for transportation purposes, and the failure of Proposition 6 in November 2018, which would have repealed SB1.

Attachment 2 is an updated bill list. Changes to the list compared to the TAMC Board meeting of April 24 are indicated in cross-out and underline. Bills that did not pass out of their Appropriations Committee are likely dead, but could be brought back in January; some bills were identified as being "two-year bills", which also means that they can be brought back for further consideration in January, but are not moving forward this year. New support/oppose/concern recommendations are as follows:

- Assembly Constitutional Amendment 1 (Aguilar-Curry): Affordable Housing and Public

Infrastructure Bond: Voter Threshold: per discussion at the April Board meeting, staff recommends support.

- Senate Bill 277 (Beall): Road Maintenance and Rehabilitation Program: Guidelines: although it has not yet been amended to do so, Senator Beall has stated his intention is to amend this bill to change the Local Partnership Program from a 50% formula and 50% competitive program to a 95% formula and 5% competitive program. TAMC would be at a disadvantage under this new proposed allocation as Monterey County brings in far less in sales tax funds than do more populous areas. Staff recommends TAMC express concern about this proposal.
- Governor's proposed budget trailer bill: The Governor's May Revise Budget continues to include a proposal to withhold local streets and roads funding from jurisdictions that fail to comply with housing production goals, entitlements and zoning for increased affordable housing. Staff recommends expressing concern to the Governor's office.

Staff will present a verbal update at the meeting.

ATTACHMENTS:

- Khouri state report
- State bill list

WEB ATTACHMENTS:

- [May 9, 2019 League of California Cities news release, "Gov. Gavin Newsom Releases May Revise Budget with More Funding for Disaster Response and Homelessness: Despite expressed concerns from the League, transportation funding and housing link remains"](#)



May 9, 2019

TO: TAMC Executive Committee
FROM: Gus Khouri, Principal, Khouri Consulting LLC

RE: STATE LEGISLATIVE UPDATE – MAY REVISE

On May 9, Governor Newsom released the May Revision to his proposed 2019-20 State Budget. The May Revision includes an additional \$3.2 billion in revenue from January but are constitutionally obligated to reserves, debt payment, and schools. The increase is attributable to gains from personal income tax revenues (\$1.9 billion), corporation tax receipts (\$1.7 billion). Total May Revision revenues, including transfers, is projected to be \$138 billion in 2018-19 (up by \$1.1 billion) and \$143.8 billion (up by \$1.2 billion) in 2019-20.

Given uncertainty at the federal level, the risks to the current economic forecast, and the need for a solid fiscal foundation, the Budget allocates \$13.6 billion of the windfall (including debt payments and reserve deposits required by Proposition 2) to building budgetary resiliency and paying down the state's unfunded pension liabilities. This includes \$4 billion to eliminate debts and reverse deferrals, \$4.8 billion to build reserves, and an additional \$4.8 billion to pay down unfunded retirement liabilities, which will save over \$14 billion in obligations for the future.

The Budget assumes an additional \$1.8 billion transfer in the budget year and an additional \$4.1 billion over the remainder of the forecast period, leaving a reserve of \$15.3 billion and bringing the Rainy Day Fund to \$19.4 billion by 2022-23. The state however will continue to face uncertain times, given that we are overdue for a recession, the volatility of our reliance on personal income tax and capital gains, and the ramifications of the recently enacted federal tax bill, which have not yet been factored into the Budget's economic or revenue forecasts. A one-year recession in 2019-20 that is larger than the 2001 recession, but milder than the 2007 recession, could result in a nearly \$70 billion revenue loss and a \$40 billion budget deficit over three years.

Tightening the Nexus Between Housing and Transportation

Governor Newsom maintains his January proposal to strongly encourage jurisdictions to contribute to their fair share of the state's housing supply by linking housing production to certain transportation funds and other applicable sources, if any. The Administration will convene discussions with stakeholders, including local governments, to assess the most equitable path forward in linking transportation funding and other potential local government economic development tools to make progress toward required production goals.

The May Revision repurposes the \$500 million from the \$750 million previously dedicated to general purpose incentive payments for the Infill Infrastructure Grant Program administered by the Department of Housing and Community Development (HCD).

The Infill Infrastructure Grant Program provides gap funding for infrastructure that supports higher-density affordable and mixed-income housing in locations designated as infill. Under the augmented Infill Infrastructure Grant Program, developers and local governments can partner to apply for infrastructure funding. At the same time, certain areas designated as infill may also qualify as federal Opportunity Zones and provide additional tax benefits to investors to spur development of economically distressed communities by guiding investment toward mixed-income housing.

South Dakota v. Wayfair

The May Revision included updated revenue estimates as a result of the passage of AB 147 (Chapter 5, Statutes of 2019), which brought California's definition of retailer in line with the U.S. Supreme Court's ruling in *South Dakota v. Wayfair, Inc.* This legislation clarified the economic nexus threshold California will use to determine if out-of-state retailers, including online sellers, are required to remit sales and use taxes to California. The May Revision estimates that sales and use tax revenues are expected to increase by \$174 million in FY 2018-19 and \$616 million in FY 2019-20, representing a decrease of \$45 million from the Governor's Budget in FY 2018-19 and an increase of \$62 million in FY 2019-20. The decrease in FY 2018-19 is due to the fact that marketplace sellers are not required to comply with AB 147 until October 1, 2019.

Cap-and-Trade Program

The May Revision includes \$537 million for the Low Carbon Transportation Operations Program in the proposed cap-and-trade expenditure plan, an increase of \$130 million compared to the January Budget proposal. This program provides incentives for the purchase of zero-emission vehicle technology and replacement of older diesel buses with renewable-fuel alternatives. Of this amount, the budget proposes to allocate \$182 million for the Clean Truck, Bus, and Off-Road Freight Equipment Program, which is \$50 million above the January Budget proposal.

TAMC Bill Matrix – May 2019

Measure	Status	Bill Summary	Position
AB 40 Ting & Kalra Zero-Emission Vehicles	4/8/19 Two-Year Bill	This bill would require the California Air Resources Board (CARB) to develop a comprehensive strategy to ensure that the sales of new motor vehicles and new light-duty trucks in the state have transitioned fully to zero-emission vehicles by 2040. Transportation funding is dependent on motor fuel. The state would need to find an alternative method of funding transportation infrastructure if this bill were to be enacted.	OPPOSE Priority 1S Letter sent 4/5
AB 148 Quirk Silva Regional Transportation Plans: housing needs	1/24/19 Assembly Transportation Two-Year Bill	This bill would require each Sustainable Communities Strategy (SCS) within a regional transportation plan to identify an 8-year projection of emergency shelters needed in the region. This provision is very specific to housing needs rather than transportation plans, and regional transportation plans are prepared by transportation agencies. It would be more appropriate to place an emergency housing projection in the city and county-prepared regional housing needs assessment and local housing elements.	OPPOSE Priority 1S Letter sent 4/5
AB 158 Voepel Roadside rest areas: commercial vehicles: parking	5/16/19 Assembly Appropriations Held in Committee	This bill would require Caltrans and CHP to conduct a study evaluating parking and rest facilities for commercial vehicles. The County of Monterey is looking into whether the study would include Big Sur.	Watch Priority 9S
AB 246 Mathis State Highways: property leases	4/8/19 Two-Year Bill	This bill would authorize Caltrans to offer a lease on a right of first refusal basis of any airspace under a freeway, or real property acquired for highway purposes, located in a disadvantaged community, that is not excess property to the city or county in which the disadvantaged community is located, for purposes of an emergency shelter or feeding program, or for park, recreational, or open-space purposes for a rental amount of \$1 per month. The bill would authorize Caltrans to lease up to 10 parcels in any city or in the unincorporated area of any county in which the disadvantaged community is located, for park, recreational, or open-space purposes, at an amount equal to 30% of the fair market lease value of the applicable parcel. Although Prunedale is not a disadvantaged community, this bill could affect the land acquired for the Prunedale Bypass.	Watch Priority 4S
AB 252 Daly Environmental review: federal program	5/16/19 Assembly Floor	This bill would remove the sunset date (January 1, 2020) for Caltrans being able to use the National Environmental Policy Act (NEPA) delegation to streamline environmental review for projects with federal funding, allowing for environmental review of projects to be expedited. The bill is sponsored by the Self-Help Counties Coalition (SHCC). TAMC supported the previous version, AB 28 (Frazier) in 2017, which was also sponsored by SHCC, and had extended the sunset date from January 1, 2017 to January 1, 2020.	SUPPORT Priority 6S Letter sent 4/5

TAMC Bill Matrix – May 2019

Measure	Status	Bill Summary	Position
AB 285 Friedman California Transportation Plan	5/16/19 Assembly Floor	Under existing law, Caltrans is required to prepare the California Transportation Plan, which looks at the movement of goods and people and how the state will achieve greenhouse gas emission goals. This bill would require Caltrans to address in the California Transportation Plan how statewide greenhouse gas emission goals will be reduced by 2030 to attain the air quality goals described in California’s state implementation plans required by the federal Clean Air Act.	Watch Priority NA
AB 352 Garcia, Eduardo Transformative Climate Communities Program	5/16/19 Assembly Floor	This bill would require agencies administering competitive Greenhouse Gas Reduction Fund (GGRF) grant programs to give preferential points for programs intended to improve air quality, to allow applicants from the Counties of Imperial and San Diego to include daytime population numbers in grant applications, and to prohibit grant eligibility and scoring criteria from precluding low-income communities from being awarded a grant.	Watch Priority 1S
AB 490 Salas California Environmental Quality Act: development projects: streamlining	4/22/19 Two-Year Bill	This bill would streamline environmental review and approval for projects located in an infill site that is also a transit priority area (within ½ mile of a major transit stop that is existing or planned). This bill was amended on 4/11 and no longer relates to transit priority areas. It is no longer relevant to TAMC and will be deleted from future lists.	SUPPORT Priorities 6S & 8S
AB 626 (Quirk-Silva) Conflicts of interest	5/23/19 Two-Year Bill	<u>This bill would prohibit an officer or employee from being deemed interested in a contract if the interest is that of an engineer, geologist, architect, landscape architect, land surveyor, or planner, performing specified services on a project, including preliminary design and preconstruction services, when proposing to perform services on a subsequent portion or phase of the project, if the work product for prior phases is publicly available. This exception to being deemed interested in a contract would not apply to a design-build contract for a public works project. The bill would provide that these provisions do not limit public agencies from establishing more restrictive conflict of interest requirements applicable to these services.</u>	Watch Priority NA
AB 659 Mullin Transportation: emerging transportation technologies: CA Smart City Challenge Grant Program	5/16/19 Assembly Appropriations Held in Committee	This bill would establish the California Smart City Challenge Grant Program to enable municipalities to compete for grant funding for emerging transportation technologies to serve their transportation system needs.	Watch Priority 2S
AB 821 O’Donnell Trade Corridor Enhancement Program Account	3/4/19 Two-Year Bill	This bill would require the California Transportation Commission (CTC) to allocate not less than 10% of funds available in the Trade Corridor Enhancement Program to projects nominated by Caltrans for projects nominated to the California Port Efficiency Program. Since there are no ports in Monterey County, this bill would result in less available funding for our trade corridors (US 101, State Route 156).	OPPOSE Priority 1S Letter sent 4/5

TAMC Bill Matrix – May 2019

Measure	Status	Bill Summary	Position
AB 847 Grayson Housing: transportation-related impact fees grant program	4/24/19 Two-Year Bill	This bill has been gutted and amended to require the Department of Housing and Community Development to establish a competitive grant program to award grants to cities and counties to offset up to 100% of any transportation-related impact fees exacted upon a qualifying housing development project by the local jurisdiction.	Watch Priority 3S
AB 938 Rivas Tax Exemptions: Trade-In for Low Emission Vehicles	5/16/19 Assembly Appropriations Held in Committee	This bill provides a tax exemption for trading in a vehicle for the purchase of a low-emission vehicle. Unclear how this exemption might impact sales tax receipts from Measure X.	Watch Priority NA
AB 983 Boerner-Horvath Transportation electrification	4/1/19 Two-Year Bill	This bill would require an electric company to work with local agencies or regional planning agencies in its service territory to determine where to install new electric vehicle charging stations along local transit corridors. The bill would prioritize the installation of charging stations in disadvantaged communities. The requirement to prioritize installation of charging stations in disadvantaged communities may not best serve the transit corridor charging needs; the definition of disadvantaged communities may not correspond to low income neighborhoods or where the need for charging stations exists. The cost allocation methodology may not be in the best interest of the ratepayers. More information is needed.	Watch Priority 9S
AB 1112 Friedman Motorized scooters Shared Mobility Devices: local regulation	5/8/19 Assembly Floor	<u>This bill would establish uniform regulations regarding the use of data collected by shared mobility device providers and shared with local governments. It allows a local government to condition its approval of a shared mobility device program with a requirement that the provider share specified trip data with local governments. This trip data would be limited to de-identified data and provided to the local government in the aggregate. This proposal is intended to ensure that local governments have the necessary information to plan for transportation appropriately. This bill would authorize a local authority to regulate motorized scooters by assessing limited penalties for moving or parking violations. The bill would prohibit a local authority from subjecting the riders of shared scooters to requirements more restrictive than those applicable to riders of privately owned motorized scooters or bicycles. The bill would authorize a local authority to regulate scooter share operators by requiring a scooter share operator to pay fees that do not exceed the reasonable cost to the local authority of regulating the scooter share operator. This bill reflects a lot of the best practices TAMC staff found and gives guidance on local regulation of the scooters.</u>	Watch SUPPORT Priority 8S <i>Letter not sent due to amendments</i>

TAMC Bill Matrix – May 2019

Measure	Status	Bill Summary	Position
AB 1142 Friedman Regional Transportation Plans	5/1/19 Senate Transportation	This bill has been gutted and amended to remove the incentive program for vehicle miles traveled reduction. It makes modest amendments to responsibilities of putting together a regional transportation plan and still bears watching for potentially more substantive amendments.	Watch Priority 1S
AB 1266 Rivas, Robert Traffic control devices: bicycles	5/9/19 Assembly Floor	This bill would permit drivers of bicycles to travel through an intersection that requires turns if there is a striped bike lane between the right-turn only lane and the adjacent through lane and pavement markings ensuring that bicycles may travel to the left of vehicles turning right.	Watch Priority 8S
AB 1402 Petrie-Norris Active Transportation Program	3/27/19 Two-Year Bill	This bill would change the allocation method of the Active Transportation Program to favor the formulaic program, increasing the formula for MPOs with population of 200,000 or more from 40% to 75%, increasing the competitive share for small and rural regions from 10% to 15%, and reducing the statewide competitive portion from 50% to 10%. This change would make it unlikely for TAMC to get funding from this already very competitive program in the future.	OPPOSE Priority 1S <i>Letter not sent as bill is now 2-year bill</i>
AB 1486 Ting Local Agencies: surplus land	5/16/19 Assembly Floor	This bill would require special districts and other public agencies to offer a right of first refusal to affordable housing developers, schools, and park agencies before leasing, selling, or otherwise “conveying” any of the agency’s land. This bill would prevent prudent efforts to lease or otherwise protect land for important community purposes. This bill could impact TAMC’s ability to transfer property at the Salinas train station to the City of Salinas.	OPPOSE Priority 4S Letter sent 5/8
AB 1568 McCarty Housing law compliance: withholding transportation funds	5/16/19 Two-Year Bill	This bill would require cities and counties to be certified in the prior fiscal year by the Department of Housing and Community Development, in order to remain eligible for an apportionment of their local streets and roads funds. The State Controller would withhold funding in an eserow account for those jurisdictions found to be non-compliant. This proposal threatens voter approved SB 1 funding for an unrelated activity, housing production. This bill prohibits a city or county from applying for state grants, except for specified transportation funding, if the city or county is found to be in violation of state housing law. The bill was amended to remove accessing SB 1 local streets and roads funding but would still preclude access to funding for unrelated activity pertaining to housing production.	OPPOSE <u>Watch</u> Priority 1S <i>Letter not sent due to amendments</i>

TAMC Bill Matrix – May 2019

Measure	Status	Bill Summary	Position
AB 1717 Friedman Transit-Oriented Affordable Housing Funding Program Act	5/16/19 Assembly Appropriations Held in Committee	This bill would establish the Transit-Oriented Affordable Housing Funding Program, to be administered by the California Housing Finance Agency. The bill would authorize a local jurisdiction to participate in the program by enactment of an ordinance establishing a transit-oriented affordable housing district. The bill would authorize the district to provide program funding to multifamily housing developments within those program areas that meet specified requirements, including that the housing include a minimum percentage of units that are restricted to very lower, low, or moderate-income households.	Watch Priority 8S
ACA 1 Aguiar-Curry Affordable Housing and Public Infrastructure Bond: Voter Threshold	5/16/19 Assembly Floor	This measure would lower to 55% the voter-approval threshold for a city, county, or city and county to incur bonded indebtedness, exceeding in any year the income and revenue provided in that year, that is in the form of general obligation bonds issued to fund the construction, reconstruction, rehabilitation, or replacement of public infrastructure or affordable housing projects. Supported by CALCOG, League of California Cities, California State Association of Counties, California Transit Association, and California Special Districts Association.	<u>Watch</u> <u>SUPPORT</u> Priority 3S
SB 5 Beall Affordable Housing and Community Development Investment	5/16/19 Senate Floor	This bill would establish the Affordable Housing and Community Development Investment Program, to authorize a city, county, city and county, joint powers agency, enhanced infrastructure financing district, affordable housing authority, community revitalization and investment authority, transit village development district, or a combination of those entities, to apply for funding for eligible projects include, among other things, construction of workforce and affordable housing, certain transit-oriented development, and “projects promoting strong neighborhoods.” The source of funding for this program is from a county’s transfer of the Educational Revenue Augmentation Fund (ERAF). Supported by League of California Cities as well as the Cities of Salinas and Sand City. Senator Caballero is a co-author.	SUPPORT Priority 8S Letter sent 5/8
SB 25 Caballero & Glazer California Environmental Quality Act: projects funded by qualified opportunity zone funds or other public funds	5/16/19 Senate Appropriations Held in Committee	This bill would streamline CEQA review and approvals for projects that are funded, in whole or in part, by specified public funds or public agencies for projects located in a qualified opportunity zone, which could include a transit village. The bill would require a party seeking to file an action or proceeding pursuant to CEQA to provide the lead agency and the real party in interest a notice of intent to sue within 10 days of the posting of a certain notice and would prohibit a court from accepting the filing of an action or proceeding from a party that fails to provide the notice of intent to sue. In Monterey County, opportunity zones are found in King City, Marina, Salinas and Seaside.	SUPPORT Priorities 6S & 8S Letter sent 5/8
SB 43 Allen Carbon Taxes	5/16/19 Senate Floor	This bill would require the CARB, in consultation with the California Department of Tax and Fee Administration, to report to the Legislature on the feasibility and practicality of a system to replace the tax imposed pursuant to the Sales and Use Tax Law with an assessment on retail products sold or used in the state based on the carbon intensity of the product, to encourage the use of less carbon-intensive products.	Watch Priority 1S

TAMC Bill Matrix – May 2019

Measure	Status	Bill Summary	Position
<p>SB 50 Wiener</p> <p>Planning and zoning: housing development: incentives</p>	<p>5/16/19</p> <p>Two-Year Bill</p>	<p>This bill would require a city, county, or city and county, to grant an “equitable communities incentive” for a “job-rich” or “transit-rich” housing project. The bill would require that a residential development eligible for an equitable communities incentive receive waivers on density and car parking requirements if the development is located within a ½-mile radius of a “major transit stop”, defined as a rail transit station or ferry terminal, or within ¼ mile radius of a stop on a high-quality bus corridor, defined as having 15-minute headways or more frequent bus service during peak periods (6am-10am and 3pm-7pm weekdays). <u>In order to qualify for the incentive, a residential development in a county with a population of 600,000 or less must also be on a parcel in an urban area zoned for residential use or residential mixed-use development, must have a specified minimum density, must be located within a one-half mile radius of a major transit stop in a city with a population of over 50,000, and must not be located in an architecturally or historically significant district, a flood plain, in the coastal zone, or in a very high fire hazard zone.</u> Long list of supporters includes “Monterey Peninsula YIMBY”; opposed by the League of California Cities, among others. Senator Caballero and Assembly Member Rivas are both co-authors.</p>	<p>Watch</p> <p>Priority 8S</p>
<p>SB 59 Allen</p> <p>Autonomous Vehicle Technology: Statewide Policy</p>	<p>5/16/19</p> <p>Senate Floor</p>	<p>This bill would establish policy <u>policy guiding principles</u> relating to autonomous vehicles in order to ensure that these vehicles support the state’s efforts to reduce greenhouse gas emissions and encourage efficient land use. The bill would require OPR, in coordination with CARB, to convene an automated vehicle interagency working group of state agencies, including CalSTA, Caltrans, and the DMV, to guide policy development for autonomous vehicle technology consistent with statewide policies.</p>	<p>Watch</p> <p>Priority NA</p>
<p>SB 127 Weiner</p> <p>Transportation funding: active transportation: complete streets</p>	<p>5/16/19</p> <p>Senate Floor</p>	<p>This bill would establish a “Division of Active Transportation” within Caltrans and require that a CalSTA undersecretary be assigned to active transportation program matters. The bill would require CTC to give high priority to increasing safety for pedestrians and bicyclists and to the implementation of bicycle and pedestrian facilities. This bill would create an asset management plan to prescribe a process for community input and complete streets implementation to prioritize safety and accessibility for pedestrians, bicyclists, and transit users on all State Highway Operation and Protection Program (SHOPP) projects. The bill would require Caltrans to use 3% of SHOPP funds for bicycle and pedestrian facilities. The bill provides an opportunity to address multimodal solutions. <u>The bill would prioritize a project that reduces vehicle miles traveled over maintenance projects.</u> The SHOPP is oversubscribed in its ability to address maintenance needs on the state highway system, but local jurisdictions such as TAMC, are held to the same standards of implementing multimodal transportation options. State highway projects however do not always include active transportation features, and the new priority of VMT reduction over maintenance is cause for concern.</p>	<p>SUPPORT- Watch</p> <p>Priority 8S</p> <p>Support letter sent 4/5</p>

TAMC Bill Matrix – May 2019

Measure	Status	Bill Summary	Position
SB 137 Dodd Federal Transportation Funds: State Exchange Programs	5/16/19 Senate Floor	This bill would authorize Caltrans to allow federal transportation funds that are allocated as local assistance to be exchanged for Road Maintenance and Rehabilitation Program funds appropriated to Caltrans.	Watch Priority 1S
SB 152 Beall Active Transportation Program	5/16/19 Senate Appropriations Held in Committee	This bill would change the allocation method of the Active Transportation Program to favor the formulaic program, increasing the formula for MPOs with population of 200,000 or more from 40% to 75 -60%, increasing the competitive share for small and rural regions from 10% to 15%, and reducing the statewide competitive portion from 50% to 40 -25%. SB 152 limits rural communities' access to ATP funding: While the bill proposes to increase the Small Urban/ Rural set aside from 10% to 15%, the bill also reduces the statewide component from 50% to 10%. This reduction drastically cuts the amounts of funds for which rural communities are eligible to compete. Rural areas are visited by hundreds of thousands of Californians who do not live there. Those regions need active transportation facilities to accommodate visitors. Rural areas will never get enough money to build anything meaningful under a population-based formula. SB 152 would also limit the 10% statewide component to "transformative projects", code for large urban projects, which would extremely limit the ability of rural agencies to compete for statewide funds.	OPPOSE Priority 1S Letter sent 4/17
SB 277 Beall Road Maintenance and Rehabilitation Program: guidelines	5/9/19 Assembly Rules	Spot bill related to SB 1 funding for local road repairs. <u>This bill is expected to be amended to change the allocation method of the Local Partnership Program from a 50/50 formulaic to competitive split to a 95/5 augmentation favoring formula. TAMC has done well in acquiring competitive funding and a switch would place an artificial cap on prospective awards and delay delivery of projects of significance.</u>	Watch CONCERN Priority 1S
SB 498 Hurtado Trade Corridors Improvement Fund: grant program: short-line railroads	5/16/19 Senate Floor	This bill would require the CTC, with respect to specified funds resulting from TCIF program savings, to establish a competitive grant program to provide grants from those funds in the 2020–21 and 2021–22 fiscal years to <u>Caltrans and regional transportation planning agencies</u> for short-line railroad operators for railroad reconstruction, maintenance, upgrade, or replacement expenditures.	Watch Priority 1S

TAMC Bill Matrix – May 2019

Measure	Status	Bill Summary	Position
SB 526 Allen Regional transportation plans: Greenhouse gas emission targets	5/16/19 Senate Appropriations Held in Committee	This bill would require the CARB to adopt a regulation that requires a Metropolitan Planning Organization (MPO) to provide any data that CARB requests to determine if the MPO is on track to meet its 2035 greenhouse gas emission reduction target. If the state board determines that the MPO is not on track to meet its 2035 greenhouse gas emission reduction target, the bill would require the CTC to assign a lower priority to a project that increases vehicle miles traveled and greenhouse gas emissions. This bill could jeopardize funding for safety projects by giving highest priority to projects that reduce greenhouse gas emissions. This bill does not recognize the external forces, such as a jobs-housing imbalance, that limit the MPO's ability to meet VMT reduction targets, despite pursuing bicycle, pedestrian and transit projects.	OPPOSE Priority 3S Letter sent 4/5
SB 628 Caballero Prunedale Bypass: disposition of excess properties: relinquishment: State Route 183.	5/16/19 Senate Floor	This bill, sponsored by TAMC, would reserve proceeds from the sale of any excess properties originally acquired by Caltrans for the Prunedale Bypass in Monterey County and require that the proceeds be used for other projects, including safety projects, on US 101 or Route 156 in Monterey County. The bill is a reintroduction of AB 696 (Caballero), which was vetoed by Governor Brown in 2017. This version also contains language requested by the City of Salinas to direct Caltrans to relinquish a section of State Route 183 to the City.	SPONSOR/ SUPPORT Priority 4S Letter sent 3/14
SB 742 Allen Intercity passenger rail services: motor carrier transportation of passengers	5/7/19 Senate Floor	This bill would authorize Caltrans to provide funding to Amtrak, a joint powers authority, or any other public or private transit operator for the purpose of entering into a contract with a motor carrier of passengers for the intercity transportation of passengers by motor carrier over regular routes. This bill solves a long-standing problem with Amtrak Thruway buses that passengers must hold a ticket for a train trip in order to ride on a Thruway bus. The California Intercity Passenger Rail group has been seeking this solution for years.	SUPPORT Priority 8S Letter sent 5/1
Governor's Proposed Budget Trailer Bill	3/11/19	The Governor's May Revise Budget continues to include a proposal to withhold local streets and roads funding from jurisdictions that fail to comply with housing production goals, entitlements and zoning for increased affordable housing.	Watch CONCERN Priority 1S



TRANSPORTATION AGENCY FOR MONTEREY COUNTY

Memorandum

To: Executive Committee
From: Michael Zeller, Principal Transportation Planner
Meeting Date: June 5, 2019
Subject: **FORA Transition Agreement Negotiating Principles**

RECOMMENDED ACTION:

FORA Transition Agreement Negotiating Principles

1. **RECEIVE** presentation on the status of the FORA transition planning process; and
2. **PROVIDE FEEDBACK** on Transportation Agency staff negotiating principles with FORA on a Transition Implementation Agreement

SUMMARY:

The Fort Ord Reuse Authority currently sunsets in June 2020 and FORA staff is in the process of preparing agreements to implement their Transition Plan. Currently, the Regional Development Impact Fee program is identified as a successor to addressing regional transportation mitigation for new development within the FORA area post-2020. Transportation Agency staff is seeking Board policy direction on several items related to the funding of regional transportation improvements for inclusion in a transition agreement with FORA.

FINANCIAL IMPACT:

The Fort Ord Reuse Authority's 2018 Capital Improvement Program has \$120.3 million remaining obligation for transportation projects. Of that amount, \$36.7 million is for regional projects, all of which is programmed in the "Post FORA" category after 2020. In addition, \$32.5 million is for "off site" projects, with \$28.3 million programmed for after 2020.

DISCUSSION:

The Fort Ord Reuse Authority (FORA) is responsible for the oversight of the economic recovery from the closure and reuse of the former Fort Ord military base. FORA's efforts are guided by the Base Reuse Plan, first adopted in June 1997, and the 2017 FORA Fee Reallocation Study. These documents establish the circulation and roadway network related to FORA, identify the impacts from new development, and prompts the annual development of a Capital Improvement Program. FORA's

Capital Improvement Program includes transportation improvements that are "on site" or within the former base, "off site" and "regional". The latter two categories include significant overlap with the projects in the Regional Development Impact Fee program. Attached is a table comparing the projects in FORA and TAMC's programs. The FORA zone is the only part of the county in which the TAMC impact fee does not currently apply, and the FORA fee revenues are allocated to projects by its Board of Directors, rather than the Transportation Agency Board.

With the planned sunset of FORA in June 2020, the FORA Board approved a Transition Plan and contracted with Regional Government Services to provide facilitation for how transportation improvements, along with several other issues, will be addressed Post-FORA. This process has involved reviewing the potential options for how the goals of the Base Reuse Plan can be fully implemented by other agencies and local jurisdictions after FORA. Currently, the Regional Development Impact Fee program is identified as a successor to addressing regional transportation mitigation for new development within the FORA area post-2020, with on site projects becoming the responsibility of the underlying local jurisdictions.

In addition to the development of a Transition Plan, FORA is also exploring the possibility of a short-term legislative extension of FORA. The intent of a legislative extension of FORA would be to maintain the Authority in a limited capacity to allow sufficient time to complete the transition of responsibilities, manage critical habitat, and retain the area's property tax increment funding. The bill (Senate Bill 189 - Monning) is currently working through the Senate committee review process and would extend FORA until June 30, 2022. If a legislative extension is not passed at the State-level, FORA's responsibilities will need to be passed on to other agencies by June 30, 2020.

In either case, FORA is moving forward with developing Transition Implementation Agreements to be entered into with the jurisdictions and agencies identified as potential successors. As such, the Transportation Agency will be coordinating with FORA on an agreement related to collection of development impact fees for regional transportation impacts. TAMC's 2018 update to its Regional Development Impact Fee (RDIF) program added a FORA zone that provides a cost per trip fee calculation consistent with RDIF county-wide methodology used since its inception in 2008, so the mechanism to accomplish this transition has already been established.

Agency staff is now seeking feedback from the Committee on several issues to be used as negotiating principles when developing the Transition Implementation Agreement with FORA:

- Ensure the transition process is consistent with our established Regional Development Impact Fee program and procedures;
- Coordinate with local jurisdictions on transferring a share of impact fees collected from already-entitled projects to TAMC for regional mitigation; and
- Designate that a portion of any surplus FORA funding goes towards regional projects.

ATTACHMENTS:

FORA Capital Improvement Program Overlap with TAMC Regional Development Impact Fee

▣ Program

**FORA Community Facilities District Fee
Overlap with the Regional Development Impact Fee Program**

FORA CIP Transportation Improvements	Included in TAMC Regional Fee
Regional Projects	
Highway 1 - Seaside / Sand City	Yes
Highway 1 - Monterey Road	
Highway 156	Yes
Off Site Projects	
Davis Road North	Yes
Davis Road South	Yes
Reservation Road - to WG	Yes
Reservation Road - to Davis	Yes
Del Monte Blvd	
On Site Projects	
Abrams	
8th Street	
Intergarrison	
Gigling	
General Jim Moore	
Salinas Avenue	
Eucalyptus	
Northeast - Southwest	
South Boundary	
Transit Capital	
Transit Vehicle Purchase	RDIF provides \$10 million for Transit Capital
Intermodal Centers	



TRANSPORTATION AGENCY FOR MONTEREY COUNTY

Memorandum

To: Executive Committee
From: Christina Watson, Principal Transportation Planner
Meeting Date: June 5, 2019
Subject: **Napolitano Legislation Regarding Aviation Fuel Sales Tax**

RECOMMENDED ACTION:

RECOMMEND the Board support draft legislation regarding Federal Aviation Administration fuel sales tax.

SUMMARY:

The Federal Aviation Administration (FAA) adopted a rule on aviation fuel sales taxes in 2014 that reinterpreted federal law on aviation fuel taxes. Previously, fuel excise taxes were used for airport expenses, but sales taxes were exempt from this diversion. Now, the FAA is also applying that rule to sales taxes, including local transportation sales taxes, which could decrease the amount of funding available for surface transportation projects and set a precedent for other entities to take similar action.

FINANCIAL IMPACT:

Unknown, possibly significant, impact to Measure X revenues.

DISCUSSION:

Attachment 1 is a summary of the 2014 FAA rulemaking and the legislation introduced by Representative Grace F. Napolitano (CA-32). **Attachment 2** is the draft bill and **Attachment 3** is a redline of how the bill will change current law. The legislation is intended to overturn the rulemaking and "re-establish Congressional intent and 29 years of federal interpretation that the limitation on the use of sales taxes collected on aviation fuel for airport purposes is applied to excise taxes on aviation fuel only, and not to general sales taxes that states and localities impose on all goods."

Staff requests the Executive Committee recommend the Agency support this draft legislation.

ATTACHMENTS:

- ▣ FAA tax summary
- ▣ Draft Napolitano bill
- ▣ Redline of current law

Napolitano Legislation regarding FAA's 2014 rulemaking on state and local general sales taxes as they apply to aviation fuel

- This legislation protects 45 states and approximately 10,000 local governments that have general sales taxes from federal government intrusion in the use of their general sales tax revenues.

Summary

- Re-establish Congressional intent and 29 years of federal interpretation that the limitation on the use of sales taxes collected on aviation fuel for airport purposes is applied to excise taxes on aviation fuel only, and not to general sales taxes that states and localities impose on all goods.

Background

- In 1987 Congress passed the FAA authorization amendments that required airports to spend aviation fuel excise tax revenue on airport uses. The conference report for the 1987 amendments to the FAA statute (H.R. Conf. Rept. No. 484, 100th Cong., 1st Sess. 1987 accompanying P.L. 100-223) clearly stated that the requirement that local taxes on aviation fuel must be spent on airports “is intended to apply to local fuel taxes only, **and not to other taxes imposed by local governments, or to state taxes**”.

Problem

- On December 8, 2014 (79 FR 66282), FAA made a final rulemaking that contradicts the Congressional intent and 29 years of practice by saying that “*the agency interpreted the provisions of Sections 47107(b) and 47133 to apply to any state or local tax on aviation fuel, whether the tax was specifically targeted at aviation fuel or was a general sales tax on products that included aviation fuel without exemption.*”

Concerns

- This FAA rulemaking is contrary to states' rights and is an assault on state and local control of their general application sales tax measures.
- Many local governments have voter approved sales tax measures for specific purposes such as transportation funding. This rulemaking will overturn the decision of local voters in taxing themselves for specific purposes.
- Due to the fact that sales taxes on aviation fuel are not segregated from other taxable sources, the burden placed on states and local governments to implement the tracking system necessary is extensive and represents an unfunded mandate.

Solution

- The bill would overturn the FAA rulemaking of 2014 and re-establish 29 years of FAA interpretation by clarifying Congress' original intent that general sales taxes are not subject to 49 U.S.C. Sections 47107(b)(1) and 47133(a), and that “local tax on aviation fuel” means local excise taxes on aviation fuel.

.....
(Original Signature of Member)

115TH CONGRESS
1ST SESSION

H. R.

To amend title 49, United States Code, to clarify the use of certain taxes and revenues.

IN THE HOUSE OF REPRESENTATIVES

Mrs. NAPOLITANO introduced the following bill; which was referred to the Committee on _____

A BILL

To amend title 49, United States Code, to clarify the use of certain taxes and revenues.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. USE OF REVENUES.**

4 (a) WRITTEN ASSURANCES ON USE OF REVENUE.—

5 Section 47107(b) of title 49, United States Code, is
6 amended—

7 (1) in each of paragraphs (1) and (2) by strik-
8 ing “local taxes” and inserting “local excise taxes”;

1 (2) in paragraph (3) by striking “State tax”
2 and inserting “State excise tax”; and

3 (3) by adding at the end the following:

4 “(4) This subsection does not apply to State or local
5 general sales taxes nor to State or local generally applica-
6 ble sales taxes.”.

7 (b) RESTRICTION ON USE OF REVENUES.—Section
8 47133 of title 49, United States Code, is amended—

9 (1) in subsection (a) in the matter preceding
10 paragraph (1) by striking “Local taxes” and insert-
11 ing “Local excise taxes”;

12 (2) in subsection (b)(1) by striking “local
13 taxes” and inserting “local excise taxes”;

14 (3) in subsection (c) by striking “State tax”
15 and inserting “State excise tax”; and

16 (4) by adding at the end the following:

17 “(d) LIMITATION ON APPLICABILITY.—This section
18 does not apply to State or local general sales taxes nor
19 to State or local generally applicable sales taxes.”.

Proposed Napolitano Legislation Regarding FAA Aviation Fuel Sales Tax

Changes to current law that would be made by this amendment are in red.

49 U.S.C. § 47107

(b) Written assurances on use of revenue.--(1) The Secretary of Transportation may approve a project grant application under this subchapter for an airport development project only if the Secretary receives written assurances, satisfactory to the Secretary, that local **excise** taxes on aviation fuel (except taxes in effect on December 30, 1987) and the revenues generated by a public airport will be expended for the capital or operating costs of--

(A) the airport;

(B) the local airport system; or

(C) other local facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property.

(2) Paragraph (1) of this subsection does not apply if a provision enacted not later than September 2, 1982, in a law controlling financing by the airport owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues, including local **excise** taxes on aviation fuel at public airports, from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator.

(3) This subsection does not prevent the use of a State **excise** tax on aviation fuel to support a State aviation program or the use of airport revenue on or off the airport for a noise mitigation purpose.

(4) This subsection does not apply to State or local general sales taxes nor to State or local generally applicable sales taxes.

49 U.S.C. § 47133

(a) Prohibition.--Local **excise** taxes on aviation fuel (except taxes in effect on December 30, 1987) or the revenues generated by an airport that is the subject of Federal assistance may not be expended for any purpose other than the capital or operating costs of--

(1) the airport;

(2) the local airport system; or

(3) any other local facility that is owned or operated by the person or entity that owns or operates the airport that is directly and substantially related to the air transportation of passengers or property.

(b) Exceptions.--

(1) Prior laws and agreements.--Subsection (a) shall not apply if a provision enacted not later than September 2, 1982, in a law controlling financing by the airport owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues, including local **excise** taxes on aviation fuel at public airports, from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator.

(2) Sale of private airport to public sponsor.--In the case of a privately owned airport, subsection (a) shall not apply to the proceeds from the sale of the airport to a public sponsor if--

(A) the sale is approved by the Secretary;

(B) funding is provided under this subchapter for any portion of the public sponsor's acquisition of airport land; and

(C) an amount equal to the remaining unamortized portion of any airport improvement grant made to that airport for purposes other than land acquisition, amortized over a 20-year period, plus an amount equal to the Federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996, is repaid to the Secretary by the private owner.

(3) Treatment of repayments.--Repayments referred to in paragraph (2)(C) shall be treated as a recovery of prior year obligations.

(c) Rule of construction.--Nothing in this section may be construed to prevent the use of a State **excise** tax on aviation fuel to support a State aviation program or the use of airport revenue on or off the airport for a noise mitigation purpose.

(d) Limitation of Applicability. - This section does not apply to State or local general sales taxes nor to State or local generally applicable sales taxes.



Memorandum

To: Executive Committee
From: Christina Watson, Principal Transportation Planner
Meeting Date: June 5, 2019
Subject: **Policy for Reviewing Unsolicited Proposals**

RECOMMENDED ACTION:

DISCUSS and **RECOMMEND** Board adoption of Policy for Reviewing Unsolicited Proposals.

SUMMARY:

Occasionally, TAMC receives unsolicited proposals from consultants wishing to do business with TAMC or from companies interested in public-private partnerships and/or joint development. This Policy for Reviewing Unsolicited Proposals is designed to address those situations in a manner that is fair to all and of benefit to the Agency.

FINANCIAL IMPACT:

No direct financial impact.

DISCUSSION:

TAMC follows state and federal procurement rules via an adopted Procurement Policies and Procedures and Contract Management Manual to ensure engagement in full and fair competition, and to obtain the best value, price and quality for taxpayer-funded goods and services. Typically, consultant services are obtained using a Request for Qualifications and/or Request for Proposals process, and the procedures are open to public scrutiny via the TAMC Board of Directors and its committees.

An unsolicited proposal is a written proposal that is submitted to TAMC on the initiative of the submitter for the purpose of developing a business partnership that is not in response to a formal or informal request issued by TAMC. TAMC currently does not have a written policy for responding to unsolicited proposals, and handles them on an ad-hoc basis, consulting with Agency Counsel.

An unsolicited proposal should be distinguishable from projects and plans already part of TAMC's

long-term budget planning process. Potentially successful proposals would likely use innovative but pragmatic solutions that offer added value, such as enhanced financing options, improved customer service outcomes or advanced delivery dates. An unsolicited proposal should be:

- Innovative and pragmatic;
- Independently originated and developed by the proposer;
- Submitted by parties external to TAMC, prepared without TAMC’s supervision, endorsement, direction, or direct involvement; and
- Sufficiently detailed that its benefits in support of TAMC’s mission and responsibilities are readily apparent.

If the proposed Policy is adopted, TAMC will receive and evaluate unsolicited proposals using a two-phased approach. In Phase One, TAMC staff will evaluate written conceptual proposals. Conceptual proposals will be reviewed within 90 days of receipt, at which time a determination will be made as to whether to review additional and detailed information in Phase Two.

If there is interest in a conceptual proposal, the proposer may be asked to submit detailed documentation (see attachment) for evaluation in Phase Two. At the conclusion of this phase, TAMC will decide whether to decline the proposal, to proceed to a sole source agreement, or to pursue a competitive solicitation.

If the project proceeds beyond Phase Two, TAMC’s procurement policies and procedures will apply. TAMC’s receipt of an unsolicited proposal does not, by itself, justify a contract award without full and open competition. If the unsolicited proposal offers a proprietary concept that is essential to contract performance, it may be deemed a Sole Source. If not, TAMC will follow the competitive procurement process.

TAMC may, at any time, choose not to proceed further with any unsolicited proposal.

The **attached** draft policy was adapted from a policy used by the Los Angeles County Metropolitan Transportation Authority and is proposed for TAMC adoption.

ATTACHMENTS:

- Draft Policy for Reviewing Unsolicited Proposals



Policy for Reviewing Unsolicited Proposals

Adopted _____

DRAFT

INTRODUCTION

The Transportation Agency for Monterey County (TAMC) follows state and federal procurement rules via an adopted Procurement Policies and Procedures and Contract Management Manual to ensure engagement in full and fair competition, and to obtain the best value, price and quality for taxpayer-funded goods and services. Typically, consultant services are obtained using a Request for Qualifications and/or Request for Proposals process, and the procedures are open to public scrutiny via the TAMC Board of Directors and its committees. Occasionally, TAMC receives unsolicited proposals from consultants wishing to do business with TAMC or from companies interested in public-private partnerships and/or joint development. This Policy for Reviewing Unsolicited Proposals is designed to address those situations.

WHAT IS AN UNSOLICITED PROPOSAL?

A written proposal that is submitted to TAMC on the initiative of the submitter for the purpose of developing a contractual relationship that is not in response to a formal or informal request issued by TAMC. Unsolicited proposals can be like junk mail; not all are worthy of TAMC staff time and resources in reviewing them.

WHAT DISTINGUISHES AN UNSOLICITED PROPOSAL WORTHY OF REVIEW?

In order for an Unsolicited Proposal to be worthy of TAMC review, it should be:

- Innovative and pragmatic;
- Independently originated and developed by the proposer;
- Submitted by parties external to TAMC, prepared without TAMC's supervision, endorsement, direction, or direct involvement; and
- Sufficiently detailed that its benefits in support of TAMC's mission and responsibilities are readily apparent.

A Reviewable Unsolicited Proposal is distinguishable from a project already part of TAMC's long-term budget planning process and plan if it uses innovative but pragmatic solutions that offer added value, such as enhanced financing options, improved customer service outcomes or advanced delivery dates. Sales tax bonds and certificates of participation are not unique and innovative financing tools.

SHOULD PROPOSERS INTERESTED IN A PUBLISHED SOLICITATION SUBMIT AN UNSOLICITED PROPOSAL?

No. An Unsolicited Proposal is not any of the following:

- An offer responding to TAMC's previously published request for qualifications/proposals;
- An advance or premature proposal for property or services that TAMC could acquire through competitive methods (submitted within the budget year before release of a published request for proposal); or
- A replacement for an existing contract that is already in effect; or
- An opportunity to stipulate the means and methods of an existing contractual relationship.

Unsolicited Proposals Process Overview

All Unsolicited Proposals shall be submitted to the TAMC Executive Director, or designee, who will log the proposal and respond acknowledging receipt of the proposal within five business days, then transfer it to the appropriate staff person for evaluation of technical and/or financial merit.

TAMC will evaluate Reviewable Unsolicited Proposals using a two-phased approach, as described below. Unsolicited Proposals that do not include completed forms described in Phase One shall be summarily declined.

In Phase One, TAMC will evaluate conceptual proposals. Conceptual proposals will be reviewed within 90 days of receipt, at which time a determination will be made as to whether to proceed to Phase Two. If there is interest in a conceptual proposal, the proposer may be asked to submit a detailed proposal for evaluation in Phase Two. If the proposal proceeds beyond Phase Two, TAMC's procurement policies and procedures will apply. TAMC may, at any time, choose not to proceed further with any Unsolicited Proposal.

Phase One – Conceptual Proposal

The purpose of Phase One is for TAMC to review and screen written, concept-level proposals to determine whether to request additional and detailed information in Phase Two.

CONTENT – CONCEPTUAL PROPOSAL

Unsolicited Proposers shall complete and submit Exhibit A, Conceptual Proposal Form with their conceptual proposal in order to trigger a Phase One review.

THRESHOLD REVIEW AND PROCESS OVERVIEW

Upon receipt of a reviewable conceptual proposal, the TAMC Executive Director, or his or her designee, will take the following steps:

1. Promptly log and acknowledge receipt of the proposal (letter to proposer); and
2. Determine whether the proposal meets the threshold requirements of an Unsolicited Proposal (below).

Before initiating a Phase One evaluation, the TAMC Executive Director will determine if the conceptual proposal meets the following threshold requirements:

- Satisfies the definition of a Reviewable Unsolicited Proposal;
- Includes all required content and attachments;
- Contains sufficient detail to enable TAMC to perform an adequate evaluation;
- Is submitted by parties external to TAMC, has been approved by a responsible official or other representative authorized to contractually obligate the proposer; and
- Complies with this Policy's requirements for use and disclosure of data.

EVALUATION – CONCEPTUAL PROPOSAL

If the proposal meets the threshold requirements, TAMC will take the following steps:

1. The TAMC Executive Director will officially transfer the proposal to appropriate staff; and
2. Appropriate staff will perform the evaluation process and notify the proposer of TAMC's decision. The possible outcomes may be to discontinue the process, to proceed to Phase Two, or to pursue a competitive procurement. TAMC staff will provide a general explanation of the reasons for the decision, communicate regularly with the TAMC Executive Director, and seek the TAMC Executive Director's approval of recommendations related to implementation.

Conceptual proposals will be evaluated promptly in accordance with the criteria set out in this section. At Phase One, the evaluation process will include a review of the Conceptual Proposal and Conceptual Proposal form. The proposer(s) will have no interaction with the evaluation team, except at TAMC's sole discretion.

EVALUATION CRITERIA – CONCEPTUAL PROPOSAL

If the proposal meets the threshold requirements, the evaluation team will determine the evaluation criteria, as necessary, to reflect the specific proposal, but generally will consider the following factors:

1. The proposal offers direct or anticipated benefits to TAMC and the community;
2. The proposal is consistent with TAMC's mission, goals and objectives;
3. The proposal satisfies a need for TAMC that can be reasonably accommodated in TAMC's annual long-term capital and operating budgets without displacing other planned expenditures and without placing other committed projects at risk;
4. The proposal offers goods or services that TAMC may not have intended to procure or provide through the normal TAMC contract process;
5. The proposal offers goods or services that are within TAMC's jurisdiction or control; and
6. Any other factors appropriate for the proposal.

Phase Two – Detailed Proposal

The purpose of Phase Two is for TAMC to receive more detailed technical and financial information to fully understand and evaluate the proposal. At the conclusion of this phase, TAMC will decide whether to decline the proposal, to proceed to a sole source agreement, or to pursue a competitive solicitation.

PROCESS – REQUEST FOR DETAILED PROPOSAL

If TAMC desires to proceed to Phase Two, TAMC will issue a Request for a Detailed Proposal that formally tells the proposer that TAMC is willing to proceed to Phase Two. Depending on the circumstances, the request may include the following:

- A summary of Phase I Project Evaluation;
- A description of the request for additional information process and purpose;
- A description of the problem or opportunity being addressed;

- Relevant background, context, parameters and policies;
- Functional, technical and legal requirements;
- Requests for other project related information related to scope, budget, schedule, personnel, risks, data, performance measurement, potential impacts, etc.; and
- Requests for specific modifications or clarifications to the scope of the original proposal.

TAMC may, at its sole discretion, invite the proposer(s) to present to the review team, ask and answer questions of the review team, and discuss the proposal and context with the review team.

PROCESSING

Once the Detailed Proposal is received, the TAMC staff will keep a record of the persons on the evaluation team and record the disposition of the proposal. Outside advisors will be consulted only if the TAMC evaluation team deems it necessary and beneficial.

CONTENT - DETAILED PROPOSAL

In addition to the information provided in Phase One, a Detailed Proposal must, at a minimum, include the following information:

TECHNICAL INFORMATION:

- A. Names and professional information of the proposer's key personnel who would be committed to the project;
- B. Type of support needed from TAMC; e.g., facilities, equipment, materials, or personnel resources;
- C. Type of support being provided by the proposer;
- D. A sufficiently detailed description of the scope of work being offered, in order to allow TAMC to evaluate the value received for the price or TAMC support proposed;
- E. Proposed price or total estimated cost for the effort and/or the revenue generated in sufficient detail for meaningful evaluation and cost analysis, including an annual cash flow for the proposed project and annual or future costs to operate and maintain;
- F. A schedule for the implementation, including specific details for any property and/or services to be provided by TAMC; and
- G. Proposed duration of effort.

SUPPORTING INFORMATION:

1. Type of contract being sought by the proposer (the final determination on type of contract shall be made by TAMC, should TAMC decide to proceed with a contract);
2. Description of the proposer's organization, previous experience in the field, and facilities to be used;
3. Required statements and disclosures, if applicable, about organizational conflicts of interest and environmental impacts; and

4. Information, in the form of TAMC's Pre-Qualification Application (**Exhibit B**) demonstrating to TAMC that the proposer has the necessary financial resources to complete the proposed project or effort, as determined by TAMC staff. Such information may include:
 - a. Financial statements, including an Auditor's Report Letter or an Accountant's Review Letter, Balance Sheets, Statements of Income and Stockholder's Equity, and a Statement of Change in Financial Position;
 - b. Un-audited balance sheets;
 - c. Names of banks or other financial institutions with which the proposer conducts business; and
 - d. Letter of credit commitments.

EVALUATION – DETAILED PROPOSAL

Detailed Proposals will be evaluated promptly, at a minimum in accordance with the criteria set out in this section, as well as any other evaluation criteria identified in the Request for Detailed Proposal.

Threshold Review: Before initiating a comprehensive evaluation, TAMC staff will determine if the Detailed Proposal continues to meet the threshold requirements set out in Phase One and the requirements specifically set out in the Request for Detailed Proposal.

Evaluation Criteria: At Phase Two, the evaluation team will confirm the proposal meets the same evaluation criteria set forth in Phase One, in addition to the following minimum factors, and any additional criteria set out in the Request for Detailed Proposal:

1. The proposer's capabilities, related experience, facilities, techniques, or unique combinations of these which are integral factors for achieving the proposal objectives;
2. The proposer's financial capacity to deliver the goods or services defined in the proposal;
3. Viability of the proposed schedule and TAMC's ability to meet activities required;
4. TAMC's capacity to enter into a contract and/or otherwise provide requested resources;
5. The qualifications, capabilities and experience of key personnel who are critical in achieving the proposal objectives;
6. The relative costs and benefits of the proposal with respect to improving mobility and accessibility in Monterey County;
7. The specific details of the cost/revenue generated; and
8. Any other factors appropriate for the proposal.

RECOMMENDATION

The evaluation team will make a recommendation on the disposition of the Detailed Proposal to TAMC's Executive Director for review and approval. If proposal exceeds the Executive Director's contracting authority or environmental determinations are necessary, the Board of Directors' approval will be required, and the proposer will be notified of the date of the meeting when the proposal will be discussed.

FULL AND OPEN COMPETITION REQUIREMENTS

TAMC's receipt of a Reviewable Unsolicited Proposal does not, by itself, justify a contract award without full and open competition. If the Unsolicited Proposal offers a proprietary concept that is essential to contract performance, it may be deemed a Sole Source, consistent with TAMC Procurement policies. If not, TAMC will pursue a competitive procurement, either through a formal solicitation or by the process outlined below.

PROOF OF CONCEPT

TAMC may, at its sole discretion, choose to work with a third party to prove a concept as a means of better understanding an Unsolicited Proposal and its application and value to TAMC, provided that the work is done at the expense of the proposing party.

UNSOLICITED PROPOSAL – SOLE SOURCE AWARD

If it is impossible to describe the property or services offered without revealing proprietary information or disclosing the originality of thought or innovativeness of the property or services sought, as determined by TAMC, TAMC may make a sole source award, as provided in TAMC's Sole Source Award Policy.

UNSOLICITED PROPOSAL – COMPETITIVE SOLICITATION PROCESS

If the Unsolicited Proposal does not meet the criteria of a sole source award, before entering into a contract resulting from an Unsolicited Proposal, TAMC will follow its procurement policies to issue a Request for Qualifications and/or Request for Proposal to do the work.

CONTRACT RESULTING FROM AN UNSOLICITED PROPOSAL

Nothing in this policy or otherwise requires TAMC to act or enter into a contract based on an Unsolicited Proposal. TAMC, at its sole discretion, may return and/or decline an Unsolicited Proposal at any time during the process.

PREREQUISITES TO CONTRACT NEGOTIATION

The duly authorized TAMC representative(s) may commence contract negotiations only after the following prerequisites have been met:

1. An Unsolicited Proposal has received a favorable comprehensive evaluation, including in comparison to any proposals received following publication as provided in this policy;
2. The TAMC staff sponsoring the contract supports its recommendation, furnishes the necessary funds and provides a sole-source justification (if applicable); and
3. TAMC Executive Director or TAMC Board of Directors approves (if required).

General Requirements

PROHIBITION OF USE OF CONFIDENTIAL INFORMATION

If TAMC's decision is to pursue a competitive procurement, TAMC personnel shall not use any data, or any confidential patented, trademarked or copyrighted information, as identified by the proposer, as part of an Unsolicited Proposal, or confidential technical or financial proprietary information as the basis, or part of the basis, for a solicitation or in negotiations with any other firm, unless the proposer is notified of and agrees to the intended use. Concepts or ideas are not considered proprietary by TAMC but specific implementing methodologies that are unique to and identified by the proposer will be recognized.

PUBLIC RECORDS ACT

Unsolicited Proposals are subject to the provisions of the California Public Records Act (California Code Government Code §6250 et seq.).

Public Contract Code Section 22164 provides that: information that is not otherwise a public record pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title I of the Government Code) shall not be open to public inspection. Any documents provided by the proposer to TAMC marked "Trade Secret," "Confidential" or "Proprietary," or any financial records provided by the proposer to TAMC, shall be clearly marked with the proposer's name. TAMC will use its best efforts to inform the proposer of any request for records that may involve any financial records or documents marked "Trade Secret," "Confidential" or "Proprietary" provided by proposers to TAMC. TAMC will not advise as to the nature or content of documents entitled to protection from disclosure under the California Public Records Act but will allow proposers the opportunity to seek injunctive relief, if desired. If a proposer fails to seek injunctive relief preventing the disclosure of records, the proposer shall be deemed to have waived the proposer's right to object.

In the event of litigation concerning the disclosure of any records claimed to be exempt from disclosure by a proposer, TAMC's sole involvement will be as a stakeholder, retaining the records until otherwise ordered by a court. The proposer, at its sole expense and risk, shall be fully responsible for any and all fees for prosecuting or defending any action concerning the records claimed to be exempt from disclosure, and shall indemnify and hold TAMC harmless from all costs and expenses, including attorney's fees in connection with any such action.

Exhibit A

Conceptual Proposal Form

Phase One of TAMC’s Reviewable Unsolicited Proposal process involves submitting this form. Submit only the information required by this form. If TAMC determines that the proposal should proceed to Phase Two, TAMC will issue a Request for a Detailed Proposal.

PLEASE BE ADVISED THAT SOME RECORDS MAY BE SUBJECT TO DISCLOSURE PURSUANT TO A PUBLIC RECORDS REQUEST.

PART 1: BASIC INFORMATION

Proposer Information:

Name: _____

Address: _____

Further contact information: _____

Type of organization: _____

Technical personnel names & contact information: _____

Business personnel names & contact information: _____

These individuals should be responsible for answering TAMC’s technical or business questions concerning the proposal or any subsequent agreement concerning the proposal.

PART 2: TECHNICAL INFORMATION

Title of the proposal: _____

- Abstract of the proposal is attached
To move forward in the Unsolicited Proposal process, the abstract must include a brief – but complete – discussion of the following:
1. Objectives
 2. Method of approach
 3. Nature and extent of anticipated results; and
 4. Manner in which the work will help support accomplishment of TAMC’s mission.

Technical expertise the proposer needs from TAMC: _____

PART 3: FINANCIAL INFORMATION

Proposed price or total estimated cost: _____

Revenue: _____

Be concise but provide sufficient detail for TAMC to meaningfully evaluate the proposal.

Financial information the proposer needs from TAMC: _____

PART 4: PROCEDURAL INFORMATION

Period of time for which the proposal is valid: _____

Proprietary data has been submitted with this proposal and such data is deemed confidential by the proposer in the event of a request submitted to TAMC under the California Public Records Act.
Any proprietary data must be clearly designated, as well as the legal provision allowing exemption from disclosure claimed.

Other government entities or private parties have received this proposal.
Please explain: _____

Other government entities or private parties may provide funding for this proposal.
Please explain: _____

There are patents, copyrights and/or trademarks applicable to the goods or services proposed.
Please explain: _____

There is additional information not requested in this form that would allow TAMC to evaluate this proposal at this conceptual phase.
Describe: _____

PART 5: SIGNATURE

Name: _____

Date: _____

Title: _____

The individual who signs this form must be authorized to represent and contractually obligate the Proposer.

Exhibit B

Pre-Qualification Application

Name of Applicant Firm: _____

Date Submitted: _____

Preparer's Name: _____

Phase Two of TAMC's Reviewable Unsolicited Proposal process involves submitting this form and providing the information requested in the Request for a Detailed Proposal.

THIS PAGE MUST BE COMPLETED AND INCLUDED WITH THE APPLICATION

READ THE INSTRUCTIONS BEFORE FILLING OUT THE QUESTIONNAIRE

DRAFT

INSTRUCTIONS

1. This application should be completed by a person in the firm who is knowledgeable of and duly authorized to attest to the past and present operations of the firm and its policies. A corporate officer of the firm, owner or partner, as appropriate, must sign the Pre-Qualification Certification form.
2. All questions must be answered completely, and any “Yes” answers must be fully explained. Please note that a Yes answer to any question does not automatically result in denial of pre-qualification for a procurement.
3. Please be aware that TAMC is subject to the California Public Records Act and that some of the material to be submitted may be subject to public disclosure, pursuant to a Public Records Act Request. You are advised to consult with your own legal counsel as to which materials may be legally exempt from disclosure.

DEFINITIONS

1. **Affiliate** is defined as any one of the following:
 - a. Any Firm other than Applicant Firm which owns 25% or more of Applicant Firm, such as parent companies or holding companies;
 - b. A subsidiary or a Firm in which Applicant Firm owns 25% or more;
 - c. A Firm in which a major stockholder or owner of Applicant Firm owns controlling interest;
 - d. A Firm with which Applicant Firm has or has had an unseverable business or professional identity, and
 - e. Any permanent or temporary common business enterprise relationship in which the parties share operating responsibility and profits such as joint ventures.
2. **Key Person** – For purposes of pre-qualification a key person is
 - a. Any person in Applicant Firm who owns 10% or more of the Firm and/or those who make decisions with respect to its operations, finances, or policies, such as the President, CEO, CFO, COO, and, in the case of partnerships, the General Partner(s);
 - b. Corporate Secretaries and Treasurers, as well as Directors, if they meet criteria #1, above;
 - c. Division or Regional Business Managers who operate away and independently from the Applicant Firm, but only if the division or regional office is negotiating directly with TAMC.

APPLICATION SUBMITTAL

Email this application to:

Executive Director
info@tamcmonterey.org

If you have questions, call the TAMC office at (831) 775-0903.

SECTION I: IDENTIFICATION

1. Applicant Firm

A. _____
Name of Applicant Firm Tax ID No. or Social Security Number

B. _____
Address

C. _____
(Mailing Address, if different from above)

D. _____
If doing business with TAMC under a DBA or other name, include legal name of the company and Tax ID No., if different

E. Primary Company Telephone No. () _____ Fax No. () _____

F. Applicant Firm's Contact Person for Pre-Qualification Office follow-up:

Name	Position	E-Mail	Telephone Number
------	----------	--------	------------------

G. Has the Applicant Firm changed its address or has the Firm or its owner operated under any other name(s) including other DBAs in the past five years? If yes, explain fully on a separate sheet of paper. No Yes

H. Type of business organization: _____

Year organization established: _____ Number of current employees: _____

Sole Proprietor

Corporation: Date and State of Incorporation: _____

Limited Liability Corporation (LLC): Date and State of Incorporation: _____

Limited Partnership (LP)

Limited Liability Partnership (LLP)

General Partnership (GP): Date and State of Partnership filing: _____

Other (describe): _____

I. List general type of business in which Applicant Firm is engaged (may include more than one). Attach copies of business licenses, if appropriate:

J. List type of product or service to be provided to TAMC:

DRAFT

SECTION II: OWNERSHIP/MANAGEMENT, PROJECT TEAM MEMBERS, AND RELATED ENTITIES

1. Owners/Key Persons

List Owners and Key Persons of Applicant Firm. For large publicly traded companies, list only Key Persons. (See DEFINITIONS for clarification if necessary.)

Full Legal Name	Title	Social Security No. (last four digits only)	% Of Ownership

[Use additional sheets if necessary]

2. Related Entities (Affiliates/Subsidiaries/Joint Ventures)

A. List affiliates, subsidiaries, holding companies, joint ventures, etc., of Applicant Firm. If no affiliates, state NONE. N/A is not an acceptable answer. Provide organizational, geographical or functional chart, if it would assist in clarifying the line(s) of authority. (See DEFINITIONS for clarification if necessary.)

Affiliate Name & Address	Tel.#	% Owned	Top Executive's Name	*Type of Relation

*Type of Relationship: 1. Joint Venture (JV), 2. Parent Co (PC),
3. Holding Co (HC), 4. Subsidiary (S), 5. Other (O), please explain.

B. At any time during the past five years have any Owners or Key Persons of Applicant Firm (if yes, explain fully):

a. Served as Key Person, Officer or Director, in any other Firm not affiliated with Applicant Firm? If so, please explain in a separate sheet.

No

Yes

b. Had any ownership interest in any other Firm other than shares of publicly owned companies? If so, please explain in a separate sheet.

No

Yes

SECTION III: CONTRACTING HISTORY

1. Contracting History

- A. List the applicant Firm's three largest government contracts, subcontracts, or sales. If none, list the three largest contracts with non-governmental entities.

	Contract #1	Contract #2	Contract #3
Agency/Owner			
Contract No.			
Name/Location			
Describe Goods or Services Furnished			
Were you a Prime or Subcontractor?			
Start Date/Complete Date			
Contract Amount			
Agency/Owner Contact to Verify (Name/ Tel.)			

NOTE: ANY "YES" ANSWERS BELOW MUST BE FULLY EXPLAINED ON A SEPARATE SHEET OF PAPER AND ATTACHED TO THIS APPLICATION.

- B. Is the Applicant Firm currently certified by the California Department of Transportation (Caltrans) as a disadvantaged business entity, minority-, or woman-owned business?

No Yes

- C. During the past five years, has Applicant Firm or any of its Key Persons had any certificates or certifications revoked or suspended, including disadvantaged-, minority-, or woman-owned business certifications?

No Yes

In the past five years has the Applicant Firm or any Affiliate been the subject of any of the following actions?

- D. Been suspended, debarred, disqualified, or otherwise declared ineligible to bid?

No Yes

- E. Failed to complete a contract for a commercial or private owner?

No Yes

- F. Been denied a low-bid contract in spite of being the low bidder?

No Yes

- G. Had a contract terminated for any reason, including default?

No Yes

- H. Had liquidated damages assessed against it during or after completion of a contract?

No Yes

SECTION IV: CIVIL ACTIONS

If “Yes” to Sections IV, V or VI, provide details including a brief summary of cause(s) of action, indicate if Applicant Firm, Key Person or Affiliate Firms were plaintiffs (P) or defendants (D); define charges explicitly, by what authority, court or jurisdiction, etc. In the case of tax liens, please indicate whether the liens were resolved with the tax authorities. Please submit proof of payment or agreements to pay the liens.

Complete details are required!

1. **Violations of Civil Law**

In the past five years has Applicant Firm, any of its Key Persons, or any Affiliate been the subject of an investigation of any alleged violation of a civil antitrust law, or other federal, state or local civil law?

No

Yes

2. **Lawsuits with Public Agencies**

At the present time is, or during the past five years has, the Applicant Firm, any of its Key Persons, or any Affiliate been a plaintiff or defendant in any lawsuit regarding services or goods provided to TAMC or to a public agency?

No

Yes

3. **Bankruptcy**

During the past five years, has the Applicant Firm or any Affiliate filed for bankruptcy or reorganization under the bankruptcy laws?

No

Yes

4. **Judgments, Liens and Claims**

During the past five years, has the Applicant Firm been the subject of a judgment, lien or claim of \$25,000 or more by a subcontractor or supplier?

No

Yes

5. **Tax Liens**

During the past five years, has the Applicant Firm been the subject of a tax lien by federal, state or any other tax authority?

No

Yes

SECTION V: COMPLIANCE WITH LAWS AND OTHER REGULATIONS

1. Criminal

In the past five years has the Applicant Firm, any of its principals, officers, or Affiliates been convicted or currently charged with any of the following:

- A. Fraud in connection with obtaining, attempting to obtain, or performing a public contract, agreement or transaction?
 No Yes
- B. Federal or state antitrust statutes, including price fixing collusion and bid rigging?
 No Yes
- C. Embezzlement, theft, forgery, bribery, making false statements, submitting false information, receiving stolen property, or making false claims to any public agency?
 No Yes
- D. Misrepresenting minority or disadvantaged business entity status with regard to itself or one of its subcontractors?
 No Yes
- E. Non-compliance with the prevailing wage requirements of California or similar laws of any other state?
 No Yes
- F. Violation of any law, regulation or agreement relating to a conflict of interest with respect to a government funded procurement?
 No Yes
- G. Falsification, concealment, withholding and/or destruction of records relating to a public agreement or transaction?
 No Yes
- H. Violation of a statutory or regulatory provision or requirement applicable to a public or private agreement or transaction?
 No Yes
- I. Do any Key Persons in Applicant Firm have any felony charges pending against them that were filed either before, during, or after their employment with the Applicant Firm?
 No Yes

2. Regulatory Compliance

In the past five years, has Applicant Firm, any of its Key Persons, or Affiliates:

- A. Been cited for a violation of any labor law or regulation, including, but not limited to, child labor violations, failure to pay wages, failure to pay into a trust account, failure to remit or pay withheld taxes to tax authorities or unemployment insurance tax delinquencies?
 No Yes
- B. Been cited for an OSHA or Cal/OSHA “serious violation”?
 No Yes
- C. Been cited for a violation of federal, state or local environmental laws or regulations?
 No Yes
- D. Failed to comply with California corporate registration, federal, state or local licensing requirements?
 No Yes
- E. Failed to comply with California corporate registration, federal, state or local licensing requirements?
 No Yes
- F. Had its corporate status, business entity’s license or any professional certification, suspended, revoked, or had otherwise been prohibited from doing business in the State of California, in the last three years?
 No Yes
- G. During the past five years, has Applicant Firm or any of its Key Persons had any certificates or certifications revoked or suspended, including disadvantaged-, minority-, or woman-owned business certifications?
 No Yes
- H. Been suspended, debarred, disqualified, or otherwise declared ineligible to bid?
 No Yes

SECTION VI: ETHICS

1. Conflict of Interest

- A. Does the Applicant Firm or any of its Key Persons have any existing relationships that could be construed as either personal or organizational conflicts of interest, or which would give rise to a conflict if Applicant Firm should be a recipient of a contract with TAMC?
- No Yes
- B. Has any Owner, Key Person or Project Team member of Applicant Firm ever (if yes, explain fully):
- a. Been an employee of TAMC, or served as a member of TAMC Board of Directors or as an Alternate?
- No Yes
- b. Been related by blood or marriage to an TAMC employee, TAMC Board member or Alternate?
- No Yes

2. Political, Charitable, And Other Contributions

Has the Applicant Firm, any of its Key Persons, or Affiliates ever, regardless of amount:

- A. Given (directly or indirectly), or offered to give on behalf of another or through another person, money, contributions (including political contributions), or other benefits, to any current TAMC Board Member or Alternate?
- No Yes
- B. Given, or offered to give on behalf of another, money, contributions, or other benefits, directly or indirectly, to any current or former TAMC employee?
- No Yes
- C. Been directed by any TAMC employee, Board member or Alternate Board member, or contractor to offer or give money, contributions or other benefits, directly or indirectly, to any current or former TAMC employee, Board member or alternate Board member?
- No Yes
- D. Directed any person, including employees or subcontractors, to give money, contributions or other benefits, directly or indirectly, to any current or former TAMC employee, Board member, Alternate Board member, or to someone else in order to benefit an TAMC employee, Board member, or Alternate Board member?
- No Yes
- E. Been solicited by any TAMC employee, Board member, or Alternate Board member to make a contribution to any charitable nonprofit organization?
- No Yes

IF YES TO ANY OF THE ABOVE, SUBMIT LIST OF CONTRIBUTIONS AND DETAILS.

SECTION VII: ADDITIONAL DOCUMENTATION REQUIRED

Copies of the following documents are to be submitted with this application:

1. Applicant Firm's Current Local Business Licenses, if required by city, county or state, and
2. Applicant Firm's Financial Statements:
 - A. **PUBLICLY TRADED COMPANIES:** Financial information will be accessed on-line. However, if additional information is needed, it will be specifically requested from the firm.
 - B. **NON-PUBLICLY TRADED COMPANIES WITH AUDITED OR REVIEWED FINANCIAL STATEMENTS:** Statements, including balance sheet, statement of earnings and retained income, with footnotes, for the most recent three years.
 - C. **NON-PUBLICLY TRADED COMPANIES WITHOUT AUDITED OR REVIEWED FINANCIAL STATEMENTS:** Company generated financial statements, including balance sheet, statement of earnings and retained income for the most recent three years. The Chief Financial Officer of the corporation, a partner, or owner, as appropriate, must certify these financial statements.
 - D. **SOLE PROPRIETORSHIPS:** Refer to C. If financial statements are not generated, please fill out and sign the Financial Statement form. Submit one form for each of the most recent three years.

NOTE: TAMC reserves the right to ask for additional documentation if it is reasonably required to make a determination of integrity and responsibility relevant to the goods or services the Applicant Firm will provide to TAMC if awarded a contract.

Financial Statement

This information is provided for pre-qualification purposes only. This document is considered a confidential document not subject to public disclosure under California law.

To be completed by Applicant Firms that do not produce company generated financial statements, including balance sheet, statement of earnings and retained income for the most recent three years (one sheet per year.)

ASSETS	
Cash on Hand and in Banks	\$
Account and Notes Receivable	\$
Fixed Assets (net of depreciation)	\$
Other Assets	\$
Total Assets	\$
LIABILITIES	
Accounts Payable	\$
Notes Payable to Banks (in next 12 months)	\$
Notes Payable to Others	\$
Taxes Payable	\$
Long Term Liabilities (more than 12 months)	\$
Other Liabilities	\$
Total Liabilities	\$
Net Worth	\$
INCOME FROM OPERATIONS	
Revenue	\$
Interest from Bank Accounts	\$
Cost of Goods Sold (if appropriate)	\$
Gross Profit	\$
General & Administrative Expenses	\$
Depreciation	\$
Interest Paid	\$
Net Gain or Loss	\$

I hereby certify that the above information is true and accurate to the best of my knowledge and belief. I understand false statements may result in denial of pre-qualification, and possible debarment for a period of five years.

Signature of Owner or Officer	Date Signed
Company Name	For the Year Ended
Federal ID #	

PRE-QUALIFICATION CERTIFICATION

A COPY OF THIS CERTIFICATION MUST BE COMPLETED AND SIGNED BY A GENERAL PARTNER, OWNER, PRINCIPAL OR CORPORATE OFFICER AUTHORIZED TO LEGALLY COMMIT THE APPLICANT FIRM AND SUBMITTED WITH THE APPLICATION.

The signer of this declaration recognizes that the information submitted in the questionnaire herein is for the express purpose of inducing TAMC to award a contract, or to allow the Applicant to participate in TAMC projects as contractor, subcontractor, vendor, supplier, or consultant. The signer has read and understands the requirements of the program and has read and understands the instructions for completing this form.

DECLARATION

State of: _____
County of: _____

I, (printed name) _____, Social Security Number (last four digits) _____, being first duly sworn, state that I am the (title) _____ of Applicant Firm. I certify that I have read and understood the questions contained in the attached Application, and that to the best of my knowledge and belief all information contained herein and submitted concurrently or in supplemental documents with this Application is complete, current, and true. I further acknowledge that any false, deceptive or fraudulent statements on the Application will result in denial of pre-qualification.

I authorize TAMC to contact any entity named herein, or any other internal or outside resource, for the purpose of verifying information provided in the questionnaire or to develop other information deemed relevant by TAMC.

Signature of Certifying Individual	Date
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Subscribed and sworn to (or affirmed) before me this \_\_\_\_\_ day of \_\_\_\_\_, by \_\_\_\_\_.  Personally known to me, or  Proved to me on the basis of satisfactory evidence to be the person who appeared before me.

\_\_\_\_\_  
Signature of Notary Public

Place Notary Seal Above  
~~~~~

NOTICE TO APPLICANTS

A material false statement, omission or fraudulent inducement made in connection with this pre-qualification application is sufficient cause for denial of the application or revocation of a prior approval, thereby precluding the Applicant Firm from doing business with, or performing work for, TAMC, either as a vendor, prime contractor, subcontractor, consultant or subconsultant for a period of five years. In addition, such false submission may subject the person and/or entity making the false statement to criminal charges. (Title 18 USC 1001, false statements; California Penal Code Section 132, offering altered or antedated or forged documents or records; and Section 134, preparing false documentary evidence].

NOTE: Applicant information submitted to TAMC in connection with pre-qualification is considered confidential. All such applicant information is confidential business information and will be afforded protection to the fullest extent permitted by law.