

A G E N D A

ABAG EXECUTIVE BOARD MEETING NO. 369
Thursday, September 17, 2009, 7:00 PM
METROCENTER AUDITORIUM
101 8th Street (at Oak Street)
Oakland, California

For additional information, please call:
Fred Castro, (510) 464 7913

Agenda and attachments available at:
<http://www.abag.ca.gov/meetings/>

1. CALL TO ORDER

2. PUBLIC COMMENT

3. ANNOUNCEMENTS

4. PRESIDENT'S REPORT

5. EXECUTIVE DIRECTOR'S REPORT**

6. CONSENT CALENDAR

ACTION: Unless there is a request by a Board member to take up an item on the consent calendar separately, the calendar will be acted upon in one motion.

A. Approval of Executive Board Summary Minutes**

Summary Minutes of Meeting No. 368 held on July 16, 2009.

B. Grant Applications**

With Board consent, ABAG will transmit the attached list of federal grant applications to the State Clearinghouse. These applications were circulated in ABAG's "Intergovernmental Review Newsletter" since the last Executive Board meeting.

C. Appointments to Committees

President Jacobs Gibson requests Executive Board approval of appointments to the following committee:

Please Note: The Board may act on any item on this agenda. **Attachment included.

Regional Planning Committee

- Charlie Knox, Community Development Director, City of Benicia, Representing Bay Area Planning Directors Association
- Ann Gressani, Policy Development and Communications Director, Non-Profit Housing Association of Northern California (Replaces Dianne Spaulding)

D. ABAG Officer Election Calendar**

ABAG bylaws provide for the election of President and Vice President of the Association every two years. An election of officers occurs in 2009. The Board is asked to endorse a schedule and procedure including a canvassing committee for officer selection.

E. Authorization to Enter Into Contract With CalFed/California Department of Natural Resources to Provide Support for CALFED Science Program (CSP) and Approval of Resolution No.16-09**

Authorization is requested for the Executive Director or designee to enter into a new two-year contract on behalf of ABAG/San Estuary Partnership with the Natural Resources Agency to continue providing support for CALFED Science Program. The contract amount will not exceed \$300,000.

F. Authorization to Apply for U.S. Environmental Protection Agency (U.S. EPA) Grant for Comprehensive Conservation and Management Plan (CCMP) Implementation Projects under San Francisco Bay Area Water Quality Improvement Funds**

Authorization is requested for ABAG/SFEP to submit a proposal for \$5 million in grant funding from U.S. EPA's San Francisco Bay Area Water Quality Improvement Funds, and if awarded, to enter into an agreement with U.S. EPA. The grant period will be two to four years and matching funds provided by participating partners.

G. Request for Authorization to Amend an Interagency Agreement with California Dept. of Transportation (Caltrans) to Provide Technical Support for Permit Processing**

Authorization is requested for the Executive Director or designee to enter into an interagency agreement modification with Caltrans to provide technical resources to the San Francisco Bay Regional Water Quality Control Board (RWQCB) and the North Coast Regional Water Quality Control Board.

H. Authorization to Issue Purchase Order to Radston's Office Plus**

Authorization is requested for the Executive Director or his designee to issue a general purchase order to Radston's Plus to provide general office supplies during FY 2009 -10 in an amount not to exceed \$30,000 with an option to renew for three additional consecutive one year periods ending June 30, 2013 subject to approval of future agency budgets.

7. THIRD ROUND PRIORITY DEVELOPMENT AREA (PDA) NOMINATIONS**

ACTION: Kenneth Kirkey, ABAG Planning Director, will present staff recommendations for Priority Development Areas and discuss recommended process for future PDAs.

8. BUILDING MOMENTUM: PROJECTIONS AND PRIORITIES 2009**

Information: Paul Fassinger, ABAG Research Director, will discuss Building Momentum: Projections and Priorities 2009, the document and conference that describe our long run forecast of growth, its relationship to the Priority Development and Conservation Areas, and how the forecast compares to regional performance targets.

9. YOUTH GUN VIOLENCE TASK FORCE RECOMMENDATIONS**

ACTION: President Rose Jacobs Gibson, Supervisor, San Mateo County, will request that the Executive Board endorse the recommendations of the Youth Gun Violence Task Force and encourage all cities and counties in the region to adopt the package of ordinances and resolutions.

10. REGIONAL MULTI-JURISDICTIONAL LOCAL HAZARD MITIGATION PLAN**

Information/ACTION: Jeanne Perkins, ABAG Earthquake Program Consultant and Danielle Hutchings, Earthquake and Hazards Specialist, will request Executive Board endorsement of the updated Regional Mitigation Strategy Priorities included in the Multi-Jurisdictional Hazard Mitigation Plan.

11. REGIONAL SOLAR AND ENERGY EFFICIENCY FINANCING DISTRICT**

Information: Ezra Rapport, ABAG Deputy Executive Director, will provide the Board with an update on progress to date with plans for a regional Solar and Energy Efficiency Financing District.

12. LEGISLATION & GOVERNMENTAL ORGANIZATION COMMITTEE REPORT**

Information/ACTION: Committee Chair Carole Dillon Knutson, Councilmember, City of Novato, will report on Committee activities and ask Board approval of Committee recommendations on pending legislation.

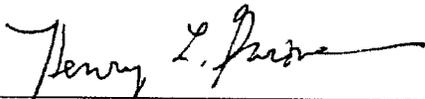
13. FINANCE & PERSONNEL COMMITTEE REPORT**

Information/ACTION: Committee Chair Scott Haggerty, Supervisor, Alameda County, will report on Committee activities and ask Board approval of Committee recommendations.

A. Fiscal Year 2008-09 Diversity and Business Opportunity

B. Authorization to Borrow up to \$700,000 for Office Renovation

14. ADJOURNMENT


Henry L. Gardner, Secretary-Treasurer

ABAG CALENDAR – September & October 2009

ASSOCIATION OF BAY AREA GOVERNMENTS [ABAG], Joseph P. Bort MetroCenter, 101 Eighth Street, Oakland, CA 94607-4756
ABAG Receptionist: 510/464-7900 ABAG FAX: 510/464-7985 E-mail: info@abag.ca.gov URL: http://www.abag.ca.gov

SEPTEMBER

27th Annual Quad EEO Training Conference

9/2 @ 8:00 am, Hilton Concord Hotel

Urban Pesticides Committee

9/15 @ 9:00 am, MetroCenter Room 171

Legislation & Governmental Organization

9/17 @ 3:30 pm, MetroCenter, ABAG Conference Room B

Finance & Personnel Committee

9/17 @ 5:00 pm, MetroCenter, ABAG Conference Room B

EXECUTIVE BOARD

9/17 @ 7:00 pm, MetroCenter, Auditorium

ABAG / BAAQMD / MTC Joint Policy Committee

9/18 10:00 am, MetroCenter, Auditorium

Planning for Climate Change Workshop

9/22 @ 9:00 am, Elihu M. Harris State Office Building, Room 10, 1515 Clay Street, Oakland

Planning for Climate Change Workshop

9/23 @ 9:00 am, SMaRT Station, Conference Room, 301 Carl Road, Sunnyvale

TOD Market Place 2009: Connecting Cities and Developers

9/24 @ 9:00 am, Hilton San Jose

Regional Airport Planning Committee (RAPC)

9/25 @ 9:30 am, MetroCenter, Auditorium

9th Biennial State of the San Francisco Estuary Conference

9/29-10/1 @ 8:00 am, Marriott Hotel, Oakland

OCTOBER

FOCUS Forum: Transportation for Livable Communities

10/7 @ 9:30 am., 2150 Allston Way, Kinzie West Room, Berkeley

Regional Planning Committee (RPC)

10/7 @ 1:00 p.m., MetroCenter, Auditorium

Bay Trail Steering Committee

10/8 @ 1:30 pm, MetroCenter, ABAG Conference Room B

**ABAG FALL GENERAL ASSEMBLY - Planning and

Development During Economic Downturns: Building New Partnerships

10/22 @ 8:00 am, Westin St. Francis, San Francisco

Sewer Smart Summit

10/27 @ 10:00 am., MetroCenter, Auditorium

ABAG POWER Annual Board Meeting

10/29 @ 10:00 am, MetroCenter, Auditorium

** ABAG programs for which a fee is charged and pre-registration is required. To register or for further information, contact **ABAG Receptionist** at 510/464-7900.
• For additional ABAG Training Center information contact **Chanell Gumbs** at 510/464-7964.



M E M O

Date: September 8, 2009
To: Executive Board
From: Henry L. Gardner 
Executive Director
Subject: **Executive Director's Report**

ABAG continued to have a busy and productive summer. Since our last Board meeting in July we issued Projections 2009 during a well attended workshop attended by about 200 local government and business leaders. You will hear more about Projections 2009 during the Executive Board meeting. The following report highlights some of our most recent activities.

SB 375 Progress Report

Interagency staff from JPC agencies continue to meet to better define the SB 375 work plan, decision milestones, and public participation plan. Staff expects that a public participation plan will need to be approved by the Executive Board no later than June 2010, about the time that CARB's draft targets for greenhouse gas reductions are released. There are many decision milestones along the way to adopting the RTP and SCS in 2013. A more detailed report on the schedule of milestone decisions and the content of the work plans leading to those decisions will be available at the next Executive Board meeting.

SB 406 Update

At the time of this writing, SB 406 has passed out of the Assembly appropriations and is headed to the Assembly floor. ABAG has been assisting with the shepherding of the bill through its committees. One of the key activities is to alert those advocates for SB 375 among government, environmental, and the business communities about the importance of SB 406 in financing the implementation of SB 375 planning. It will be very important for this larger community to communicate with the Governor's office regarding his signature on the SB 406 bill, should it pass out of the Legislature.

Governor's Tax Reform Proposal

The Governor, as do all other actors in Sacramento, recognize that future budget crises are inevitable unless there is reform of the State's revenue and expenditure system. Numerous groups are attempting to address this problem, including reform proposals to be introduced by initiative, and the possibility of calling for a Constitutional Convention. The Governor's tax reform committee, titled the Commission on the 21st Century Economy, has produced a report on tax structure options, highlighting findings on revenue volatility and tax burden distribution. The report looked at reforming the State's personal income tax and sales and use taxes. The Governor intends to call a special session of the Legislature to discuss options in September.



San Francisco Estuary Partnership

The San Francisco Estuary Partnership was able to restart its frozen Proposition 50 state grant, Taking Action for Clean Water, Bay Area TMDL Implementation, with ARRA (American Recovery and Reinvestment Act of 2009) funds under a forgivable loan from the State Water Board's SRF program. The first project involved a creek restoration project being implemented by grant partner, the Midpeninsula Regional Open Space in the Los Trancos Preserve of the San Francisquito Creek watershed. The ground breaking on Friday, August 28, 2009 followed a rapid and intense subcontracting effort by Ken Moy to insure compliance with the ARRA required construction start.

ABAG and the San Francisco Estuary Partnership have applied to the State Water Board for ARRA forgivable loan funding for two expanded use projects. The El Cerrito Green Streets pilot project retrofits a dense urban corridor with green stormwater infrastructure that detains and treats urban runoff to remove pollutants. The proposal partners with the City of El Cerrito in a shovel-ready green stormwater project—two rainwater gardens along San Pablo Avenue near El Cerrito City Hall—along with public outreach by the San Francisco Estuary Partnership. The project cost is \$392,000 and time to complete construction is six months. The SFEP/ABAG Trash Capture project will manage and implement a region-wide demonstration project to provide Bay Area cities with trash capture devices to retrofit existing storm drain infrastructure. An initial request of \$ 5 million is being considered for funding.

San Francisco Bay Trail

On August 29, the Bay Trail Project joined Caltrans, MTC, the cities of Martinez and Benicia, the Bay Area Ridge Trail Council and the East Bay Regional Park District to celebrate the opening of the new bicycle-pedestrian pathway on the Benicia-Martinez Bridge. The 2.2-mile path closes a gap in the Bay Trail and the Ridge Trail, and further extends the Carquinez Strait Scenic Loop Trail, a 50-mile route around the Strait linking Bay and Ridge Trails in Contra Costa and Solano counties. We are continuing to work with Caltrans, Benicia and Martinez to improve bicycle-pedestrian access to the bridge on both sides.

Currently, the four toll bridges that allow bicycle-pedestrian access are the Golden Gate, Dumbarton, Zampa Memorial, and Benicia-Martinez. The bicycle-pedestrian path currently under construction as part of the East Span of the Bay Bridge will be complete in 2013. The San Mateo Bridge, the Richmond-San Rafael Bridge and the West Span of the Bay Bridge do not currently support non-motorized access, but it is a primary goal of ABAG and MTC to complete the Bay Trail on all toll bridges as part of the region's non-motorized transportation system.

Water/Land Use Program

The Water/Land Use Program has collaborated with the FOCUS program to initiate several local government partnerships to secure funding for water pollution control projects through the Bay Area Economic Council Work Plan, and the State Clean Water Act Stimulus/Revolving Fund. The partnership projects exceed 60 mill. in value, and if funded and implemented will generate a range of local jobs while adding important environmental and livability features to the urban core.

The WLUP has also collaborated with the FOCUS program to prepare a series of maps that illustrate the relationship of growth and redevelopment in FOCUS areas to watersheds and waterways. The next phase will illustrate sea level rise relationships and water supply sources (imported/local/recycled) to help foster an understanding of climate change, adaptation and urban water need.

San Francisco Bay Restoration Authority

The Governing Board of the San Francisco Bay Restoration Authority met on July 29, 2009. Among the items discussed were the formation of the Advisory Committee and a report entitled *San Francisco Bay Restoration Authority Funding Options 2009* by Save The Bay.

The San Francisco Foundation awarded a grant of \$75,000 to the San Francisco Bay Restoration Authority on August 24, 2009. The request prepared by Judy Kelly and Amy Hutzler (State Coastal Conservancy) will allocate funds to complete research over the next six to twelve months on the best funding mechanisms by engaging technical advice from consultants with expertise in the relevant statutes, municipal finance, and survey research. Issues to be researched include how to match priority restoration project needs by sub-region with potential funding mechanisms; to analyze property base, ownership and voter statistics in the nine-county region of the Authority's jurisdiction, and sub-regions; to identify preferred funding measure through survey research; to analyze timing and resources necessary to pass funding mechanisms; to identify state and federal matching fund opportunities to potential local funding streams; to identify legal and procedural requirements for preferred funding mechanisms and public finance opportunities and constraints; and to offer recommendations for implementation by the Authority's Governing Board.

ABAG Financial Services

Financings delivered by ABAG and its affiliated entities since my last report include:

- \$240 million in Tax-Exempt Revenue Bonds on behalf of San Diego County for various capital needs of the Sharp HealthCare System.

SUMMARY MINUTES

ABAG Executive Board Meeting
No. 368, July 16, 2009
MetroCenter Auditorium
101 8th Street, Oakland, CA

1. CALL TO ORDER

President Rose Jacobs Gibson called the meeting to order at approximately 7:00 p.m.
A revised agenda was distributed.

Representatives and Alternates Present

Supervisor Susan Adams
Supervisor John Avalos
Vice Mayor Ronit Bryant
Councilmember Carole Dillon-Knutson
Mayor Jack Gingles
Supervisor John Gioia
Councilmember Pedro Gonzalez
Mayor Mark Green
Supervisor Carole Groom
Supervisor Scott Haggerty
Vice Mayor Dave Hudson
Supervisor Rose Jacobs Gibson
Mayor Beverly Johnson
Councilmember Ash Kalra
Supervisor Mike Kerns
Director Nancy Kirshner Rodriguez
Supervisor Barbara Kondylis
Councilmember Sam Liccardo
Education Advisor Hydra Mendoza
Supervisor Ross Mirkarimi
Mayor Julie Pierce
Councilmember Joe Pirzynski
Mayor Harry Price
Mayor Tony Santos
Supervisor Gail Steele
Mayor Pamela Torliatt
Supervisor Gayle B. Uilkema
Supervisor Ken Yeager

Representatives Absent

Councilmember Jane Brunner
Councilmember Kansan Chu
Supervisor David Cortese
Supervisor Mark Luce
Councilmember Nancy Nadel
Mayor Gavin Newsom
Vice Mayor Jean Quan
Mayor A. Sepi Richardson
Vice Chair Terry Young

Jurisdiction

County of Marin
County of San Francisco
City of Mountain View
City of Novato
City of Calistoga
County of Contra Costa
City of South San Francisco
City of Union City
County of San Mateo
County of Alameda
City of San Ramon
County of San Mateo
City of Alameda
City of San Jose
County of Sonoma
City of San Francisco
County of Solano
City of San Jose
City of San Francisco
County of San Francisco
City of Clayton
Town of Los Gatos
City of Fairfield
City of San Leandro
County of Alameda
City of Petaluma
County of Contra Costa
County of Santa Clara

Jurisdiction

City of Oakland
City of San Jose
County of Santa Clara
County of Napa
City of Oakland
City of San Francisco
City of Oakland
City of Brisbane
RWQCB

2. PUBLIC COMMENT

There were no public comments.

3. ANNOUNCEMENTS

President Jacobs Gibson welcomed Dave Hudson, Councilmember, City of San Ramon, alternate for Joanne Ward, Councilmember, City of Hercules, representing cities in Contra Costa County; Tony Santos, Mayor, City of San Leandro, alternate for Beverly Johnson, Mayor, City of Alameda, representing cities in Alameda County; and Pedro Gonzalez, Councilmember, City of South San Francisco, alternate for Richard Garbarino, Councilmember, City of South San Francisco, representing cities in San Mateo County.

Other alternates attending included Ronit Bryant, Vice Mayor, City of Mountain View, for Dan Furtado, Councilmember, City of Campbell, representing cities from Santa Clara County; and Harry Price, Mayor, City of Fairfield, for Len Augustine, Mayor, City of Vacaville, representing cities in Solano County.

President Jacobs Gibson announced that Kansen Chu, Councilmember, City of San Jose, accepted her nomination to the San Francisco Estuary Implementation Committee and his name has been included for Board confirmation under committee appointments.

There were no other announcements.

4. PRESIDENT'S REPORT

President Jacobs Gibson reported on the following:

The Youth Gun Violence Task Force held a convening of organizations and individuals involved in stemming the tide of youth gun violence on June 18, 2009. She acknowledged members of the task force, including John Gioia, Supervisor, Contra Costa County; Dan Furtado, Councilmember, City of Campbell; Sam Liccardo, Councilmember, City of San Jose; Gail Steele, Supervisor, Alameda County; and, Nancy Kirshner Rodriguez, Government Affairs Director, City and County of San Francisco. She acknowledged the support of Julie Leftwich, Legal Community Against Gun Violence. Members were asked to review model resolutions and ordinances, which were vetted by a number of law enforcement personnel throughout the region and which will come back to the Board at its September meeting for action.

Both President Jacobs Gibson and Vice President Mark Green testified before the Assembly Transportation Committee on SB 406 (DeSaulnier) on July 6. SB 406 has been forwarded to the Assembly Appropriations Committee where it is expected to remain until after the budget is adopted. Members were encouraged to continue to support this bill and were asked to encourage legislators to support SB 406.

5. EXECUTIVE DIRECTOR'S REPORT

Executive Director Gardner reported on the following:

An update was given on the state budget and its effect on the state's bond rating. Major reductions are expected with substantial cuts to cities and counties. There has been no immediate impact on ABAG's funding to date.

Executive Director Gardner further commented on SB 406 (DeSaulnier) which passed out of the final Assembly policy committee on July 6 and will be heard by the Assembly Appropriations Committee by August 28. If passed and signed by the Governor, SB 406 will provide approximately \$12 million a year, for ten years, to local governments, ABAG, and MTC. These funds will be used primarily for planning for the region and local government to support efforts associated with SB 375 (Steinberg).

Several cities in the Southern California Area Governments region sued SCAG over their RHNA allocations. SCAG prevailed at the trial court and the cities appealed. SCAG asked ABAG to file an *amicus* brief which was done. The Court of Appeals has ruled that cities and counties do not have the right to sue a COG over their allocations. The sole remedy is the process provided under the Housing Element law. The text of the opinion can be found at <http://www.courtinfo.ca.gov/opinions/documents/G040513.PDF>.

The San Francisco Bay Trail Project had a 20th anniversary event on June 6 at the Hayward Shoreline Interpretive Center. The challenge remains to complete the remainder of the Bay Trail with success contingent on continued funding. The Hayward Shoreline Area Planning Agency, East Bay Regional Park District, City of Hayward, Hayward Area Recreation and Park District and ABAG's San Francisco Bay Trail Project hosted a reception celebrating the 20th anniversary of the Bay Trail and honoring Treasurer Bill Lockyer for his vision of the trail established 20 years ago with the adoption of the Bay Trail Plan by the ABAG Executive Board. Other attendees included State Senator Ellen Corbett, former Assemblymember Johan Klehs, ABAG Vice President Mark Green, MTC Commissioner Scott Haggerty, Mayor Mike Sweeney of the City of Hayward, and Alameda County Supervisor Gail Steele. Resolutions of support were received from Congressman Pete Stark, Senator Ellen Corbett, Assemblymembers Nancy Skinner, Sandre Swanson, Mary Hayashi, Tom Torlakson, San Mateo County, Alameda County, MTC and the Midpeninsula Regional Open Space District.

FOCUS Forum continues its series of monthly meetings with discussions and guest speakers that provide opportunities to learn more about specific issues concerning the creation of complete communities near transit in urbanized areas. The most recent forum topic was "Health in Urban Areas" with guest speaker Dr. Richard Jackson, on July 9. Other forum topics include Projections 2009 Conference "Building Momentum" and water.

Financings delivered by ABAG and its affiliated entities since the last Executive Board meeting include: \$42,100,000 in Insured Hospital Revenue Bonds issued on behalf of the County of Alameda for St. Rose Hospital's major renovation and seismic retrofit project; and \$20,000,000 in Variable Rate Revenue Bonds issued on behalf of the County of Santa Clara to fund construction of a new music conservatory at Valley Christian School in San Jose.

President Jacobs Gibson thanked Executive Director Gardner for his report.

6. CONSENT CALENDAR

President Jacobs Gibson recognized a motion by Mike Kerns, Supervisor, County of Sonoma, and seconded by Barbara Kondylis, Supervisor, County of Solano, to approve the consent calendar with the addition of the appointment of

Councilmember Chu to the Estuary Project Implementation Committee. The motion passed unanimously.

A. Approval of Executive Board Summary Minutes**

Summary Minutes of Meeting No. 367 held on May 21, 2009.

B. Grant Applications

A list of grant applications was approved for submission to the State Clearinghouse, having been circulated in ABAG's "Intergovernmental Review Newsletter" since the last Executive Board meeting.

C. Appointment to Committees

Approved the following appointment to committee:

San Francisco Estuary Implementation Committee
Kansen Chu, Councilmember, City of San Jose

Regional Planning Committee
Cheryl O'Connor, Interim CEO, Home Builders Association of Northern California
(Replaces Joseph Perkins)

D. Approval of Resolution No. 15-09 Commending Joseph Chan on Occasion of His Retirement from ABAG**

Approved Resolution No.15-09 commending Joseph Chan, former ABAG Finance Director on 26 years of outstanding service to ABAG.

E. Authorization to Submit \$250,000 Grant Application to Metropolitan Transportation Commission by the San Francisco Bay Trail**

Authorized submission of a funding application request in the amount of \$250,000 to MTC under the FY 2009-2010 Bridge Toll Funds Five Percent Unrestricted State Funds category for the San Francisco Bay Trail.

F. Authorization to Apply for U.S. Environmental Protection Agency (EPA) Climate Showcase Communities Grant**

Authorized submission of a proposal for up to \$500,000 in grant funding from U.S. EPA's Climate Showcase Communities Grant Program, and if awarded, for the Executive Director or designee to enter into an agreement with U.S. EPA. A 50% match is required and can be in the form of in-kind services. The grant period for awards will begin January 1, 2010, and the proposed project period may be up to three years.

G. Authorization to Increase Contract Amount with Finger Design**

Authorized increase of the amount of the contract with Finger Design Associates by \$6,100 to cover unanticipated costs. On March 19, 2009, the Executive Board authorized staff to enter into a contract with Finger Design Associates in an amount not to exceed \$40,000.

President Jacobs Gibson recognized Joseph Chan, former ABAG Finance Director, who addressed the Board on the occasion of his retirement. The Board acknowledged Mr. Chan for his 26 years of service.

7. BAY AREA GREEN BUSINESS PROGRAM CERTIFIED PUBLIC AGENCY RECOGNITION**

Ceil Scandone, ABAG Senior Regional Planner, reported on the progress of the Bay Area Green Business Program. She thanked the Board for hosting the Seventh Annual Recognition Program of Public Agencies Certified as Green Businesses. The Local Hazardous Waste Management Facility Allocation Committee continues to oversee the implementation of the Green Business program. She acknowledged committee members present: Mark Green, Mayor, City of Union City; Barbara Kondylis, Supervisor, County of Solano; Gayle B. Uilkema, Supervisor, County of Contra Costa; and Ronit Bryant, Vice Mayor, City of Mountain View. She recognized county coordinators Lila Khatapoush, Alameda County; Robin Bedel-Waite and Claudia Pingatore, Contra Costa County; Danielle Sinclair, Napa County; Lisa Rose, Kam Johal, and Elizabeth Constantino, Santa Clara County.

President Jacobs Gibson recognized a motion by Gayle B. Uilkema, Supervisor, County of Contra Costa, and seconded by Mark Green, Mayor, City of Union City, to recognize the 27 public agencies that have been certified as green businesses in the past 16 months. The motion passed unanimously.

The Board also recognized Ms. Scandone for her work.

Patty Kim, District Deputy Chief of Staff for Congresswoman Anna Eshoo, 14th Congressional District, thanked the Green Business Program on behalf of the Congresswoman. She presented a certificate of special Congressional recognition from Congresswoman Eshoo to the Bay Area Green Business Program.

Mary Hayashi, State Assemblymember, thanked the Board for the Green Business recognition and announced that AB 210 on green building standards for cities cleared the State Senate.

Government agencies which achieved Green Certification include: Congresswoman Anna G. Eshoo, 14th Congressional District Office; Assemblymember Mary Hayashi, Hayward Office; City of Oakland, City Center Complex; Union Sanitary District; Tri-Cities One-Stop Career Center, Newark; 511 Contra Costa, Pleasant Hill Office; City of El Cerrito, City Hall; City of Lafayette, City Offices; Napa County Transportation and Planning Agency; City of Redwood City, City Hall, City of Millbrae, City Hall; Millbrae Public Library; San Mateo County Human Services Agency, Redwood City Office; San Mateo County Human Services Agency, San Carlos Office; City of Campbell; City of Gilroy Police Department; City of Saratoga; and County of Santa Clara, Office of Supervisor Dave Cortese, District 3; Office of Supervisor Liz Kniss, District 5; Office of Supervisor Ken Yeager, District 4; Office of the Controller-Treasurer; Office of the Controller-Treasurer ASAP/HARP; Office of County Counsel, Hedding Street Office; Department of Environmental Health; Office of Human Relations; Parks Recreation Department, Administration; Department of Planning and Development.

President Jacobs Gibson thanked Ms. Scandone for her report.

8. SOLAR AND ENERGY EFFICIENCY FINANCING DISTRICT**

Ezra Rapport, ABAG Deputy Executive Director, provided an update on the proposed solar and energy efficiency financing district including program design principles, entry pathways, marketing analysis, business case development, and SB 279 and CaliforniaFIRST.

Members discussed "green-washing" and certification of vendors; eligibility of mobile homes; program time frame; and implications for cities seeking community choice aggregation and the PG&E sponsored Voting Rights Act placement on the ballot.

President Jacobs Gibson thanked Mr. Rapport for his report.

9. ABAG's SUSTAINABLE COMMUNITIES STRATEGY WORK CONCEPTS**

Ezra Rapport, ABAG Deputy Executive Director, briefed the Board on ABAG's Sustainable Communities Strategy (SCS) work concepts. He described modeling requirements, the policy framework for SB 375, the convergence of land use planning and transportation investment, and the impact of SB 375 on ABAG. He also described the Sustainable Communities Strategy, ABAG's adopted performance measures, the FOCUS program, ABAG's programs related to climate change, and the impact of climate change on the Bay Area. He spoke about a regional assessment, the San Diego Foundation Model, and Integrated Planning Model, as well as developing a public participation process and alternatives. He also spoke on CEQA issues and the transit priority EIR, and funding SB 375 planning and resources available through SB 406.

Members discussed planning and partnership with the Bay Area Air Quality Management District and other regional agencies; obtaining support for SB 279; the tension between development and preparing for sea level rise; SB 375 as a component of AB 32; concerns about CEQA streamlining; and regional implementation and resources for jurisdictions.

President Jacobs Gibson thanked Mr. Rapport for his report.

10. LEGISLATION & GOVERNMENTAL ORGANIZATION COMMITTEE REPORT**

President Jacobs Gibson recognized Committee Chair Carole Dillon-Knutsen, Councilmember, City of Novato, who reported on recommendations on bills for consideration in the 2009 Legislative Session, including AB 744 (Torrice), Transportation: Toll Lanes, Express Lane Network (support); AB 881 (Huffman), Sonoma County Regional Climate Protection Authority: Greenhouse Gas Emissions (support); SB 406 (DeSaulnier), Land Use: Environmental Quality (update); AB 18 (Knight), Local Government: City Councils (support); AB 46 (Blakeslee), Energy: Energy Conservation Assistance (watch); AB 155 (Mendoza), Local Government: Bankruptcy (oppose); AB 814 (Krekorian), Firearm Surrender Process and Procedure (support); AB 962 (DeLeon), Ammunition (support).

Councilmember Dillon-Knutsen reported that the committee heard a report from the Youth Gun Violence Task Force on model ordinances and resolutions. The committee recommended the Executive Board review the model ordinances and resolutions and take action at the September Executive Board meeting.

President Jacobs Gibson recognized a motion by Chair Dillon Knutsen, and seconded by Jack Gingles, Mayor, City of Calistoga, to approve the committee report, except AB 744 (HOT lanes), and to submit the Youth Gun Violence Task Force recommended model ordinances and resolutions to members for review. The motion passed unanimously.

President Jacobs Gibson recognized a motion by Supervisor Kondylis, and seconded by Supervisor Gioia, to support AB 744. Members discussed HOT lanes and amendments to the bill. The ayes were 24, the nays were three (Adams, Kerns, Dillon Knutsen). The motion passed.

President Jacobs Gibson thanked Chair Dillon-Knutsen for her report.

11. FINANCE & PERSONNEL COMMITTEE REPORT**

President Jacobs Gibson recognized Committee Chair Scott Haggerty, Supervisor, County of Alameda, who reported on committee activities, including: Committee approval of the May 2009 financial report, and noted that the slowdown in recovery from the state is putting a strain on cash on hand, ABAG's bank continues to accept state warrants, members' dues provide cash to cover the slowdown in state reimbursements, and ABAG has deferred cash payment of its 2008-2009 annual required contribution for retiree health care benefits until ABAG's cash position improves; and a report on the proposed labor agreement with SEIU Local 1021.

President Jacobs Gibson recognized a motion by Chair Haggerty, and seconded by Supervisor Gioia, to approve the committee report. The motion passed unanimously.

The Board entered closed session at 9:00 p.m.

The Board entered open session at about 09:15 p.m.

Chair Haggerty reported that members met with ABAG's labor team regarding a proposed labor agreement with SEIU Local 1021.

President Jacobs Gibson recognized a motion by Chair Haggerty, which was seconded, to approve the proposed labor agreement with SEIU Local 1021. The motion passed unanimously.

President Jacobs Gibson thanked Chair Haggerty for his report.

12. ADJOURNMENT

Meeting adjourned at approximately 9:16 p.m.


Henry L. Gardner, Secretary-Treasurer

** Indicates attachments.

*** For information on the L&GO Committee, contact Patricia Jones at (510) 464 7933 or PatJ@abag.ca.gov, or Kathleen Cha at (510) 464 7922 or KathleenC@abag.ca.gov.

Summary Minutes
ABAG Executive Board Meeting
No. 368, July 16, 2009

All ABAG Executive Board meetings are recorded. To arrange for review of these tapes, please contact Fred Castro, Clerk of the Board, at (510) 464-7913 or FredC@abag.ca.gov.

**Association of Bay Area Governments
Executive Board
Friday, September 18, 2009
Project Review**

.1 Federal Grant Applications Being Transmitted to the State Clearinghouse

Impact Area **MULTI-COUNTY**
Applicant: Renewable Energy Development Institute
Program: Department of Energy
Project: USDA, Rural Development Housing Preservation Grant application from Renewable Energy Institute under Executive Order 12372.
Description: provide affordable assistance to maximize energy and water efficiency measures being installed through weatherization programs, such as roof repairs, minor envelope repair (beyond the scope of weatherization programs), and minor black mold mitigation to improve the inhabitants health and safety. In addition, this program will utilize leveraged funds from CDBG and Low Income Home Energy Assistance Program (LIHEAP).
Cost: Total \$3,200,000.00 Federal \$100,000.00 State: \$2,500,000.00
 Applicant \$150,000.00 Local \$450,000.00
 Other \$0.00
Contact: Perri Kaller (707) 459-1256
 ABAG Clearinghouse Numbe 14767

Impact Area **MULTI-COUNTY**
Applicant: Caltrain - Peninsula Corridor Joint Powers Board
Program: Department of Transportation
Project: CA-90-Y761 Diridon Station Upgrades (STP)
Description: Diridon Station Track/Signal/Terminal/Rehabilitation Upgrades
Cost: Total \$564,781.00 Federal \$500,000.00 State: \$0.00
 Applicant \$0.00 Local \$64,781.00
 Other \$0.00
Contact: Joel Slavit (650) 508-6269
 ABAG Clearinghouse Numbe 14768

San Mateo County

Applicant: CalTrain - Peninsula Corridor Joint Powers Board
Program: Department of Transportation
Project: Signal/Communication Rehabilitation / Caltrain/ACE Santa Clara Train Station CA90-Y696-01 (First Amendment)
Description: Signal/Communication Rehabilitation / Caltrain/ACE Santa Clara Train Station
Cost: Total \$5,555,267.00 Federal \$4,444,213.00 State: \$0.00
 Applicant \$0.00 Local \$1,111,054.00
 Other \$5,555,267.00
Contact: Joel Slavit (650) 508-6269
 ABAG Clearinghouse Numbe 14773

San Mateo County

Applicant: Caltrain - Peninsula Corridor joint Powers Board
Program:
Project: Caltrail/ACE Santa Clara Station CA-05-0238-01 (First Amendment
Description: The JPB is requesting federal funding in the amount of 88,441 for the Caltrain/ACE Santa Clara Station as part of an amendment to this existing application

Cost:	Total	\$1,100,552.00	Federal	\$0.09	State:	\$0.00
			Applicant	\$0.00	Local	\$220,111.00
					Other	\$0.00

Contact: Joel Slavitt (650) 508-6269
ABAG Clearinghouse Number 14774

San Mateo County

Applicant: San Mateo County Transit District (SamTrams)
Program:
Project: Section 5307 Urbanized Area Formula Program Grant application CA-90-Y768
Description: Buy Replacements Fixed Route Buses; Facility/Equipment Rehabilitation/Replacement; Schedule and Database Software Enhancements; Preventive Maintenance

Cost:	Total	\$27,987,444.00	Federal	\$22,389,955.00	State:	\$0.00
			Applicant	\$0.00	Local	\$5,597,489.00
					Other	\$0.00

Contact: Rebecca Arthur, Administrator (650) 508-6200
ABAG Clearinghouse Number 14783



M E M O

Date: August 31, 2009

To: Executive Board

From: 
Fred Castro
Clerk of the Board

Subject: **ELECTION CALENDAR - PRESIDENT AND VICE PRESIDENT**

ABAG's bylaws provide for the election of the President and Vice President of the Association every two years. An election of officers occurs in 2009.

With the Board's concurrence and in accordance with the election procedures adopted by the Board, the following schedule will be followed:

ELECTION CALENDAR

- The offices to be filled are those of the President and Vice President of the Association. The term of office for these positions begins January 1, 2010 and expires December 31, 2011.
- Procedures for the election of President and Vice President will be forwarded to each voting member and clerk on Friday, September 18, 2009.
- The period for filing nomination petitions with the Executive Director ends at noon on Friday, October 9, 2009. Nomination petitions must be obtained from the Executive Director of the Association.
- Ballots will be mailed to county and city clerks and others having charge of elections by Friday, October 16, 2009.

IMPORTANT DATES
September 18, 2009 Election procedures sent to each voting member and clerk.
October 9, 2009 Nomination petitions filing period ends.
October 13, 2009 Certification of non-contested election notice sent to county and city clerks and others having charge of elections.
October 16, 2009 Ballots mailed to county and city clerks and others having charge of elections.
October 19 to November 2, 2009 Completed ballots filed with the Executive Director.
November 4, 2009 Opening and counting of ballots at ABAG's offices.

Item 6D



Election Calendar – President and Vice President

August 31, 2009

2

- Completed ballots must be filed with the Executive Director no earlier than Monday, October 19, 2009 and no later than 12 noon on Monday, November 2, 2009.
- Opening and counting of ballots will be conducted on Wednesday, November 4, 2009 at ABAG's offices.
- Pursuant to the election rules, if no election is to be conducted because there is only one candidate for each office, a certification of election notice is to be mailed to county and city clerks and others having charge of elections by Tuesday, October 13, 2009.

Recommended Action: The Executive Board will be asked to adopt the election calendar. In addition, at the Board meeting President Jacobs Gibson will appoint a canvassing committee of three members, two of whom will be members of the Board, to count the ballots if there is a contested election for either or both of the seats. The Board will be asked to confirm the appointment of the committee members.



MEMO

September 2, 2009

To: ABAG Executive Board

From: Judy Kelly, Director
San Francisco Estuary Project

Re: Authorization to Enter into a Contract with CalFed/CA Dept. of Natural Resources
to Provide Support for the CALFED Science Program (CSP).

Executive Summary

ABAG/SFEP has historically provided institutional support for multi-agency planning, environmental and scientific projects, estuarine and scientific public education and outreach in regions within the CALFED Program solution area. This contract continues a longstanding working relationship by engaging a collaborator that has a strong and positive history and can provide continuity for existing projects. ABAG/SFEP has provided technical, administrative and communication support to the CALFED Science Program through several mutually beneficial contracts since 2001. SFEP and ABAG's ecosystem management goals and science needs overlap and are compatible with CALFED Program goals.

Under this contract, ABAG/SFEP will continue providing technical, communication and administrative support for the Science Program. Tasks include identifying and contracting with scientific experts for panels, boards, peer review and other efforts requiring scientific expertise; supporting workshops and technical meetings; and providing support for the biennial Science Program and State of the Estuary Conferences. The contract continues implementation of the Comprehensive Conservation and Management Plan for the San Francisco Estuary.

Recommended Action:

Authorization is requested for the Executive Director or designee to enter into a new two-year contract on behalf of ABAG/SFEP with the Natural Resources agency to continue providing support for the CALFED Science Program. The contract amount will not exceed \$300,000. A proposed resolution approving this contract is included in the meeting materials.

Next Steps:

SFEP will provide the Resolution approving this contract to the Science Program for addition to their contract package prior to DGS approval.

Attachment: Draft resolution

ASSOCIATION OF BAY AREA GOVERNMENTS

RESOLUTION NO. _____

**AUTHORIZING THE EXECUTIVE DIRECTOR, OR DESIGNEE, TO ENTER INTO AND
ACCEPT CONTRACT FUNDS FROM THE CALIFORNIA NATURAL RESOURCES
AGENCY
FOR SUPPORT OF THE CALFED SCIENCE PROGRAM**

WHEREAS:

1. The California Natural Resources Agency budget provides resources to support the CalFed Science Program; and
2. The Association of Bay Area Governments (ABAG)/San Francisco Estuary Project (SFEP) is prepared to assist the CalFed Science Program through a multi-year contract supporting the following tasks:
 - Identify, retain and provide scientific experts for panel, boards, peer review, and other scientific efforts;
 - Organize and manage technical and administrative support for expert advisors, panels, boards and researchers;
 - Provide support for workshops, meetings, the biennial Science Program and State of the Estuary Conferences;

THEREFORE BE IT RESOLVED THAT:

1. The ABAG Board authorizes the Executive Director or designee to negotiate and enter into a 2-year contract and any amendments with the California Natural Resources Agency not to exceed \$300,000 in support of the Science Program.
2. That the ABAG Board authorizes the Executive Director, or designee, to negotiate and execute contracts and agreements to implement the contract in accordance with its scope of work.

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the ABAG Board held on September 17, 2009.

Clerk to the Board

September 2, 2009

To: ABAG Executive Board

From: Judy Kelly, Director
San Francisco Estuary Project

Re: Authorization to Apply for US Environmental Protection Agency (EPA) Water Quality Grant

Authorization to Apply for US Environmental Protection Agency Grant for CCMP Implementation Projects under the San Francisco Bay Area Water Quality Improvement Funds

Executive Summary

The US EPA, Region 9 has issued a Request for Proposals for \$5 million in funds available under the San Francisco Bay Water Quality Improvement Fund. ABAG/ SFEP seeks to apply for the funds to cover a number of projects to implement the CCMP (Comprehensive Conservation and Management Plan) for the San Francisco Estuary. The ABAG/SFEP proposal will fund projects in Bay-wide geographical areas. Ten or more individual projects will be proposed for funding with implementing agency and nonprofit partners for wetland and riparian habitat restoration, stormwater management (green infrastructure and greenscape), and TMDL implementation.

Recommended Action

Authorization is requested for ABAG/SFEP to submit a proposal for \$ 5 million dollars in grant funding from US EPA's San Francisco Bay Area Water Quality Improvement Funds, and, if awarded, to enter into an agreement with US EPA. The grant period is 2-4 years (with awards being announced October 2009) and matching funds provided by participating partners.

Next Steps

ABAG/SFEP will submit a proposal to US EPA by the deadline of September 23, 2009.

MEMO

TO: ABAG EXECUTIVE BOARD

**FROM: Judy Kelly, Director
San Francisco Estuary Partnership**

DATE: September 3, 2009

**RE: Request for Authorization to Amend an Interagency Agreement with California
Dept. of Transportation (Caltrans) to Provide Technical Support for Permit
Processing**

Executive Summary

Approval is requested for an amendment to an existing contract with CalTrans which funds full time staff members to assist with preliminary review and processing applications for 401 Water Quality Certifications, Waste Discharge Requirements, programmatic maintenance, water quality protection activities under Caltrans' National Pollutant Discharge Elimination System permits and waivers and other RWQCB authorizations required for Caltrans projects and activities under the jurisdiction of the San Francisco Regional Water Quality Control Board and the North Coast Regional Water Quality Control Board.

The amendment is estimated to cost \$ 252,019 and the time period is for one year, October 1, 2009 – September 30, 2010. No ABAG match is required. The project will assist with implementation of the Comprehensive Conservation and Management Plan for the San Francisco Estuary.

Recommended Action

Authorization is requested for the Executive Director or designee to enter into an interagency agreement modification with Caltrans to provide technical resources to the San Francisco Bay Regional Water Quality Control Board (RWQCB) and the North Coast Regional Water Quality Control Board.

Next Steps

Review and execution of the contract amendment.

Item 6.G.

M E M O

Date: September 8, 2009

To: Executive Board

From: Patricia Jones *pjones*
Assistant Executive Director

Subject: **Purchase Order – Office Supplies Provider: Radstons Office Plus**

Background and Project Description

On June 17, 2009, MTC, on behalf of itself and the Association of Bay Area Governments, distributed an Invitation to Bid (IFB) to 30 local office supply vendors to provide next-day delivery of general office supplies for MTC and ABAG. Three bids were received from: 1) Blaisdell's, San Leandro, CA; 2) Radstons Office Plus, Hercules, CA; and 3) Select Business Products Incorporated, Danville, CA. The lowest responsive responsible bidder was Radstons Office Plus. Radstons is MTC and ABAG's current vendor.

If approved, Radstons will provide general office supplies (including information technology and ergonomic supplies) between September 2009 and June 30, 2010, with an option to renew for three additional consecutive one-year periods ending June 30, 2013.

Recommendation

We recommend that the Executive Board authorize the Executive Director or his designee to issue a purchase order to Radstons Office Plus to provide general office supplies during FY 2009-2010, in an amount not to exceed \$30,000, with an option to renew for three additional consecutive one-year periods ending June 30, 2013, subject to approval of future agency budgets.





Submitted to: ABAG Executive Board

Submitted by: Ken Kirkey, Planning Director

Subject: 3rd Call FOCUS Priority Development Area Nominations - Staff Recommendations

Executive Summary

At the September 17th ABAG Executive Board meeting, staff will seek board approval of Priority Development Area (PDA) applications submitted by local governments this year. With Executive Board approval, the recommended areas will be adopted as part of FOCUS, the San Francisco Bay Area's Regional Blueprint Plan. Staff will also seek board approval for changes to the review process of future PDA designations, including adjustments to the transit service criteria. The ABAG Regional Planning Committee endorsed the staff recommendations as outlined in this report at its last meeting on August 5, 2009.

Recommended Action

Staff recommends that the Executive Board approves the list of new Planned and Potential PDAs; the proposed process for accepting, reviewing and designating future PDA applications; and the proposed revision and clarification of the PDA transit-service criteria.

Next Steps

ABAG and Metropolitan Transportation Commission (MTC) will work with local jurisdictions to assist with the implementation of the Priority Development Areas (PDAs) as complete communities. This work will be advanced through the provision of technical assistance, station area planning grants, and capital infrastructure funding on a competitive basis to the PDAs.



MEMO

DATE: September 4, 2009
TO: Executive Board
FROM: Ken Kirkey, Planning Director
SUBJECT: 3rd Call Priority Development Area Nominations - Staff Recommendations

Overview

At the September 17th ABAG Executive Board meeting, staff will seek board approval of Priority Development Area (PDA) applications submitted by local governments this year. With Executive Board approval, the recommended areas will be adopted as part of FOCUS, the San Francisco Bay Area's Regional Blueprint Plan. Staff will also seek board approval for changes to the review process of future PDA designations, including adjustments to the transit service criteria. The ABAG Regional Planning Committee endorsed the staff recommendations outlined in this report at its last meeting on August 5, 2009.

Background

FOCUS is a voluntary, incentive-based, multi-agency development and conservation strategy for the San Francisco Bay Area. Priority Development Areas are areas nominated by local governments for adoption by ABAG. Working in partnership with local jurisdictions and its partner regional agencies, ABAG seeks to support the development of the PDAs as complete communities. Complete communities are mixed-use neighborhoods served by transit with shops, parks and other amenities to provide for the day-to-day needs of residents. PDAs are within an existing community, near transit, and are either planned for more housing or there is a vision to create such a plan. There are over 120 Priority Development Areas. The first set of PDAs was adopted by the Executive Board in November 2007 followed by the adoption of additional PDAs in November 2008. A third call for Priority Development Area applications was held this year, providing local governments with another opportunity to nominate areas for adoption. The adopted Priority Development Areas encompass the vast majority of transit-served neighborhoods in the nine county Bay Area.

A variety of incentives have been made available to the Priority Development Areas since the FOCUS program was launched two years ago in the form of planning grants, technical assistance, and capital infrastructure funding. Eighteen PDAs are currently advancing processes to develop specific plans or other neighborhood-level plans. These planning efforts supported by \$7.5 million in funding from the Metropolitan Transportation Commission (MTC) and administered by ABAG and MTC staff represent a significant, strategic effort to advance planning in the PDAs. Additional funding for neighborhood/station area planning will be provided to the PDAs on a competitive basis within the next few years.

Beginning in early July, technical assistance is being provided to PDAs on a competitive basis to support planning efforts (e.g. model ordinances, marketing studies, and parking policies) that will advance implementation of PDA-related plans. PDAs are also well situated to receive capital infrastructure funding from MTC's Transportation for Livable Communities (TLC) program. The recently adopted *Transportation 2035 Plan* allocates \$2.2 billion over 25 years to TLC. The Priority Development Areas

have been recognized in funding eligibility criteria related to other programs initiated by MTC, the Bay Area Air Quality Management District and ABAG's San Francisco Estuary Project. Priority Development Areas have also been highly competitive relative to funding from state grant programs that support infill and transit-oriented development (TOD). For example, in mid-July the California Department of Housing and Community Development announced that twenty Bay Area TOD and infill projects located within PDAs had been awarded \$229 million in Proposition 1C-related funding.

Priority Development Area Applications Received and Recommendations

The application deadline for submitting a PDA application this year was June 12th, and local government resolutions of support were accepted until July 17th. Nine PDA applications were received with areas proposed for designation in Benicia, San Rafael, East Palo Alto, San Jose, Pinole, South San Francisco, and Sonoma County. Staff have reviewed the applications received and have summarized the recommendations in the following tables. Areas are reviewed against the following criteria for designation as a PDA:

- The area is within an existing community.
- The area is near existing or planned fixed transit (or served by comparable bus service).
- The area is planned or plans will be developed for more housing.

Designation Criteria Definitions

The following definitions are intended to clarify the designation criteria:

- Area - means the planning area being proposed for designation as a priority development area under the FOCUS program. Since the program seeks to support area or neighborhood-level planning, the recommended area size is 100 acres, which is approximately a ¼ mile radius.
 - A *planned area* has an existing plan that is more detailed than a general plan, such as a specific plan or a neighborhood plan.
 - A *potential area* may be envisioned as a potential planning area that is not currently identified in a plan or may be part of an existing plan that needs changes.
- Location within the existing community – means that the area is within an existing urbanized area, lies within an urban growth boundary or limit line if one is established, and has existing or planned infrastructure to support development that will provide or connect to a range of services and amenities that meet the daily needs of residents making non-motorized modes of transportation an option.
- Developed for more Housing – means the area has plans for a significant increase in housing units, including affordable units, which can also be a part of a mixed use development that provides other daily services, maximizes alternative modes of travel, and makes appropriate land use connections.
- Near Transit – means that the area is typically a half mile from rail stations and ferry terminals, high frequency bus or bus rapid transit corridors.

Areas Not Recommended for Adoption:

The following PDA applications are not being recommended for adoption. These areas are as follows:

Area	Jurisdiction	Recommended Designation	Notes
Northern Gateway	Benicia, City of	Do not designate	Lacks sufficient transit
Airport/Larkfield	Sonoma County	Do not designate	Lacks sufficient transit
Russian River/West County	Sonoma County	Do not designate	Lacks sufficient transit

The Springs, Sonoma Valley	Sonoma County	Do not designate	Lacks sufficient transit
----------------------------	---------------	------------------	--------------------------

In addition to having very limited bus service or none at all, the above areas do not appear to have capacity for a significant increase in housing units, as part of a mixed use development that provides other daily services. It should be noted that a few of the PDAs that have been previously adopted lack existing high frequency transit. However, these PDAs either encompass the location of a future station area identified as part of MTC's Resolution 3434 or the areas have 30-minute headways (service frequencies) to a regional transit center during peak hour commutes. These adopted PDAs with relatively modest existing transit service have other criteria-related attributes including existing walkable, mixed-use neighborhoods or the potential for such a neighborhood providing for a significant increase in housing units to maximize alternative modes of travel, and provide appropriate land use connections.

As described above, the existing designated PDAs encompass most of this region's transit-served, infill neighborhoods. Correspondingly, the PDAs provide a very solid base for strategic investments that leverages the region's transit infrastructure and strengthens its existing communities. PDAs will clearly serve as a central component of SB375. However, staff recognizes the importance of focused growth policy development and planning in the region for areas that are not appropriate for designation as FOCUS Priority Development Area or Priority Conservation Area (PCAs) - near-term land conservation opportunities. Those areas will require important policy consideration related to implementing SB375 in the Bay Area.

Areas Recommended for Adoption:

The following areas are being recommended for designation as PDAs:

Area	Jurisdiction	Recommended Designation	Notes
Appian Way Corridor	Pinole, City of	Potential	Specific plan underway
Civic Center/North San Rafael Town Center	San Rafael, City of	Planned	
Ravenswood Business District and 4 Corners	East Palo Alto, City of	Potential	Station Area Plan Underway
South San Francisco Downtown	South San Francisco, City of	Potential	Pending adoption of new zoning
Cottle Transit Village and Shopping Center	San Jose, City of	Planned	

Areas recommended for adoption are categorized as Planned and Potential PDAs. Planned PDAs have both an adopted neighborhood-level land use plan and a resolution of support from the respective city council or county board. Planned PDAs are given priority for capital infrastructure funding due to their readiness for implementation. Both Planned and Potential PDAs are eligible for planning grants and technical assistance. The Executive Board has empowered staff to advance PDAs from the Potential category to the Planned category upon completion of a neighborhood-level plan and or council resolution.

Proposed Changes to Review Process and Criteria for Designating Future PDA Applications

Proposed Review Process

Given that most of the transit-served areas in the San Francisco Bay Area are now designated as PDAs, staff recommends that future PDA applications be accepted on a rolling basis, reviewed quarterly, and submitted to the RPC and Executive Board for approval of the designation recommendation. This

process would replace a formal call for applications on a yearly basis. Both of these proposed changes are intended to provide clarity for local jurisdictions that will be considering whether or not to submit PDA nominations in the future.

Proposed Transit Service Criteria

In the interest of providing clarity regarding the criteria for Priority Development Areas, staff recommends revision of the transit service criteria, currently defined as the area that “is typically a half mile from rail stations and ferry terminals, high frequency bus or bus rapid transit corridors.” Staff recommends that PDA transit service criteria be defined by (1) the area around an existing rail station or ferry terminal (typically a half-mile around the station), (2) the area served by a bus or bus rapid transit corridor with minimum headways of 20 minutes during peak weekday commute periods, or (3) the area defined as a planned transit station by MTC’s Resolution 3434.

RECOMMENDATION

STAFF RECOMMENDS:

- THAT the Executive Board approves the list of new Planned and Potential PDAs; the proposed process for accepting, reviewing and designating future PDA applications; and the proposed revision and clarification of the PDA transit-service criteria.

MEMO

To: ABAG Executive Board
From: Paul Fassinger, ABAG Research Director
Date: September 2, 2008
Subject: Building Momentum Document and Conference

Summary

Building Momentum: Projections and Priorities 2009 completes the efforts made by ABAG and its regional partners to produce a long-term forecast for the region. It also relates that forecast to the region's Priority Development and Conservation Areas to understand the pattern of regional change. Local and regional agencies continue to look at policies to promote a variety of objectives, or performance targets. The performance targets adopted by the Executive board are evaluated as part of the forecast. While the land use pattern we see in the forecast is helpful, it does not allow us to reach the targets. Changes to land use patterns and other measures will be important as we look to meet the targets the state is currently developing for regional greenhouse gas reduction.

The document was released out at a conference held at the Metrocenter on August 28th.

Building Momentum

Building Momentum documents ABAG's biennial demographic and economic forecast for the San Francisco Bay Area. In this forecast we acknowledge the specific changes we foresee for the Bay Area over the next 25 years. An additional 1.7 million people will live here and over 1.6 million new jobs will be created. An astounding 600,000 homes will be built. We expect to have a much older population and higher energy costs. We also anticipate changes from global warming: potentially rising sea levels, a reduced snow pack, additional forest fires, and more record heat days. Building momentum represents the region's collective plans for these imminent changes.

Nearly 60 local government entities have nominated over 120 Priority Development Areas (PDAs). Together the PDAs comprise about 115,000 acres of urban and suburban land – approximately three percent of the Bay Area's total land area. Based upon the regional projections, the PDAs could accommodate over half of the Bay Area's projected housing growth to the year 2035, mostly at relatively moderate densities.

Priority Conservation Areas (PCAs) are open space areas of regional significance that have broad community support and an urgent need for protection. The 98 PCAs in the Bay Area provide important agricultural, natural resource, historical, scenic, cultural, recreational, and/or ecological values and ecosystem functions.

We know that things will be different by the year 2035, but will we have achieved our objectives by then? By 2035, we have determined that we should drive less and have reduced traffic congestion. We would like cleaner air, lower greenhouse gas emissions, limited development on open space lands, and improved access to jobs and services. We also hope to sufficiently lower housing and travel costs, especially for those who can least afford to pay for those basic needs.

This year's long-term forecast demonstrates that actually achieving these objectives remains our challenge. The forecast reflects the Bay Area's collective land use and transportation investment decisions of today and how those decisions will or will not realize our goals. And for the most part, we are falling well short. The regional target for driving is to reduce travel by almost two miles per person, per day; instead driving is projected to increase by one mile per day. The climate change goal is to reduce transportation-related carbon emissions by 40,000 tons per day; instead our land use plans and investment decisions will result in a decrease of only 19,000 daily tons.

Over the next year the state will be adopting targets for regional greenhouse gas reductions by 2020 and 2035. The work that the regional agencies have collectively produced in Building Momentum is a first step in helping the region to think about these issues, and evaluating our results.

Building Momentum is about change. Whatever the nature of change, acknowledging it, planning for it, and leading through it is an essential and ongoing process.



Legal Community Against Violence

expertise, information & advocacy to end gun violence

LCAV Model Law
**PROHIBITING THE POSSESSION OF LARGE CAPACITY AMMUNITION MAGAZINES
(LOCAL GOVERNMENTS IN CALIFORNIA)**

May 2009

About LCAV and Our Model Laws

Legal Community Against Violence (LCAV) is a national public interest law center dedicated to preventing gun violence. As the first and only lawyers' organization in the gun violence prevention movement, LCAV focuses on policy reform at the state and local levels, marshaling the expertise and resources of the legal community in support of gun violence prevention.

LCAV serves governmental and nonprofit organizations nationwide. Our services include legal and technical assistance in the form of legal research and analysis, development of regulatory strategies, legislative drafting, and in certain circumstances, calling upon our network of attorney members to help secure *pro bono* litigation assistance. We also engage in educational outreach and advocacy, producing reports, analyses and model laws. Our website, www.lcav.org, is the most comprehensive resource on U.S. firearm laws in either print or electronic form.

Model laws provide a starting point: a framework from which state or local legislation can be drafted, reviewed, debated, and ultimately adopted. California jurisdictions using this model must integrate it with existing ordinances as appropriate.

This report and model law do not offer, and are not intended to constitute, legal advice.

Executive Summary

Legal Community Against Violence (LCAV) has developed a model ordinance for use by California jurisdictions seeking to prohibit the possession of large capacity ammunition magazines.

The ability of an automatic or semi-automatic firearm to fire multiple bullets without reloading is directly related to the capacity of the firearm's feeding device or "magazine."¹ Inside the magazine, a spring forces the cartridges into position to be fed into the chamber by operation of the firearm's action. Although the statutory definitions vary, magazines with a capacity of more than 10 rounds of ammunition are generally considered to be "large capacity" magazines. In some cases, large capacity magazines can hold up to 100 rounds of ammunition. Other types of firearms, in contrast, are generally capable of holding far less ammunition. For example, revolvers typically hold six rounds of ammunition in a rotating cylinder. Although detachable large capacity magazines are typically associated with machine guns or semi-automatic assault

¹ References for the facts identified in the Executive Summary can be found in the "Findings" portion of the model law below.

weapons, such devices are available for any semiautomatic firearm that accepts a detachable magazine, including semi-automatic handguns.

Because of their ability to hold so many rounds of ammunition, large capacity magazines significantly increase the lethality of the automatic and semi-automatic firearms using them. Large capacity magazine bans, therefore, reduce the capacity, and thus the potential lethality, of any firearm that can accept a large capacity ammunition magazine. In 1994, in recognition of the dangers posed by these devices, Congress adopted a law prohibiting the transfer and possession of large capacity magazines as part of the federal assault weapon ban. That law was filled with loopholes, however. In addition, the federal law was enacted with a sunset clause, providing for its expiration after ten years. Despite overwhelming public support for the law, Congress allowed the federal ban to expire on September 13, 2004.

Since January 1, 2000, California law has, with limited exceptions, prohibited any person from manufacturing, importing into the state, keeping for sale, offering or exposing for sale, giving, or lending any large capacity magazine. California does not ban the *possession* of large capacity magazines, however.

The States of Hawaii, Massachusetts, New York, and New Jersey, and the City of Richmond, California are among the jurisdictions that currently prohibit the possession of large capacity magazines.

This model law prohibits the possession of large capacity ammunition magazines and is designed specifically for use by local governments in California. LCAV is available to provide additional legal research, analysis, and drafting assistance to those seeking to enact this or other laws to reduce gun violence. Please see www.lcav.org for more information about our services, and contact us at 415-433-2062 if we can be of assistance.

Text of Model Law

CHAPTER 1 BANNING THE POSSESSION OF LARGE CAPACITY MAGAZINES

Sec. 1	Findings
Sec. 2	Definition
Sec. 3	Prohibition on possession of large capacity magazines
Sec. 4	Exemptions
Sec. 5	Penalty
Sec. 6	Severability

Sec. 1 Findings

[Findings regarding the need for and benefits of this law should be included. Findings in support of a law are most effective when they are specific and localized. When possible, local data from law enforcement, the public health community, and the media should be added. General findings are provided below.]

Whereas, in 2005, 3,434 people died from firearm-related injuries in California, and 4,553 other people were hospitalized for non-fatal gunshot wounds;²

Whereas, the ability of an automatic or semi-automatic firearm to fire multiple bullets without reloading is directly related to the capacity of the firearm's feeding device or "magazine." Inside the magazine, a spring forces the cartridges into position to be fed into the chamber by operation of the firearm's action,

Whereas, magazines with a capacity of more than 10 rounds of ammunition are generally considered to be "large capacity" magazines, although the statutory definitions vary. In some cases, large capacity magazines can hold up to 100 rounds of ammunition. Other types of firearms, in contrast, are generally capable of holding far less ammunition; for example, revolvers typically hold six rounds of ammunition in a rotating cylinder,

Whereas, although detachable large capacity magazines are typically associated with machine guns or semi-automatic assault weapons, such devices are available for any semiautomatic firearm that accepts a detachable magazine, including semi-automatic handguns,

Whereas, the ability of large capacity magazines to hold numerous rounds of ammunition significantly increases the lethality of the automatic and semi-automatic firearms using them,

Whereas, large capacity magazine bans reduce the capacity, and thus the potential lethality, of any firearm that can accept a large capacity magazine,

² California Department of Health Services, Epidemiology and Prevention for Injury Control Branch (EPIC), *Firearm Injuries in California* (2008).

Whereas, in 1994, in recognition of the dangers posed by these devices, Congress adopted a law prohibiting the transfer and possession of large capacity magazines as part of the federal assault weapon ban. That law was filled with loopholes, however,³

Whereas, the federal law was enacted with a sunset clause, providing for its expiration after ten years. Despite overwhelming public support for the law, Congress allowed the federal ban to expire on September 13, 2004,⁴

Whereas, a researcher hired by the U.S. Department of Justice to analyze the effect of the 1994 federal ban on assault weapons (AWs) and large capacity magazines (LCMs) found that, “attacks with semiautomatics including AWs and other semiautomatics equipped with LCMs result in more shots fired, more persons hit, and more wounds inflicted per victim than do attacks with other firearms,”⁵

Whereas, since January 1, 2000, California Penal Code § 12020(a)(2), (b) has, with limited exceptions, prohibited the manufacture, importation into the state, keeping for sale, offering or exposing for sale, giving, or lending of large capacity magazines. California law does not, however, prohibit the possession of these magazines,⁶ and this gap in the law threatens public safety,

Whereas, the States of Hawaii, Massachusetts, New York, and New Jersey, and the City of Richmond, California are among the jurisdictions that currently prohibit the possession of large capacity magazines,

Therefore, the [jurisdiction/governing body] hereby adopts the following:

³ Violent Crime Control and Law Enforcement Act of 1994, P.L. 103-322, codified at: 18 U.S.C. §§ 921(a)(31), 922(w)(1), (2). Because the federal law only applied to large capacity ammunition magazines manufactured after the law’s effective date, possession and transfer of magazines manufactured prior to that date were still legal. Manufacturers took advantage of this loophole by boosting production of these devices in the months leading up to the ban, creating a legal stockpile of these weapons. This loophole also made enforcement difficult, as most magazines do not have any identifying marks to distinguish those that were manufactured before or after the effective date of the ban. Importation of Ammunition Feeding Devices with a Capacity of More Than 10 Rounds, 61 Fed. Reg. 39, 320 (July 29, 1996) (amending 27 C.F.R. § 178.119). As a result, these devices continued to be readily available nationwide, except where specifically banned by state or local law.

⁴ For more information about the federal law, please see Legal Community Against Violence, *Regulating Guns in America: An Evaluation and Comparative Analysis of Federal, State and Selected Local Gun Laws 28-29* (February 2008), available at: http://www.lcav.org/library/reports_analyses/RegGuns.Classes.of.Weapons.pdf.

⁵ Christopher S. Koper, *An Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994-2003*, Report to the National Institute of Justice, United States Department of Justice 3 (June 2004).

⁶ Penal Code § 12020(a)(2), (b). A “large capacity magazine” is defined as any ammunition feeding device with the capacity to accept more than ten rounds, but does not include any .22 caliber tube ammunition feeding device, any feeding device that has been permanently altered so that it cannot accommodate more than ten rounds, or any tubular magazine that is contained in a lever-action firearm. Penal Code § 12020(c)(25). California law contains certain exceptions. See Cal. Penal Code § 12020; Cal. Code Regs. tit. 11, §§ 5480 – 5484.

Sec. 2 Definition

“Large capacity magazine” means any ammunition feeding device with the capacity to accept more than 10 rounds, but shall not be construed to include any of the following:

- a) A feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds;
- b) A .22 caliber tube ammunition feeding device; or
- c) A tubular magazine that is contained in a lever-action firearm.⁷

Sec. 3 Prohibition on possession of large capacity magazines

- (a) No person, corporation, or other entity in the City/County* may possess a large capacity magazine.
- (b) Any person who, prior to the effective date of this chapter, was legally in possession of a large capacity magazine shall have 90 days from such effective date to do either of the following without being subject to prosecution:
 - (1) Remove the large capacity magazine from the City/County; or
 - (2) Surrender the large capacity magazine to the Police/Sheriff's Department for destruction.

Sec. 4 Exceptions

Section 3 shall not apply to the following:

- (a) Any government officer, agent, or employee, member of the armed forces of the United States, or peace officer, to the extent that such person is otherwise authorized to possess a large capacity magazine, and does so while acting within the scope of his or her duties;
- (b) A person licensed pursuant to Penal Code § 12071;
- (c) A gunsmith for the purposes of maintenance, repair or modification of the large capacity magazine;

⁷ This definition is identical to the definition in the state law. Penal Code § 12020(c)(25). The expired federal law defined “large capacity ammunition feeding device” as “(1) a magazine, belt, drum, feed strip, or similar device manufactured after the date of the enactment of the Violent Crime Control and Law Enforcement Act of 1994 that has the capacity of, or can be readily restored or converted to accept, more than 10 rounds of ammunition; but (2) does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition.” Violent Crime Control and Law Enforcement Act of 1994, P.L. 103-322, codified at: 18 U.S.C. §§ 921(a)(31), 922(w)(1), (2).

* Where the words “Chief of Police/Sheriff,” “City/County” or similar variations appear, simply select the appropriate designation for your jurisdiction.

- (d) Any entity that operates an armored vehicle business pursuant to the laws of the state, and an authorized employee of such entity, while in the course and scope of his or her employment for purposes that pertain to the entity's armored vehicle business;
- (e) Any person, corporation or other entity that manufactures the large capacity magazine for a person mentioned in subsection (a) or for export pursuant to applicable federal regulations;
- (f) Any person using the large capacity magazine solely as a prop for a motion picture, television, or video production;
- (g) Any holder of a special weapons permit issued pursuant to Penal Code § 12095, 12230, 12250, 12286, 12305, for any of the following purposes:
 - (1) For use solely as a prop for a motion picture, television, or video production;
 - (2) For export pursuant to federal regulations; or
 - (3) For resale to law enforcement agencies, government agencies, or the military, pursuant to applicable federal regulations;
- (h) Any person issued a permit pursuant to Penal Code § 12079 by the California Department of Justice upon a showing of good cause for the possession, transportation, or sale of large capacity magazines between a person licensed pursuant to Penal Code § 12071 and an out-of-state client, when those activities are in accordance with the terms and conditions of that permit;⁸
- (i) Any federal, state or local historical society, museum, or institutional collection which is open to the public, provided that the large capacity magazine is properly housed, secured from unauthorized handling, and unloaded;
- (j) Any person who finds the large capacity magazine, if the person is not prohibited from possessing firearms or ammunition pursuant to federal or state law, and the person possesses the large capacity magazine no longer than is necessary to deliver or transport the same to a law enforcement agency for that agency's disposition according to law; or
- (k) A forensic laboratory or any authorized agent or employee thereof in the course and scope of his or her authorized activities.⁹

Sec. 5 Penalty

Any person violating this chapter is guilty of a misdemeanor.

⁸ Penal Code § 12079 allows the Department of Justice (DOJ) to issue a permit for the possession, transportation, or sale between a state-licensed firearm dealer and an out-of-state client, upon a showing of good cause. This model law exempts persons granted this permit from its provisions, in deference to the DOJ's determination of good cause.

⁹ This list of exceptions is based on state law. *See* Cal. Penal Code § 12020; Cal. Code Regs. tit. 11, §§ 5480 – 5484.

Sec. 6 Severability

If any section, subsection, sentence or clause of this Chapter is for any reason declared unconstitutional or invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity or the enforceability of the remaining portions of this chapter or any part thereof. The City Council/County Board of Supervisors hereby declares that it would have adopted this chapter notwithstanding the unconstitutionality, invalidity or unenforceability of any one or more of its sections, subsections, sentences or clauses.



Legal Community Against Violence

expertise, information & advocacy to end gun violence

LCAV Model Law
**REGULATING FIREARMS DEALERS AND AMMUNITION SELLERS
(LOCAL GOVERNMENTS IN CALIFORNIA)**

September 2009

About LCAV and Our Model Laws

Legal Community Against Violence (LCAV) is a national public interest law center dedicated to preventing gun violence. As the first and only lawyers' organization in the gun violence prevention movement, LCAV focuses on policy reform at the state and local levels, marshaling the expertise and resources of the legal community in support of gun violence prevention.

LCAV serves governmental and nonprofit organizations nationwide. Our services include legal and technical assistance in the form of legal research and analysis, development of regulatory strategies, legislative drafting, and in certain circumstances, calling upon our network of attorney members to help secure *pro bono* litigation assistance. We also engage in educational outreach and advocacy, producing reports, analyses and model laws. Our website, www.lcav.org, is the most comprehensive resource on U.S. firearm laws in either print or electronic form.

Model laws provide a starting point: a framework from which state or local legislation can be drafted, reviewed, debated, and ultimately adopted. California jurisdictions using this model must integrate it with existing ordinances as appropriate.

This report and model law do not offer, and are not intended to constitute, legal advice.

Executive Summary

LCAV has developed a model law for California jurisdictions to regulate firearms dealers and ammunition sellers. As detailed in the findings below, federal and state regulation of these entities is currently inadequate to protect the public safety.

Although federal law requires firearms dealers to obtain a license from the Bureau of Alcohol, Tobacco, Firearms & Explosives ("ATF"), ATF does not have the resources or authority to properly oversee the more than 100,000 firearms dealers, manufacturers, collectors, and others that it licenses ("FFLs").¹ In fact, on average, ATF inspects each FFL only once every 17 years, and the Office of the Inspector General has concluded that inspections by ATF are not fully effective for ensuring that FFLs comply with federal firearms laws. In addition, federal law is silent regarding many important aspects of the dealer's business, such as its location (leaving dealers free to operate out of their homes and near schools and other places children frequent) and on-site security requirements.

¹ References for the facts identified in the Executive Summary can be found in the "Findings" portion of the model law below.

ATF has found that FFLs are the largest source of trafficked firearms. In addition, during fiscal year 2007, ATF found that over 30,000 firearms were missing from FFLs' inventories with no record of sale. In 1998, ATF found that 56% of randomly inspected dealers and 30% of pawnbrokers selling 50 or more guns had violated federal firearms law.

As of November 24, 2008, there were 2,043 federally licensed firearms dealers and pawnbrokers in California. California is among a minority of states that impose additional licensing requirements on firearms dealers, but even there the standards are minimal. As confirmed by a California Court of Appeals in *Suter v. City of Lafayette*, 67 Cal. Rptr. 2d 420 (Cal. Ct. App. 1997), California law authorizes local regulation in this area. Dozens of local governments in California have exercised this authority and now require firearms dealers to obtain a license or permit and impose additional requirements on dealers.

While firearms dealers are regulated somewhat at both the federal and state level, neither federal nor California law currently regulates sellers of ammunition. Jurisdictions with regulations that govern firearms dealers may therefore wish to expand their laws to cover ammunition sellers as well. In fact, a number of California jurisdictions, including Berkeley, Los Angeles, Richmond, Sacramento, and San Francisco, now require sellers of ammunition to obtain a license. Moreover, more than a dozen local jurisdictions in California require ammunition sellers to maintain records of ammunition sales. As detailed in the findings below, these jurisdictions have had great success utilizing these records to identify people who illegally possess firearms, as well as ammunition.

This model law is intended to fill the gaps in the federal and state regulatory oversight of firearms dealers and ammunition sellers. More specifically, the goals of this model law are to help: 1) ensure that dealers' operations will not be detrimental to the public health and safety; 2) prevent and detect illegal trafficking of firearms and ammunition by dealers and their employees; 3) prevent the loss and theft of firearms and ammunition from dealers; and 4) prevent and detect the sale of firearms and ammunition by dealers to persons who are prohibited by law from possessing these items.

The principal elements of this model law include:

- Findings. Findings describe the legal background and policy basis for the law.
- Law Enforcement Permit. Anyone selling firearms, firearm components or ammunition is required to obtain a local law enforcement permit.
- Employee Background Checks. Every employee with access to or control over firearms, firearm components or ammunition is required to undergo a background check.
- On-site Security. Security standards for the business premises include the maintenance of an alarm system and surveillance cameras, and requirements for the safe storage of firearms, firearm components and ammunition when the store is both open and closed for business.
- Inventory Reports. Firearms dealers must submit a report to law enforcement detailing their inventory every six months.
- Liability Insurance. Firearms dealers must carry liability insurance with limits of at least \$1 million per incident.

- Prohibition on Operating in Sensitive Areas. Firearms dealers and ammunition sellers are prohibited from operating in residential neighborhoods or near other sensitive areas, such as schools, daycare centers, or parks.
- Land Use Permit. Firearms dealers and ammunition sellers must obtain a land use permit to ensure that the location of the business complies with the jurisdiction's general plan and the business operations will not be detrimental to the public health and safety of those nearby.
- Ammunition Sales Records. Ammunition sellers are required to make and maintain records of ammunition sales that are available to law enforcement.

This report is based on LCAV's review of existing laws, judicial decisions, policy research, studies, and other gun violence prevention data, and it should answer many questions about the options available to communities regarding firearms dealers and ammunition sellers.

This report contains our nonpartisan analysis, study, and research on gun violence prevention case law and policies, and is intended for broad distribution to the public. Our presentation of this report is based upon our independent and objective analysis of the relevant law and pertinent facts and should enable public readers to form their own opinions and conclusions about the merits of this sample legislation.

Part I of these materials provides the text of the model law. Part II provides examples of legal challenges typically brought against firearms laws and explains that in the majority of cases, courts reject these arguments. Part III describes and responds to anticipated opposition arguments.

LCAV is ready to provide additional legal research, analysis, and drafting assistance to those seeking to enact a law regulating firearms dealers and ammunition sellers, or other laws to reduce gun violence. Please see www.lcav.org for more information about our services.

TABLE OF CONTENTS

About LCAV and Our Model Laws	page 1
Executive Summary.....	page 1
I. Text of Model Law.....	page 5
II. Common Legal Challenges to Gun Violence Prevention Laws.....	page 26
A. The Second Amendment and State Right to Bear Arms.....	page 26
1. The Second Amendment.....	page 26
2. State Right to Bear Arms.....	page 28
B. Equal Protection.....	page 28
C. Due Process.....	page 29
D. Privilege Against Self-Incrimination.....	page 31
E. Preemption and Local Authority to Regulate Firearms.....	page 31
1. Federal Preemption.....	page 31
2. State Preemption.....	page 32
III. Responses to Common Opposition Arguments.....	page 35
Conclusion	page 37

I. Text of Model Law

CHAPTER 1 REGULATION OF FIREARMS DEALERS AND AMMUNITION SELLERS

ARTICLE 1 SALE OF FIREARMS AND AMMUNITION

- Sec. 1 Definitions**
- Sec. 2 Law enforcement permit**
- Sec. 3 Application for permit**
- Sec. 4 Investigation by Chief of Police/Sheriff* and employee background checks**
- Sec. 5 Grounds for permit denial or revocation**
- Sec. 6 On-site security**
- Sec. 7 Liability insurance**
- Sec. 8 Location of business premises**
- Sec. 9 Ammunition sales records**
- Sec. 10 Restricted admittance of minors and other prohibited purchasers**
- Sec. 11 Inventory reports**
- Sec. 12 Display of law enforcement permit**
- Sec. 13 Issuance of law enforcement permit – Duration**
- Sec. 14 Nonassignability**
- Sec. 15 Compliance by existing businesses**
- Sec. 16 Law enforcement inspections**
- Sec. 17 Warning regarding secondary sales**
- Sec. 18 Penalties**
- Sec. 19 Report of permit revocation to federal and state authorities**
- Sec. 20 Hearing for permit denial or revocation**
- Sec. 21 Severability clause**

ARTICLE 2 LAND USE PERMITS

- Sec. 1 Firearm and ammunition sales**
- Sec. 2 Nonconforming uses**
- Sec. 3 Severability clause**

Findings

[Findings regarding the need for and benefits of these regulations should be included. Findings in support of a law are most effective when they are specific and localized. When possible, local data from law enforcement, the public health community, and the media should be added. General findings are provided below.]

* Where the words "Chief of Police/Sheriff," "City/County" or similar variations appear, simply select the appropriate designation for your jurisdiction.

Findings Regarding Gun Violence in General

Whereas, in 2006, 3,253 people died from firearm-related injuries in California² and 4,305 other people were treated for non-fatal gunshot wounds,³

Findings Regarding Current Federal Regulation of Firearms Dealers

Whereas, federal regulation of firearms dealers and ammunition sellers is currently inadequate to protect the public safety,

Whereas, although federal law requires firearms dealers to obtain a license from the Bureau of Alcohol, Tobacco, Firearms & Explosives (“ATF”),⁴ ATF does not have the resources or authority to properly oversee the more than 100,000 firearms dealers, manufacturers, collectors and others that it licenses (“FFLs”),⁵

Whereas, ATF reported in 2007 that it inspects each FFL, on average, only once every 17 years,⁶

Whereas, between 1975 and 2005, ATF revoked, on average, fewer than 20 federal firearms licenses per year,⁷

Whereas, ATF faces numerous obstacles that limit its ability to enforce the law; for example, ATF may conduct only one unannounced inspection of each FFL per year, the burden of proof for ATF’s prosecution and revocation of licenses is extremely high, serious violations of firearms law have been classified as misdemeanors rather than felonies, and ATF has historically been grossly understaffed,⁸

Whereas, the Office of the Inspector General has concluded that inspections by ATF are not fully effective for ensuring that FFLs comply with federal firearms laws,⁹

Whereas, ATF has found that FFLs are a major source of trafficked firearms. In June of 2000, ATF issued a comprehensive report of firearms trafficking in this country. That report analyzed

² California Dep’t of Health Servs., Epidemiology & Prevention for Injury Control Branch (EPIC), EPICenter California Injury Data Online, *Fatal Injury Data Custom Data Tables* (2009), at http://www.applications.dhs.ca.gov/epicdata/content/TB_fatal.htm.

³ California Dep’t of Health Servs., Epidemiology & Prevention for Injury Control Branch (EPIC), EPICenter California Injury Data Online, *Nonfatal Injury Data Custom Data Tables* (2009), at http://www.applications.dhs.ca.gov/epicdata/content/tb_nonfatal.htm.

⁴ 18 U.S.C. § 922(a)(1)(A).

⁵ The U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives provided the total number of federal firearms licensees as of November 8, 2007.

⁶ Mayors Against Illegal Guns, *The Movement of Illegal Guns in America: The Link between Gun Laws and Interstate Gun Trafficking* 18, December 2008, available at: www.mayorsagainstillegalsguns.org/downloads/pdf/trace_report_final.pdf.

⁷ Brady Center to Prevent Gun Violence, *Shady Dealings, Illegal Gun Trafficking From Licensed Gun Dealers* 23 (Jan. 2007), available at: <http://www.bradycenter.org/xshare/pdf/reports/shady-dealings.pdf>. In 2006, ATF increased its total revocations to 131. *Id.*

⁸ *Id.* at 24-26.

⁹ Office of the Inspector General, Evaluation and Inspections Division, U.S. Department of Justice, *Inspection of Firearms Dealers by the Bureau of Alcohol, Tobacco, Firearms and Explosives* i (July 2004), available at: <http://www.usdoj.gov/oig/reports/ATF/e0405/exec.htm>.

1,530 trafficking investigations during the period July 1996 through December 1998, involving more than 84,000 diverted firearms.¹⁰ ATF found that FFLs were associated with the largest number of trafficked guns – over 40,000 – and concluded that “FFLs’ access to large numbers of firearms makes them a particular threat to public safety when they fail to comply with the law,”¹¹

Whereas, during fiscal year 2007, ATF found over 30,000 firearms missing from licensees’ inventories with no record of sale,¹²

Whereas, in 1998, ATF found that 56% of randomly inspected dealers and 30% of pawnbrokers selling 50 or more guns had violated federal firearms law,¹³

Whereas, federal laws are silent regarding many important aspects of the dealer’s business, such as its location (leaving dealers free to operate out of their homes and near schools and other places children frequent) and security requirements during business hours,

Whereas, according to a 1998 ATF random sample of FFLs nationwide, 56% of all dealers operated out of their homes, and 33% were located in businesses that are not usually associated with gun sales, such as funeral homes or auto parts stores,¹⁴

Findings Regarding Current State and Local Regulation of Firearms Dealers

Whereas, as of November 24, 2008, there were 2,043 federally licensed firearms dealers and pawnbrokers in California,¹⁵

Whereas, California is among a minority of states that impose licensing requirements on firearms dealers, but the standards are minimal,¹⁶

Whereas, the Court of Appeals in *Suter v. City of Lafayette*, 67 Cal. Rptr. 2d 420, 428 (Cal. Ct. App. 1997) held that state law authorizes local governments in California to impose additional licensing requirements on firearms dealers,¹⁷

¹⁰ Bureau of Alcohol, Tobacco and Firearms, U.S. Department of the Treasury, *Following the Gun: Enforcing Federal Laws Against Firearms Traffickers* ix (June 2000), available at: www.atf.gov/pub/fire-explo_pub/pdf/followingthegun_internet.pdf.

¹¹ *Id.* at x.

¹² Brady Center to Prevent Gun Violence, *U.S. Gun Shops “Lost” More than 30,000 Firearms Last Year*, June 17, 2008, available at: <http://www.bradycampaign.org/media/release.php?release=988>.

¹³ Brady Center to Prevent Gun Violence, *“Trivial Violations”? The Myth of Overzealous Federal Enforcement Actions Against Licensed Gun Dealers* 1 (Sept. 2006), available at: www.bradycenter.org/xshare/pdf/reports/trivial-violations.pdf.

¹⁴ Bureau of Alcohol, Tobacco and Firearms, U.S. Department of the Treasury, *Commerce in Firearms in the United States* 16 (Feb. 2000), available at: www.mayorsagainstilllegalguns.org/downloads/pdf/Commerce_in_Firearms_2000.pdf.

¹⁵ The total number of federal firearms licensees in California as of November 24, 2008 was provided by the U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives.

¹⁶ See Penal Code §§ 12070-12071.

¹⁷ The court in *Suter* struck down a provision of Lafayette’s ordinance imposing additional security requirements on firearms dealers. That part of the opinion has been superseded by the adoption of Cal. Penal Code § 12071(b)(15).

Whereas, FFLs are required by federal law to comply with all state and local dealer laws as a condition for retaining their federal licenses,¹⁸

Whereas, the International Association of Chiefs of Police recommends that local governments impose their own licensing requirements on firearms dealers because local requirements can respond to specific community concerns, and local review of licensees provides additional resources to identify and stop corrupt dealers,¹⁹

Whereas, a 2009 study found that cities in states that comprehensively regulate retail firearms dealers and cities where these businesses undergo regular compliance inspections have significantly lower levels of gun trafficking than other cities,²⁰

Whereas, no federal or California law imposes security requirements on firearms dealers or ammunition sellers during business hours or requires firearms dealers or ammunition sellers to install burglar alarms or surveillance cameras. California law explicitly allows local jurisdictions to impose security requirements on firearms dealers that are stricter or at a higher standard than those imposed by state law,²¹

Whereas, no federal or California law requires agents and employees of firearms dealers or ammunition sellers to undergo background checks. California law explicitly permits local jurisdictions to require firearms dealers to perform such background checks,²²

Whereas, no federal or California law requires firearms dealers to obtain liability insurance, prohibits firearms dealers or ammunition sellers from operating in residential neighborhoods or near schools, daycare centers, or parks, or requires firearms dealers or ammunition sellers to obtain a land use permit,

Whereas, California law requires firearms dealers to report the loss or theft of any firearm within 48 hours of discovery to the local law enforcement agency where the dealer's business premises are located, but does not otherwise require dealers to provide inventory reports to local law enforcement agencies,²³

Whereas, according to a survey of local jurisdictions in California conducted in 2000 by Legal Community Against Violence (LCAV):

- 29 cities and three counties in California require firearms dealers to obtain a license or permit,
- 21 cities and two counties in California require firearms dealers to obtain liability insurance,

¹⁸ 18 U.S.C. § 923(d)(1)(F).

¹⁹ International Association of Chiefs of Police (IACP), *Taking a Stand: Reducing Gun Violence in Our Communities* 14 (Sept. 2007), available at:

<http://www.theiacp.org/LinkClick.aspx?fileticket=%2Fs0LiOkJK5Q%3D&tabid=302>.

²⁰ Daniel W. Webster et al., *Effects of State-Level Firearm Seller Accountability Policies on Firearms Trafficking*, J. Urb. Health (July 2009).

²¹ Cal. Penal Code § 12071(b)(15).

²² Cal. Penal Code § 12071(b)(20).

²³ Cal. Penal Code § 12071(b)(13).

- 34 cities and four counties in California prohibit firearms dealers in residential areas,
- 14 cities and two counties in California prohibit firearms dealers near sensitive areas, such as daycare facilities, schools, parks, places of worship and community/recreation centers, and
- 31 cities and two counties in California require firearms dealers to conduct background checks on employees,²⁴

Findings Regarding Public Support for the Regulation of Firearms Dealers

Whereas, a national poll conducted in March and April 2008 found that:

- 91% of Americans and 88% of gun owners favor requiring gun stores to perform background checks on employees;
- 86% of Americans and 83% of gun owners favor requiring gun retailers to inspect their inventories every year to report stolen or missing guns;
- 88% of Americans favor requiring gun stores to keep all guns locked securely to prevent theft; and
- 74% of Americans favor requiring gun retailers to videotape all gun sales,²⁵

Whereas, in a nationwide poll conducted in January of 2007, 86% of gun owners reported that a gun store's decision to videotape all gun sales would not impact their decision to buy a gun at that store,²⁶

Findings Regarding the Regulation of Ammunition Sellers

Whereas, federal law prohibits possession of ammunition by the same categories of persons it prohibits from possessing firearms,²⁷

Whereas, California law requires licensed firearms dealers to create and maintain records of firearms sales.²⁸ No federal or California law requires ammunition sellers to create or maintain records of ammunition sales,

Whereas, California law requires persons who sell, loan or transfer firearms within California to obtain a license, but does not require persons who sell, loan or transfer ammunition to do so,²⁹

²⁴ For lists of the jurisdictions with the each of these requirements and prohibitions mentioned, see LCAV's publication, "*Communities on the Move 2000: How California Communities Are Addressing the Epidemic of Handgun Violence*," available at: http://www.lcav.org/library/surveys_local_ordrs/com2000_pdf.pdf. Please note that jurisdictions may have amended their ordinances since LCAV conducted that survey. For example, the City of Inglewood now prohibits firearms dealers in residential areas, but is not listed as such in that survey. LCAV has not completed an exhaustive search for ordinances requiring sellers of ammunition to obtain a license or permit.

²⁵ Greenberg Quinlan Rosner Research and the Tarrance Group, *Americans Support Common Sense Measures to Cut Down on Illegal Guns* 3, April 10, 2008, available at: http://www.mayorsagainstillegalguns.org/downloads/pdf/polling_memo.pdf.

²⁶ Greenberg Quinlan Rosner Research & The Tarrance Group for the Mayors Against Illegal Guns, *Strong Public Support for Tough Enforcement of Common Sense Gun Laws (Graphs)*, January 23, 2007, available at: http://www.greenbergresearch.com/articles/1849/2630_MAIGslides.pdf.

²⁷ 18 U.S.C. § 922(g).

²⁸ Cal. Penal Code § 12076(b).

²⁹ Cal. Penal Code § 12070(a).

Whereas, the Cities of Berkeley, Los Angeles, Richmond, Sacramento, and San Francisco are among the jurisdictions that now require sellers of ammunition to obtain a license or permit,

Whereas, 13 cities (Beverly Hills, Hayward, Inglewood, Los Angeles, Oakland, Pomona, Sacramento, San Anselmo, San Francisco, Santa Ana, Santa Monica, Tiburon, and West Hollywood), and two counties (Contra Costa and Marin) require ammunition sellers to keep records of their ammunition sales,

Whereas, law enforcement agencies in jurisdictions that require ammunition sellers to keep records of their ammunition sales have been able to detect illegal possessors of firearms and ammunition by cross-referencing the information in these records with California Department of Justice-maintained information regarding persons prohibited from such possession,

Whereas, a two-month study of Los Angeles' ordinance requiring ammunition purchasers to present identification prior to purchase and requiring ammunition sellers to maintain a sales log found that prohibited purchasers accounted for nearly 3% of all ammunition purchasers over this period, acquiring roughly 10,000 rounds of ammunition,³⁰

Whereas, the Los Angeles ordinance led to 30 investigations, 15 search warrants, nine arrests, and the confiscation of 24 handguns, 12 shotguns, and nine rifles that were illegally possessed between 2004 and the first half of 2006, as well as 39 investigations in 2007, and at least 24 investigations in 2008,³¹

Whereas, a report issued one year after Sacramento enacted an ordinance requiring ammunition sellers to record the thumbprint of each purchaser and to electronically transmit the records of ammunition sales to the Sacramento Police Department ("SPD") found that:

- The SPD and allied agencies use the information gathered as a result of the ordinance in criminal investigations regularly,
- These requirements have allowed the SPD to electronically check the legal firearms rights status of transferees, and
- The electronic system for transfer of purchaser information has proven to be secure, effective and reliable,³²

Whereas, between January 16 and December 31, 2008, the Sacramento ordinance led to the identification of 156 prohibited persons who had purchased ammunition, 124 of whom had prior felony convictions, 48 search warrants and 26 additional probation or parole searches. In addition, the ordinance led to 109 felony charges, 10 federal court indictments, 37 felony

³⁰ George E. Tita et al., *The Criminal Purchase of Ammunition*, 12 *Inj. Prevention* 308, 308 (2006).

³¹ LCAV obtained these numbers from Lieutenant Steve Nielsen of the Los Angeles Police Department's Gun Unit in May 2007 and May 2008.

³² Sacramento, Cal., City Code, Chapters 5.64, 5.66; Sacramento Chief of Police Rick Braziel et al., *Report to Council, Ammunition Sales Records Study* (Aug. 12, 2008), at: http://sacramento.granicus.com/MetaViewer.php?view_id=8&clip_id=1590&meta_id=155275.

convictions and 17 misdemeanor convictions. The ordinance allowed law enforcement to seize a total of 84 firearms, including seven assault weapons, and thousands of rounds of ammunition,³³

Therefore, the jurisdiction/governing body hereby adopts the following:

ARTICLE 1 SALE OF FIREARMS AND AMMUNITION

Sec. 1 Definitions

“Applicant” means any person who applies for a law enforcement permit, or the renewal of such a permit, to sell, lease or transfer firearms, firearm components, or ammunition.

“Chief of Police/Sheriff” means the Chief of Police/Sheriff or the Chief’s/Sheriff’s designated representative.

“Firearm” means any device, designed to be used as a weapon or modified to be used as a weapon, from which is expelled through a barrel a projectile by the force of explosion or other means of combustion, provided that the term “firearm” shall not include an “antique firearm” as defined in section 921(a)(16) of Title 18 of the United States Code.

“Ammunition” means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm, and any component thereof, but shall not include blank cartridges or ammunition that can be used solely in an “antique firearm” as that term is defined in section 921(a)(16) of Title 18 of the United States Code.

“Permittee” means any person, corporation, partnership or other entity engaged in the business of selling, leasing, or otherwise transferring any firearm, firearm component, or ammunition, which person or entity has obtained a law enforcement permit to sell, lease or transfer firearms, firearm components, or ammunition.

To “engage in the business of selling, leasing, or otherwise transferring any firearm, firearm component, or ammunition” means to conduct a business by the selling, leasing or transferring of any firearm, firearm component, or ammunition, or to hold one’s self out as engaged in the business of selling, leasing or otherwise transferring any firearm, firearm component, or ammunition, or to sell, lease or transfer firearms, firearm components, or ammunition in quantity, in series, or in individual transactions, or in any other manner indicative of trade.

Sec. 2 Law enforcement permit

[This model requires both firearms dealers and ammunition sellers to obtain a land use permit as well as a law enforcement permit. Alternatively, jurisdictions may choose to make the land use permit requirement in Article 2 of this model applicable only to firearms dealers, and not to persons and entities that sell only ammunition.]

³³ These statistics were obtained from Captain Jim Maccoun, Office of Technical Services, Sacramento Police Department on January 27, 2009. For the statistics for the period between January 16 and June 29, 2008, see *id.*

It is unlawful for any person, corporation, partnership or other entity to engage in the business of selling, leasing, or otherwise transferring any firearm, firearm component, or ammunition within City/County without a law enforcement permit, as required by this Article, and a land use permit, as required by Article 2.

Sec. 3 Application for permit

(a) An applicant for a permit or renewal of a permit under this Article shall file with the Chief of Police/Sheriff an application in writing, signed under penalty of perjury, on a form prescribed by the City/County. The applicant shall provide all relevant information requested to demonstrate compliance with this Article, including:

- (1) The applicant's name, including any aliases or prior names, age and address;
- (2) The applicant's federal firearms license and California firearms dealer numbers, if any;
- (3) The address of the proposed location for which the permit is sought, together with the business name, and the name of any corporation, partnership or other entity that has any ownership in, or control over, the business;
- (4) The names, ages and addresses of all persons who will have access to or control of workplace firearms, firearm components, or ammunition, including but not limited to, the applicant's employees, agents and/or supervisors, if any;
- (5) A certificate of eligibility from the state Department of Justice under Penal Code Section 12071 for each individual identified in Sec. 3(a)(4) demonstrating that the person is not prohibited by state or federal law from possessing firearms or ammunition;
- (6) Proof of a possessory interest in the property at which the proposed business will be conducted, as owner, lessee or other legal occupant, and, if the applicant is not the owner of record of the real property upon which, the applicant's business is to be located and conducted, the written consent of the owner of record of such real property to the applicant's proposed business;
- (7) A floor plan of the proposed business which illustrates the applicant's compliance with security provisions, as outlined in Sec. 6 of this Article;
- (8) Proof of the issuance of a land use permit at the proposed location;
- (9) Proof of compliance with all applicable federal, state and local licensing and other business laws;
- (10) Information relating to every license or permit to sell, lease, transfer, purchase, or possess firearms, firearm components or ammunition which was sought by the applicant from any jurisdiction in the United States, including, but not limited to, the date of each

application and whether it resulted in the issuance of a license, and the date and circumstances of any revocation or suspension;

(11) The applicant's agreement to indemnify, defend and hold harmless the City/County, its officers, agents and employees from and against all claims, losses, costs, damages and liabilities of any kind pursuant to the operation of the business, including attorneys fees, arising in any manner out of the negligence or intentional or willful misconduct of:

(A) The applicant;

(B) The applicant's officers, employees, agents and/or supervisors; or

(C) If the business is a corporation, partnership or other entity, the officers, directors or partners.

(12) Certification of satisfaction of insurance requirements, for applicants applying for a permit to sell firearms or firearm components;

(13) The date, location and nature of all criminal convictions of the applicant, if any, in any jurisdiction in the United States.

(b) The application shall be accompanied by a nonrefundable fee for administering this Article as established by City Council/County Board of Supervisors resolution.

Sec. 4 Investigation by Chief of Police/Sheriff and employee background checks

(a) The Chief of Police/Sheriff shall conduct an investigation to determine, for the protection of the public health and safety, whether the law enforcement permit may be issued or renewed. The Chief of Police/Sheriff shall require the following individuals to provide fingerprints, a recent photograph, a signed authorization for the release of pertinent records, and any additional information which the Chief of Police/Sheriff considers necessary to complete the investigation:

(1) The applicant;

(2) All persons who will have access to or control of workplace firearms, firearm components or ammunition, including but not limited to the applicant's employees, agents and/or supervisors, if any.

(b) Prior to issuance or renewal of the permit, the Chief of Police/Sheriff shall inspect the premises to ensure compliance with this Article.

(c) The Chief of Police/Sheriff may grant or renew a law enforcement permit if the applicant or permittee is in compliance with this Article and all other applicable federal, state and local laws.

Sec. 5 Grounds for permit denial or revocation

(a) The Chief of Police/Sheriff shall deny the issuance or renewal of a law enforcement permit, or shall revoke an existing permit, if the operation of the business would not or does not comply with federal, state or local law, or if the applicant or permittee:

- (1) Is under 21 years of age;
- (2) Is not licensed as required by all applicable federal, state and local laws; [*A jurisdiction may choose to replace this language with: “(2) Is not licensed as a dealer in firearms under all applicable federal, state and local laws.” This option would prohibit the sale of ammunition by persons not engaged in the business of selling firearms, such as hardware and convenience stores.*]
- (3) Has made a false or misleading statement of a material fact or omission of a material fact in the application for a law enforcement permit, or in any other documents submitted to the Chief of Police/Sheriff pursuant to this Article. If a permit is denied on this ground, the applicant is prohibited from reapplying for a permit for a period of five years;
- (4) Has had a license or permit to sell, lease, transfer, purchase or possess firearms or ammunition from any jurisdiction in the United States revoked, suspended or denied for good cause within the immediately preceding five years;
- (5) Has been convicted of:
 - (A) An offense which disqualifies that person from owning or possessing a firearm under federal, state or local law, including, but not limited to, the offenses listed in Penal Code Sections 12021 and 12021.1;
 - (B) An offense relating to the manufacture, sale, possession or use of a firearm or dangerous or deadly weapon or ammunition therefor;
 - (C) An offense involving the use of force or violence upon the person of another;
 - (D) An offense involving theft, fraud, dishonesty or deceit;
 - (E) An offense involving the manufacture, sale, possession or use of a controlled substance as defined by the state Health and Safety Code;
- (6) Is within a class of persons defined in Welfare and Institutions Code Sections 8100 or 8103; or
- (7) Is currently, or has been within the past five years, an unlawful user of or addicted to a controlled substance as defined by the Health and Safety Code.

(b) Employees, agents or supervisors of the applicant or permittee may not have access to or control over workplace firearms, firearm components or ammunition until the Chief of Police/Sheriff has conducted an investigation pursuant to Sec. 4(a)(2), and verified that none of the conditions listed in Sec. 5(a)(1), (4), (5), (6) or (7) exist, as applied to those employees, agents or supervisors. A new law enforcement investigation and background verification of such persons must be conducted each time the permittee renews his or her permit, or applies for a new permit. Except as provided in subsection (c), the Chief of Police/Sheriff shall deny the issuance or renewal of a law enforcement permit, or shall revoke an existing permit, if the applicant or permittee allows any employee, agent or supervisor to have access to or control over workplace firearms, firearm components or ammunition prior to the completion of the law enforcement investigation and background verification of those persons, or if those persons have not undergone the law enforcement investigation and background verification process within the last 365 days.

(c) Where an applicant is applying for a law enforcement permit to sell, lease or transfer firearms, firearm components or ammunition within the first 90 days of the effective date of this Article, and where the applicant has a pre-existing firearms dealer business which complies with all applicable federal, state and local laws, or is not a firearms dealer but is already engaged in the sale of ammunition:

(1) The applicant's current employees, agents or supervisors may continue to have access to or control over workplace firearms, firearm components and ammunition pending the completion of the Chief of Police's/Sheriff's investigation and background verification.

(2) Where one or more of the applicant's employees, agents or supervisors are found to be in violation of the conditions enumerated in subsection (b), the applicant shall have 21 days from the mailing of written notification from the Chief of Police/Sheriff to verify that such persons have been removed or reassigned so that they no longer have access to or control of workplace firearms, firearm components or ammunition. Failure of the applicant to comply with this subsection shall cause the Chief of Police/Sheriff to deny the application for a law enforcement permit.

(d) The law enforcement permit of any person or entity found to be in violation of any of the provisions of this Article may be revoked.

Sec. 6 On-site security

(a) If the proposed or current business location is to be used at least in part for the sale of firearms or firearm components, the permitted place of business shall be a secure facility within the meaning of Penal Code Section 12071(c)(2).³⁴

³⁴ A "secure facility" is defined by Penal Code § 12071(c)(2) as a building that meets certain specifications, including: certain types of locks on all doorways; steel bars on all windows; and steel bars, metal grating, or an alarm system on all heating, ventilating, air-conditioning, and service openings. State law allows a firearms dealer to avoid these requirements by utilizing other security features. See Penal Code § 12071(b)(14). Penal Code § 12071(b)(15) explicitly allows local jurisdictions to impose security requirements on firearms dealers that are stricter or at a higher standard than those imposed by state law

(b) If the proposed or current business location is to be used at least in part for the sale of firearms or firearm components, all heating, ventilating, air-conditioning, and service openings shall be secured with steel bars or metal grating.

(c) Any time a permittee is not open for business, every firearm or firearm component shall be stored in one of the following ways:

(1) In a locked fireproof safe or vault in the licensee's business premises that meets the standards for a gun safe implemented by the Attorney General pursuant to Penal Code Section 12088.2; or

(2) Secured with a hardened steel rod or cable of at least one-fourth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a boltcutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises. No more than five firearms may be affixed to any one rod or cable at any time.

(d) Any time a permittee is open for business, every firearm shall be unloaded, inaccessible to the public and secured using one of the following three methods, except in the immediate presence of and under the direct supervision of an employee of the permittee:

(1) Secured within a locked case so that a customer seeking access to the firearm must ask an employee of the permittee for assistance;

(2) Secured behind a counter where only the permittee and the permittee's employees are allowed. During the absence of the permittee or a permittee's employee from the counter, the counter shall be secured with a locked, impenetrable barrier that extends from the floor or counter to the ceiling; or

(3) Secured with a hardened steel rod or cable of at least one-fourth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a boltcutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises. No more than five firearms may be affixed to any one rod or cable at any time.

(e) Any time a permittee is open for business, every firearm component and all ammunition shall be inaccessible to the public and secured using one of the methods mentioned in subsection (d)(1) or (2), except in the immediate presence of and under the direct supervision of an employee of the permittee.

(f) The permitted business location shall be secured by an alarm system that is installed and maintained by an alarm company operator licensed pursuant to the Alarm Company Act, Business & Professions Code Sections 7590 *et seq.* The alarm system must be monitored by a

central station listed by Underwriters Laboratories, Inc., and covered by an active Underwriters Laboratories, Inc. alarm system certificate with a #3 extent of protection.³⁵

(g) The permitted business location shall be monitored by a video surveillance system that meets the following requirements:

(1) The system shall include cameras, monitors, digital video recorders, and cabling, if necessary.

(2) The number and location of the cameras are subject to the approval of the Chief of Police/Sheriff. At a minimum, the cameras shall be sufficient in number and location to monitor the critical areas of the business premises, including, but not limited to, all places where firearms, firearm components or ammunition are stored, handled, sold, transferred, or carried, including, but not limited to, all counters, safes, vaults, cabinets, cases, entryways, and parking lots. The video surveillance system shall operate continuously, without interruption, whenever the permittee is open for business. Whenever the permittee is not open for business, the system shall be triggered by a motion detector and begin recording immediately upon detection of any motion within the monitored area.

(2) In addition, the sale or transfer of a firearm, firearm component or ammunition shall be recorded by the video surveillance system in such a way that the facial features of the purchaser or transferee are clearly visible.

(3) When recording, the video surveillance system shall record continuously and store color images of the monitored area at a frequency of not less than 15 frames per second.³⁶ The system must produce retrievable and identifiable images and video recordings on media approved by the Chief of Police/Sheriff that can be enlarged through projection or other means, and can be made a permanent record for use in a criminal investigation. The system must be capable of delineating on playback the activity and physical features of persons or areas within the premises.

(4) The stored images shall be maintained on the business premises of the permittee for a period not less than one year from the date of recordation and shall be made available for inspection by federal, state or local law enforcement upon request.

(5) The video surveillance system must be maintained in proper working order at all times. If the system becomes inoperable, it must be repaired or replaced within fifteen calendar days. The permittee must inspect the system at least weekly to ensure that it is operational and images are being recorded and retained as required.

³⁵ Underwriters Laboratories, Inc. uses the term "extent of protection" to refer to the amount of alarm protection installed to protect a particular area, room or container. Systems with a #3 extent of protection include complete protection for all accessible openings, and partial motion and sound detection at certain other areas of the premises. For more information, see Central Station Alarm Association, *A Practical Guide to Central Station Burglar Alarm Systems* (3rd ed. 2005).

³⁶ Television in the U.S. has 30 frames per second. However, 15 frames per second is generally described as viewable, and is used in similar regulations. See, e.g., 02-392-013 Me. Code R. 6(6).

(6) The permittee shall post a sign in a conspicuous place at each entrance to the premises that states in block letters not less than one inch in height: THESE PREMISES ARE UNDER VIDEO SURVEILLANCE. YOUR IMAGE MAY BE RECORDED.

(h) The Chief of Police/Sheriff may impose security requirements in addition to those listed in this section prior to issuance of the law enforcement permit. Failure to fully comply with the requirements of this section shall be sufficient cause for denial or revocation of the law enforcement permit by the Chief of Police/Sheriff.

Sec. 7 Liability insurance

(a) If the proposed or current business location is to be used for the sale of firearms or firearm components, no law enforcement permit shall be issued or reissued unless there is in effect a policy of insurance in a form approved by the City/County and executed by an insurance company approved by the City/County, insuring the applicant against liability for damage to property and for injury to or death of any person as a result of the theft, sale, lease or transfer or offering for sale, lease or transfer of a firearm, firearm component or ammunition, or any other operations of the business. The policy shall also name the City/County and its officers, employees and agents as additional insureds. The limits of liability shall not be less than \$1,000,000 for each incident of damage to property or incident of injury or death to a person; provided, however, that increased limits of liability may be required by the City Attorney/County Counsel if deemed necessary.

(b) The policy of insurance shall contain an endorsement providing that the policy shall not be canceled until written notice has been given to the City Manager/County Administrator at least 30 days prior to the time the cancellation becomes effective.

(c) Upon expiration of the policy of insurance, and if no additional insurance is obtained, the law enforcement permit is considered revoked without further notice.

Sec. 8 Location of business premises

(a) The business shall be carried on only in the building located at the street address shown on the permit. This requirement does not prohibit the permittee from participating in a gun show or event which is authorized by federal, state and local law upon compliance with those laws.

(b) The business premises shall not be located in any district or area that is zoned for residential use, or within 1,500 feet of any school, pre-school, day-care facility, park, community center, place of worship, liquor store, bar, youth center, video arcade, amusement park (not including a temporary carnival or similar event), other permittee as defined in Sec. 1 or residentially zoned district or area.

Sec. 9 Ammunition sales records

(a) No permittee or any agents, employees, or other persons acting under the permittee's authority shall sell or otherwise transfer ownership of any ammunition without verifying the

identity of the transferee and recording the following information on a form to be provided by the Chief of Police/Sheriff:

- (1) The date of the transaction;
 - (2) The name, address and date of birth of the transferee;
 - (3) The number of the transferee's current driver's license or other government-issued identification card containing a photograph of the transferee, and the name of the governmental authority that issued it;
 - (4) The brand, type, caliber or gauge, and amount of ammunition transferred;
 - (5) The transferee's signature; and
 - (6) The name of the permittee's agent or employee who processed the transaction.
- (b) The permittee and any agents, employees, or other persons acting under the permittee's authority shall also, at the time of purchase or transfer, obtain the right thumbprint of the transferee on the above form.
- (c) Within five calendar days of a firearm ammunition transfer, the permittee and any agents, employees, or other persons acting under the permittee's authority shall electronically transmit to the Police/Sheriff's Department all of the information set forth in paragraph (a). The electronic transmittal shall be by a method, and in a format, approved by the Chief of Police/Sheriff.
- (d) The records created in accordance with this section must be maintained on the business premises of the permittee for a period not less than five years from the date of the recorded transfer and shall be made available for inspection by federal, state or local law enforcement upon request.
- (e) Within one year of the effective date of this section, the Chief of Police/Sheriff shall submit a report to the City Council/County Board of Supervisors regarding the ammunition sales records maintained since the effective date of this section. The report shall state information including, but not limited to: the number of prohibited persons who had purchased ammunition and who were identified through use of these records, as well as the number of searches, arrests, and investigations performed, charges filed, convictions obtained and firearms, firearm components and ammunition seized, as a result of these records.
- (f) This section shall not apply if the transferee is:
- (1) A "peace officer" as that term is defined in Penal Code § 830 *et seq.*, or a federal law enforcement officer; or
 - (2) A person licensed as a dealer or collector in firearms pursuant to Chapter 44 (commencing with Sec. 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

Sec. 10 Restricted admittance of minors and other prohibited purchasers

(a) Where firearm sales activity is the primary business performed at the business premises, no permittee or any of his or her agents, employees, or other persons acting under the permittee's authority shall allow the following persons to enter into or remain on the premises unless accompanied by his or her parent or legal guardian:

(1) Any person under 21 years of age, if the permittee sells, keeps or displays firearms capable of being concealed on the person; or

(2) Any person under 18 years of age, if the permittee sells, keeps or displays only firearms other than firearms capable of being concealed on the person.

(b) Where firearm sales activity is the primary business performed at the business premises, the permittee and any of his or her agents, employees, or other persons acting under the permittee's authority shall be responsible for requiring clear evidence of age and identity of persons to prevent the entry of persons not permitted to enter the premises pursuant to subsection (a) by reason of age. Clear evidence of age and identity includes, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, or an employment identification card which contains the bearer's signature, photograph and age, or any similar documentation which provides reasonable assurance of the identity and age of the individual.

(c) The permittee shall post the following conspicuously at each entrance to the establishment in block letters not less than one inch in height:

(1) If the permittee sells, keeps or displays firearms capable of being concealed on the person, the sign shall state, "FIREARMS ARE KEPT, DISPLAYED OR OFFERED ON THE PREMISES, AND PERSONS UNDER THE AGE OF 21 ARE EXCLUDED UNLESS ACCOMPANIED BY A PARENT OR LEGAL GUARDIAN."

(2) If the permittee sells, keeps or displays only firearms other than firearms capable of being concealed on the person, the sign shall state, "FIREARMS ARE KEPT, DISPLAYED OR OFFERED ON THE PREMISES, AND PERSONS UNDER THE AGE OF 18 ARE EXCLUDED UNLESS ACCOMPANIED BY A PARENT OR LEGAL GUARDIAN."

(d) Where firearm sales activity is the primary business performed at the business premises, no permittee or any of his or her agents, employees, or other persons acting under the permittee's authority shall allow any person to enter into or remain on the premises who the permittee or any of his or her agents, employees, or other persons acting under the permittee's authority knows or has reason to know is prohibited from possessing or purchasing firearms pursuant to federal, state, or local law.

Sec. 11 Inventory reports

Within the first five business days of April and October of each year, the permittee shall cause a physical inventory to be taken that includes a listing of each firearm and firearm component held by the permittee by make, model, and serial number, together with a listing of each firearm and firearm component the permittee has sold since the last inventory period. In addition, the inventory shall include a listing of each firearm lost or stolen that is required to be reported pursuant to Penal Code Section 12071(b)(13). Immediately upon completion of the inventory, the permittee shall forward a copy of the inventory to the address specified by the Chief of Police/Sheriff, by such means as specified by the Chief of Police/Sheriff. With each copy of the inventory, the permittee shall include an affidavit signed by an authorized agent or employee on behalf of the permittee under penalty of perjury stating that within the first five business days of that April or October, as the case may be, the signer personally confirmed the presence of the firearms and firearm components reported on the inventory. The permittee shall maintain a copy of the inventory on the premises for which the law enforcement permit was issued for a period of not less than five years from the date of the inventory and shall make the copy available for inspection by federal, state or local law enforcement upon request.

Sec. 12 Display of law enforcement permit

The law enforcement permit, or a certified copy of it, shall be displayed in a prominent place on the business premises where it can be easily seen by those entering the premises.

Sec. 13 Issuance of law enforcement permit -- Duration

(a) A law enforcement permit expires one year after the date of issuance. A permit may be renewed for additional one-year periods if the permittee submits a timely application for renewal, accompanied by a nonrefundable renewal fee established by City Council/County Board of Supervisors resolution. Renewal of the permit is contingent upon the permittee's compliance with the terms and conditions of the original application and permit, as detailed in this Article. Police/Sheriff's department personnel shall inspect the permitted business premises for compliance with this Article prior to renewal of the permit. The renewal application and the renewal fee must be received by the Police/Sheriff's department no later than 45 days before the expiration of the current permit.

(b) A decision regarding issuance or renewal of the law enforcement permit may be appealed in the manner provided in Sec. 20 of this Article.

Sec. 14 Nonassignability

A law enforcement permit issued under this Article is not assignable. Any attempt to assign a law enforcement permit shall result in revocation of the permit.

Sec. 15 Compliance by existing businesses

A person engaged in the business of selling, leasing, or otherwise transferring any firearm, firearm component, or ammunition on the effective date of this Article shall, within 90

days of the effective date, comply with this Article. However, any person whose business is located in any location described in Sec. 8 of this Article may continue to sell, lease, or transfer firearms, firearm components, or ammunition for up to one year after the effective date of this Article. After the one-year period has expired, all such persons are prohibited from selling, leasing or transferring firearms, firearm components, or ammunition in the named locations.

Sec. 16 Law enforcement inspections

Permittees shall have their places of business open for inspection by federal, state and local law enforcement during all hours of operation. The Police/Sheriff's department shall conduct periodic inspections of the permittee's place of business without notice. Permittees shall maintain all records, documents, firearms, firearm components and ammunition in a manner and place accessible for inspection by federal, state and local law enforcement.

Sec. 17 Warning regarding secondary sales

A permittee shall post conspicuously within the licensed premises the following warning in block letters not less than one inch in height: WITH FEW EXCEPTIONS, IT IS A CRIME TO SELL OR GIVE A FIREARM TO SOMEONE WITHOUT COMPLETING A DEALER RECORD OF SALE (DROS) FORM AT A LICENSED FIREARMS DEALERSHIP.

Sec. 18 Penalties

[Penalties for the violation of provisions of this ordinance may vary based on the law enforcement and policy needs of each community. Jurisdictions are encouraged to consult with local law enforcement to develop appropriate penalties. While the language below makes each violation of any provision of this Article a misdemeanor, jurisdictions may choose to make violations of particular provisions an infraction instead.]

(a) Any person violating any of the provisions of this Article shall be guilty of a misdemeanor. Any person convicted of a misdemeanor under the provisions of this Article shall be punished by a fine of not more than \$1,000 or by imprisonment for a period not exceeding six months, or by both. Each such person shall be guilty of a separate offense for each and every day during any portion of which a violation of any provision of this Article is committed or continued by such person and shall be punishable accordingly.

(b) In addition to any other penalty or remedy, the City Attorney/County Counsel may commence a civil action to seek enforcement of these provisions.

Sec. 19 Report of permit revocation to federal and state authorities

In addition to any other penalty or remedy, the City Attorney/County Counsel shall report any person or entity whose law enforcement permit is revoked pursuant to this Article to the Bureau of Firearms of the California Department of Justice and the Bureau of Alcohol, Tobacco, Firearms & Explosives within the U.S. Department of Justice.

Sec. 20 Hearing for permit denial or revocation

(a) Within ten days of the Chief of Police/Sheriff mailing a written denial of the application or revocation of the permit, the applicant may appeal by requesting a hearing before the Chief of Police/Sheriff. The request must be made in writing, setting forth the specific grounds for appeal. If the applicant submits a timely request for an appeal, the Chief of Police/Sheriff shall set a time and place for the hearing within 30 days.

(b) The Chief of Police/Sheriff shall provide a written decision regarding the appeal within 14 calendar days of the hearing. An applicant may appeal the decision of the Chief of Police/Sheriff to the **[appropriate government body. The appeal process should also be detailed or referenced here]**.

Sec. 21 Severability clause

 If any section, subsection, sentence or clause of this Article is for any reason declared unconstitutional or invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the constitutionality, validity or enforceability of the remaining portions of this Article or any part thereof. The City Council/County Board of Supervisors hereby declares that it would have adopted this Article notwithstanding the unconstitutionality, invalidity or unenforceability of any one or more of its sections, subsections, sentences or clauses.

ARTICLE 2 LAND USE PERMITS

[This model requires both firearms dealers and ammunition sellers to obtain a land use permit as well as a law enforcement permit. Alternatively, jurisdictions may choose to make the land use permit requirement in Article 2 of this model applicable only to firearms dealers, and not to persons and entities that sell only ammunition.]

Sec. 1 Firearm and ammunition sales

- (a) Purpose. The purpose of this section is to provide for the appropriate location of any person, corporation, partnership or other entity engaging in the business of selling, leasing, or otherwise transferring any firearm, firearm component or ammunition (hereinafter “firearms dealer or ammunition seller”) through the permitting process.
- (b) Permit Requirement. It is unlawful for any firearms dealer or ammunition seller to sell, lease or transfer firearms, firearm components or ammunition unless the dealer or seller has obtained a land use permit pursuant to this chapter and a law enforcement permit as provided under Article 1 of this chapter. Subject to the restrictions listed below, firearms dealers and ammunition sellers are permitted in **[enumerate permitted districts, e.g., commercial, industrial, etc.]**. Firearms dealers and ammunition sellers are prohibited in all other land use districts.
- (c) Procedure. An applicant for a land use permit shall apply to the planning commission by application prescribed by the City/County in the manner provided.
- (d) Location. A land use permit for the sale of firearms, firearm components or ammunition will not be issued if the proposed business premises are located in any district or area that is zoned for residential use, or within 1,500 feet of any school, pre-school, day-care facility, park, community center, place of worship, liquor store, bar, youth center, video arcade, amusement park (not including a temporary carnival or similar event), other firearms dealer or ammunition seller or residentially zoned district or area.
- (e) Other Criteria. The planning commission shall approve or conditionally approve a land use permit application only if, on the basis of the application, plans, materials, and testimony submitted at the hearing, the planning commission finds:
- (1) The location of the proposed land use is in accordance with the general plan of City/County; and
 - (2) The location, size, design, and operating characteristics of the proposed use will be compatible with and will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the proposed land use and the surrounding neighborhood.
- (f) Public Hearing and Notice Required. A public hearing shall be held with reference to an application for a land use permit. Notice for the public hearing shall be set forth as follows:

- (1) The contents of a public notice must include the following:
 - (A) Date, time, and place of the public hearing;
 - (B) Identity of the hearing body or hearing officer;
 - (C) General explanation of the matter to be considered and where more specific information may be obtained;
 - (D) General description in text or by diagram of the location of the real property/parcel or building which is the subject of the hearing; and
 - (E) A statement that any interested party or agent may appear and be heard.
- (2) **[Insert any additional desired notice provisions.]**

(g) Conditions. An approved land use permit is not effective until the applicant satisfies the following terms and conditions:

- (1) Possession of a valid law enforcement permit as required under Article 1;
- (2) Possession of all licenses and permits required by federal, state and local law; and
- (3) Compliance with the requirements of the City's/County's building code, fire code and other technical codes and regulations which govern the use, occupancy, maintenance, construction or design of the building or structure. The use permit shall require that the applicant obtain a final inspection from the City/County building official demonstrating code compliance before the applicant may begin business at the premises at issue.

Sec. 2 Nonconforming uses

A firearms dealer or ammunition seller located in any location described in Sec. 1(d) may continue to sell, lease or transfer firearms, firearm components and ammunition for up to one year after the effective date of this Article, provided the dealer or seller obtains a law enforcement permit from the City/County, pursuant to Article 1, within 90 days of the effective date of that Article. After the one-year period has expired, all firearms dealers and ammunition sellers are prohibited from selling, leasing or transferring firearms, firearm components and ammunition in the named locations.

Sec. 3 Severability clause

If any section, subsection, sentence or clause of this Article is for any reason declared unconstitutional or invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the constitutionality, validity or enforceability of the remaining portions of this Article or any part thereof. The City Council/County Board of Supervisors hereby declares that it would have adopted this Article notwithstanding the unconstitutionality,

invalidity or unenforceability of any one or more of its sections, subsections, sentences or clauses.

II. Common Legal Challenges to Gun Violence Prevention Laws

Litigation challenging firearm laws has become a routine strategy of the gun industry, the National Rifle Association and other “gun rights” groups. These challenges sometimes raise the following issues: (1) the Second Amendment to the U.S. Constitution and state right to bear arms provisions; (2) equal protection; (3) due process; (4) the privilege against self-incrimination; and (5) in the context of local gun regulations, preemption and local authority to regulate firearms. This section provides an overview of these issues.

A. The Second Amendment and State Right to Bear Arms

The Second Amendment and state right to bear arms provisions are often raised as a bar to gun violence prevention laws and regulations. In fact, these provisions permit a broad range of gun violence prevention measures.

1. The Second Amendment

The Second Amendment to the U.S. Constitution states, “A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.” Until recently, the courts, including the United States Supreme Court, interpreted and applied the Amendment to protect a right to keep and bear arms only in relation to service in a well-regulated militia.³⁷ However, the Supreme Court issued a historic decision in *District of Columbia v. Heller* on June 26, 2008, holding that the Second Amendment confers an individual right to possess handguns in the home for self-defense, unrelated to service in a well-regulated state militia.³⁸

In *Heller*, the Court struck down the District’s ban on handgun possession, finding that “the inherent right of self-defense has been central to the Second Amendment” and that handguns are “overwhelmingly chosen by American society” for self-defense in the home, “where the need for defense of self, family, and property is most acute.”³⁹ The Court also struck down the District’s requirement that firearms in the home be stored unloaded and disassembled or bound by a trigger lock or similar device, because the law contained no exception for self-defense.

Although the *Heller* decision established a new individual right to “keep and bear arms,” the opinion made it clear that the right is not unlimited, and should not be understood as “a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose.”⁴⁰

³⁷ Prior to June 2008, the U.S. Supreme Court last addressed the scope of the Second Amendment in *United States v. Miller*, 307 U.S. 174 (1939). In that case, the Court rejected a Second Amendment challenge brought by two individuals charged with violating a federal law prohibiting the interstate transportation of sawed-off shotguns. The Court held that the “obvious purpose” of the Amendment is to “assure the continuation and render possible the effectiveness” of the state militia, and the Amendment “must be interpreted and applied with that end in view.” *Id.* at 178. After *Miller*, the scope of the Second Amendment was addressed in more than 200 federal and state appellate cases. These decisions overwhelmingly rejected Second Amendment challenges to firearm laws. See LCAV’s web site, www.lcav.org, for summaries of over 200 federal and state appellate cases prior to *District of Columbia v. Heller* rejecting Second Amendment challenges to firearms laws.

³⁸ *District of Columbia v. Heller*, 128 S. Ct. 2783 (2008).

³⁹ *Id.* at 2817.

⁴⁰ *Id.* at 2816.

The Court provided examples of gun laws that it deems “presumptively lawful” under the Second Amendment, including those which:

- Prohibit the possession of firearms by felons and the mentally ill;
- Forbid firearm possession in sensitive places such as schools and government buildings; and
- Impose conditions and qualifications on the commercial sale of firearms.

The Court made clear that this list is not exhaustive.⁴¹ The Court also concluded that the Second Amendment is consistent with laws banning “dangerous and unusual weapons” not “in common use at the time,” such as M-16 rifles and other firearms that are most useful in military service.⁴² Finally, the Court declared that its analysis should not be read to suggest “the invalidity of laws regulating the storage of firearms to prevent accidents.”⁴³

The *Heller* decision failed to articulate a legal standard of review, or test, to be applied in evaluating other laws under the Second Amendment. In addition, because *Heller* considered laws of the District of Columbia (a federal enclave), the Court stated that the question of whether the Second Amendment applies to the states is “a question not presented by this case.”⁴⁴ While the *Heller* Court did not rule on whether the Second Amendment applies to state or local governments, the Court did note its earlier decisions holding that “the Second Amendment applies only to the Federal Government.”⁴⁵ However, subsequent to the decision in *Heller*, the Ninth Circuit Court of Appeals became the first circuit court in the country to hold that the Second Amendment is incorporated to apply to state and local governments through the Fourteenth Amendment.⁴⁶ The Ninth Circuit has agreed to reconsider that decision.

Although questions remain as to the standard of review, the *Heller* decision leaves no doubt that regulation of firearms remains legally permissible. Even after *Heller*, most common sense gun violence prevention measures, such as those contained in this model law, are likely to be upheld. As mentioned above, the Court made clear that the right to bear arms is not unlimited and that its list of presumptively lawful regulations was not exhaustive. Moreover, the Court specifically declared that its analysis should not cast doubt on laws imposing conditions and qualifications on the commercial sale of firearms.⁴⁷

⁴¹ *Id.* at 2817 n.26.

⁴² *Id.* at 2817.

⁴³ *Id.* at 2820. In addition, the *Heller* Court did not invalidate D.C.’s requirement that firearm owners be licensed. Mr. Heller’s attorney conceded that the licensing scheme was not, in itself, unlawful. Therefore, the Court did not address this requirement. *Id.* at 2819.

⁴⁴ *Id.* at 2813 n.23.

⁴⁵ *Id.*, citing *Miller v. Texas*, 153 U.S. 535, 538 (1894); *Presser v. Illinois*, 116 U.S. 252, 265 (1886); and *United States v. Cruikshank*, 92 U.S. 542 (1876). Following these decisions, lower courts considering challenges to state and local gun laws also have held that the Second Amendment constrains only the federal government, and not actions by state or local governments. See also LCAV’s website, www.lcav.org, for additional appellate court cases reiterating this position.

⁴⁶ *Nordyke v. King*, 563 F.3d 1266 (9th Cir. 2009), *rehearing en banc granted*, No. 07-15763 (9th Cir. filed July 29, 2009). Courts in other jurisdictions have disagreed, rejecting plaintiffs’ arguments that the Second Amendment should be applied to the states. See *Maloney v. Cuomo*, 554 F.3d 56, 58-59 (2d Cir. 2009), *petition for cert. filed*, (U.S. June 26, 2009)(No. 08-1592); *NRA of Am., Inc. v. City of Chicago*, 567 F.3d 856 (7th Cir. 2009), *petitions for cert. filed* (U.S. June 3, 2009)(No. 08-1497), and (U.S. June 9, 2009)(No. 08-1521).

⁴⁷ *Heller*, 128 S. Ct. at 2816-2817.

2. State Right to Bear Arms

The constitutions of most states recognize a “right to bear arms.” However, the California Constitution contains no “right to bear arms” provision. In *Kasler v. Lockyer*, 2 P.3d 581, 586 (Cal. 2000), the California Supreme Court rejected a challenge to the state ban on assault weapons, confirming that “no mention is made in [the California Constitution] of a right to bear arms,” and “regulation of firearms is a proper police function.”

B. Equal Protection

The Fourteenth Amendment provides that no state shall “deny to any person within its jurisdiction the equal protection of the laws.” However, when a law makes a classification neither “involving fundamental rights nor proceeding along suspect lines,” the law will withstand constitutional scrutiny so long as it bears a rational relationship to a legitimate governmental interest.⁴⁸

In *Suter v. City of Lafayette*, 67 Cal. Rptr. 2d 420 (Cal. Ct. App. 1997), a firearms dealer brought an equal protection challenge against a law prohibiting minors from entering premises where the sale of firearms is the primary business performed at the site. The court held that “[b]ecause minors have a legitimate reason for entering sports or department stores that sell merchandise other than weapons or weapons-related goods, a rational basis exists for distinguishing between such businesses and those that primarily sell weapons.”⁴⁹ The dealer also claimed that the requirement that firearms dealers carry liability insurance was a denial of equal protection because it discriminates between firearms dealers and other businesses selling products that can and do cause injury, and because it fails to discriminate between firearms dealers on the basis of size and probable volume of sales. The court also rejected these claims.⁵⁰

In *Koscielski v. Minneapolis*, 435 F.3d 898 (8th Cir. 2006), a firearms dealer brought an equal protection challenge against the City of Minneapolis’s zoning ordinance requiring firearms dealers to obtain conditional use permits and locate within particular zones and only in locations sufficiently distant from day care centers and churches. The court first held that the dealer’s claim involved neither a suspect classification nor a fundamental right. Therefore, the law would be found constitutional if it bore a rational relationship to a legitimate governmental interest. Upholding the law, the court concluded, “the implications for public safety warrant regulating and zoning firearms dealerships differently than other retail establishments.”⁵¹

The majority of cases also have rejected equal protection challenges to firearms laws under the U.S. Constitution and analogous state constitutional provisions.⁵²

⁴⁸ *Heller v. Doe*, 509 U.S. 312, 320 (1993), see also *Schweiker v. Wilson*, 450 U.S. 221, 230 (1981). Classifications along “suspect lines” can include a suspect class (e.g., race) or quasi-suspect class (e.g., gender). See, e.g., *Lavia v. Pennsylvania*, 224 F.3d 190, 200 (3d Cir. 2000).

⁴⁹ *Suter*, 67 Cal. Rptr. 2d at 434.

⁵⁰ *Id.* at 435-436.

⁵¹ *Koscielski*, 435 F.3d at 902.

⁵² See, e.g., *United States v. Lewitzke*, 176 F.3d 1022 (7th Cir. 1999) (rejecting equal protection challenge to federal law banning possession of firearm by person convicted of domestic violence misdemeanor); *United States v.*

Note that the decision in *District of Columbia v. Heller*, 128 S. Ct. 2783 (2008) did not address an equal protection claim, but the Court's *dicta* suggests that the rational basis test is not appropriate for reviewing firearms regulation under the Second Amendment.⁵³ The Court did not set a standard for reviewing firearms laws. The Court also did not consider whether the Second Amendment right is a fundamental right for purposes of equal protection review. It is likely that future cases will resolve these issues.

C. Due Process

The due process clause of the Fourteenth Amendment to the U.S. Constitution provides that no person shall be deprived of "life, liberty, or property, without due process of law...." Courts have held that the due process clause includes both substantive and procedural guarantees.

Substantively, a law failing to give a person of ordinary intelligence a reasonable opportunity to know what is prohibited, or failing to provide explicit standards for those who apply the law, violates due process under the federal constitution. As the U.S. Supreme Court has explained, "[i]t is a basic principle of due process that an enactment is void for vagueness if its prohibitions are not clearly defined."⁵⁴ Note, however, that clearly written laws also can violate due process when they are overbroad, impinging on constitutionally-protected conduct.⁵⁵

Procedural due process imposes constraints on governmental decisions which deprive individuals of "liberty" or "property" interests within the meaning of the due process clause of the Fifth or Fourteenth Amendment.⁵⁶ Courts have held that the due process clause generally requires the government to provide the affected person with the opportunity to be heard at a meaningful time and in a meaningful manner, before the deprivation of the liberty or property interest.⁵⁷

In *Suter v. City of Lafayette*, 67 Cal. Rptr. 2d 420, 433 (Cal. Ct. App. 1997), a firearms dealer challenged the City of Lafayette's requirements that firearms dealers obtain land use and police permits, and the city's zoning ordinance, which limited firearms dealers to areas zoned for retail or general commercial uses. The court held that these restrictions do not violate the substantive due process clause, noting that:

As the operation of a firearms dealership is a commercial enterprise, there is a rational basis for confining that operation to commercially zoned areas. In addition, because

McKenzie, 99 F.3d 813 (7th Cir. 1996) (rejecting equal protection challenge to federal law banning possession of firearm by felon); *California Rifle and Pistol Ass'n. v. City of West Hollywood*, 78 Cal. Rptr. 2d 591, 605-606 (Cal. Ct. App. 1998) (rejecting equal protection challenge to ban on the sale of "junk guns"); *Olympic Arms v. Buckles*, 301 F.3d 384 (6th Cir. 2002) (rejecting equal protection challenge to the definition of "assault weapon" in the 1994 federal assault weapon ban, which expired in 2004). *But see Fraternal Order of Police v. United States*, 152 F.3d 998 (D.C. Cir. 1998) (upholding equal protection challenge against federal law banning possession of firearms by government employees convicted of domestic violence misdemeanors but allowing possession by government employees convicted of domestic violence felonies).

⁵³ *Heller*, 128 S.Ct. at 2818 n.27.

⁵⁴ *Grayned v. City of Rockford*, 408 U.S. 104, 108 (1972).

⁵⁵ *Id.* at 114-15.

⁵⁶ *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

⁵⁷ *Id.*

dealerships can be the targets of persons who are or should be excluded from possessing weapons, it is reasonable to insist that dealerships be located away from residential areas, schools, liquor stores and bars.⁵⁸

The court also noted that substantive due process allows for imprecise zoning or licensing ordinances, because of the need for government “in large urban areas to delegate broad discretionary power to administrative bodies.”⁵⁹

In *Baer v. Wauwatosa*, 716 F.2d 1117 (7th Cir. 1983), a licensed gun dealer brought an action against a city, mayor, and council members, alleging that by taking away his license to sell guns, the defendants had deprived him of property without due process of law. The city had revoked the license when the dealer was convicted of a felony. The court held that the dealer was deprived of “property” within the meaning of the due process clause when the city revoked his license, but that the procedures used for the revocation were adequate.⁶⁰ The court also held that the revocation of the license did not violate the substantive due process clause, stating:

The sale of guns is fraught with both short-term and long-term danger to the public -- or so at least the Wauwatosa authorities could rationally conclude, and no more is required to uphold the substantive validity of their action under the due process clause. The short-term danger is that the guns will be sold to criminals, children, and others who are, for excellent reasons, forbidden by law to have them; the long-term danger is that the circumstances of sale will encourage people to think of guns as weapons of aggression.⁶¹

Most courts have rejected due process challenges to firearms laws under the U.S. Constitution and analogous state constitutional provisions.⁶²

Note that the decision in *District of Columbia v. Heller*, 128 S. Ct. 2783 (2008), did not address a due process claim, but the Court’s *dicta* suggests that the rational basis test is not appropriate for reviewing firearms regulation under the Second Amendment.⁶³ The Court did not set a standard for reviewing firearms laws. It is likely that future cases will resolve these issues.

⁵⁸ *Suter*, 67 Cal. Rptr. 2d at 433.

⁵⁹ *Id.* at 431.

⁶⁰ *Baer*, 716 F.2d at 1122-1123.

⁶¹ *Id.* at 1123.

⁶² See, e.g., *United States v. Hutzell*, 217 F.3d 966 (8th Cir. 2000) (rejecting due process challenge to federal law prohibiting possession of firearms by persons convicted of misdemeanor crimes of domestic violence); *United States v. Lim*, 444 F.3d 910 (7th Cir. 2006) (rejecting due process challenge to federal law requiring registration of sawed-off shotguns); *United States v. Edwards*, 182 F.3d 333 (5th Cir. 1999) (rejecting due process challenge to federal law banning possession of firearm by an unlawful user of a controlled substance); *City of Cincinnati v. Langan*, 640 N.E.2d 200 (Ohio Ct. App. 1994) (rejecting due process challenge to local assault weapon ban). But see *Robertson v. City & County of Denver*, 874 P.2d 325 (Colo. 1994) (upholding a due process challenge to portions of the definition of “assault weapon” in local assault weapon ban); *United States v. Vest*, 448 F. Supp. 2d 1002 (S.D. Ill. 2006) (upholding as applied due process challenge to law enforcement exception to federal laws restricting transfer and possession of machine guns).

⁶³ *Heller*, 128 S.Ct. at 2818 n.27.

D. Privilege Against Self-Incrimination

The Fifth Amendment to the U.S. Constitution provides in part that no person “shall be compelled in any criminal case to be a witness against himself.” Record-keeping requirements violate the “privilege against self-incrimination” when they are directed principally at persons “inherently suspect of criminal activities.”⁶⁴

As discussed below, opponents of this model law may argue that the requirement that ammunition sellers maintain a record of each ammunition sale violates the privilege against self-incrimination because it requires purchasers, even those who are prohibited by law from possessing ammunition, to admit they purchased ammunition. However, the type of information recorded pursuant to this model law is neutral on its face, and this part of the model law is directed at ammunition purchasers generally, not a group inherently suspect of criminal activity. This requirement therefore does not violate the privilege against self-incrimination.

E. Preemption and Local Authority to Regulate Firearms

Preemption occurs when a higher level of government removes regulatory power from a lower level of government. For example, Congress may remove legislative authority from the states in certain areas. Likewise, state governments may, in some cases, remove local legislative authority.

1. Federal Preemption

Under the Supremacy Clause of Article VI of the U.S. Constitution, a federal law is binding on all state and local governments so long as Congress duly enacted the law pursuant to one of its limited powers. When federal law removes state authority (and thus local authority) to regulate a specific subject matter, the process is called “federal preemption.” Federal preemption of state law is uncommon in the area of firearms regulation.

Congress may make its intention to preempt an area of state law clear by expressly stating its intent in the language of a statute. Absent such a statement, when considering a challenge to a state or local law based on the claim that regulation of the subject has been preempted by Congress, courts presume that the federal government does not intend to preempt state and local authority.⁶⁵ When the challenged law is within an area of traditional state authority, the reviewing court will find preemption only when the court is “absolutely certain” that Congress intended to take away that authority.⁶⁶ Courts look for the existence of a pervasive scheme of federal legislation of the particular subject, or an irreconcilable conflict between the federal regulation and the challenged law, to determine congressional intent.⁶⁷

⁶⁴ *Haynes v. U.S.*, 390 U.S. 85 (1968), *Garner v. U.S.*, 424 U.S. 648 (1976); *California v. Byers*, 402 U.S. 424 (1971).

⁶⁵ *Richmond Boro Gun Club, Inc. v. City of New York*, 896 F. Supp. 276, 285 (E.D.N.Y. 1995), *aff'd*, 97 F.3d 681 (2d Cir. 1996) (upholding New York City’s assault weapon ban against a federal preemption challenge).

⁶⁶ *Gregory v. Ashcroft*, 501 U.S. 452, 464 (1991) (rejecting a federal preemption challenge to a Missouri constitutional provision setting mandatory retirement age for state judges).

⁶⁷ *Richmond*, 896 F. Supp. at 285.

Congress has not expressly preempted the broad field of firearms regulation.⁶⁸ Furthermore, courts have held that congressional regulation of firearms does not create a scheme so pervasive that it leaves no room for state and local law.⁶⁹ Thus, absent a specific, irreconcilable conflict between a challenged state or local firearm law and a federal enactment, there is no federal preemption of that state or local law.

2. State Preemption

Most state constitutions allocate authority to local governments to regulate in the interests of the public health, safety and welfare (which generally includes regulation of firearms). “State preemption” occurs when a state government removes a portion of a local government's legislative authority. States differ considerably in how and to what extent they preempt the regulation of firearms.

Article XI, § 7 of the California Constitution provides that “[a] county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.” A local government's police power under this provision includes the power to regulate firearms.⁷⁰ Ordinances enacted pursuant to the police power are valid unless they conflict with state law.⁷¹ A conflict exists if the ordinance contradicts, duplicates, or enters an area occupied by general law, either expressly or by legislative implication.⁷²

The California Legislature has expressly preempted the following areas of firearms law: 1) licensing or registration of commercially manufactured firearms; 2) licensing or permitting with respect to the purchase, ownership, possession or carrying of a concealable firearm in the home or place of business; and 3) regulation of the manufacture, sale or possession of “imitation firearms.”

⁶⁸ Rather, courts have cited 18 U.S.C. § 927 for the proposition that Congress has expressed an intent *not* to preempt the field of firearms. *See, e.g., Oefinger v. Zimmerman*, 601 F.Supp. 405 (W.D. Pa. 1984) (rejecting a federal preemption challenge to a state law banning machine guns and sawed-off shotguns); *C.D.M. Products, Inc., v. City of New York*, 350 N.Y.S.2d 500 (N.Y. Sup. Ct. 1973) (rejecting a federal preemption challenge to a local ordinance requiring licensing of wholesale firearm manufacturers and assemblers). 18 U.S.C. § 927 provides that “No provision of this chapter [18 U.S.C. § 921 *et seq.* which contains provisions regulating the licensing of firearms manufacturers and dealers, firearms possession, the carrying of weapons, and armor piercing ammunition] shall be construed as indicating an intent on the part of the Congress to occupy the field in which such provision operates to the exclusion of the law of any State on the same subject matter, unless there is a direct and positive conflict between such provision and the law of the State so that the two cannot be reconciled or consistently stand together.” Note, however, that 18 U.S.C. § 926A provides that, notwithstanding state or local law, a person may transport firearms “from any place where he may lawfully possess and carry such firearm to any other place where he may lawfully possess and carry such firearm” so long as he or she complies with the specified safety standards. Courts have found this provision to supersede local laws regulating transportation of firearms. *See, e.g., Bieder v. United States*, 662 A.2d 185 (D.C. 1995) (reversing conviction for multiple violations of District firearms laws on grounds that trial court failed to allow defense based on 18 U.S.C. § 926A); *Arnold v. City of Cleveland*, 1991 Ohio App. LEXIS 5246 (Ohio Ct. App. 1991) (upholding federal preemption challenge to local law banning transportation of assault weapons). *But see Fresno Rifle & Pistol Club, Inc. v. Van de Kamp*, 746 F. Supp. 1415 (E.D. Cal. 1990) (rejecting federal preemption challenge to state law banning transportation of assault weapons).

⁶⁹ *Richmond*, 896 F. Supp. at 285.

⁷⁰ *Galvan v. Superior Court of San Francisco*, 452 P.2d 930 (Cal. 1969).

⁷¹ *Sherwin-Williams Co. v. City of Los Angeles*, 844 P.2d 534, 536 (Cal. 1993).

⁷² *Id.* at 536-7.

California Government Code § 53071 provides:

It is the intention of the Legislature to occupy the whole field of regulation of the registration or licensing of commercially manufactured firearms as encompassed by the provisions of the Penal Code, and such provisions shall be exclusive of all local regulations, relating to registration or licensing of commercially manufactured firearms, by any political subdivision as defined in section 1721 of the Labor Code.

California Penal Code § 12026(b) provides:

No permit or license to purchase, own, possess, keep, or carry...shall be required of any citizen of the United States or legal resident over the age of 18 years who resides or is temporarily within this state, and who is not within the excepted classes prescribed by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, to purchase, own, possess, keep, or carry, either openly or concealed, a pistol, revolver, or other firearm capable of being concealed upon the person within the citizen's or legal resident's place of residence, place of business, or on private property owned or lawfully possessed by the citizen or legal resident.

California Government Code § 53071.5 provides:

By the enforcement of this section, the Legislature occupies the whole field of regulation of the manufacture, sale, or possession of imitation firearms, as defined in section 12550 of the Penal Code, and that section shall preempt and be exclusive of all regulations relating to the manufacture, sale, or possession of imitation firearms, including regulations governing the manufacture, sale, or possession of BB devices and air rifles described in subdivision (g) of Section 12001 of the Penal Code.⁷³

Courts will not infer preemption unless the circumstances clearly indicate the Legislature intended to preempt the field.⁷⁴

Suter v. City of Lafayette, 67 Cal. Rptr. 2d 420 (Cal. Ct. App. 1997) involved a preemption challenge to an ordinance regulating the location and operation of firearms dealers, and requiring firearms dealers to obtain local land use and police permits. The court of appeal dismissed the action, holding that local governments are not generally excluded by state law from imposing additional requirements on firearms dealers.⁷⁵ In fact, the court noted that California Penal Code § 12071 explicitly contemplates local regulation of firearms dealers, including local licensing requirements.

⁷³ In addition, California generally permits local regulation of sport shooting ranges, but provides that local jurisdictions may not enforce new or amended noise control laws on shooting ranges that are in operation and not in violation of existing law at the time of the enactment of the new or amended noise control ordinance, if there has been no substantial change in the nature or use of the range. Cal. Civ. Code § 3482.1(d).

⁷⁴ *California Rifle and Pistol Ass'n, Inc. v. City of West Hollywood*, 78 Cal. Rptr. 2d 591, 600 (Cal. Ct. App. 1998) (holding that state law did not preempt a local ordinance banning the sale of Saturday Night Specials).

⁷⁵ *Suter*, 67 Cal. Rptr. 2d at 427.

The court in *Suter* found that the ordinance did not conflict with, duplicate, or enter into a field fully occupied by state law and was not, therefore, preempted, with one exception. The court struck down the portion of the ordinance regulating firearm storage, stating that it was preempted by the storage requirements in Penal Code § 12071(b)(14). However, subsequent to that case, the Legislature added Penal Code § 12071(b)(15), which states, “The licensing authority in an unincorporated area of a county or within a city may impose security requirements that are more strict or are at a higher standard than those specified in paragraph (14).” Hence, California law does not preempt local governments from imposing requirements on firearms dealers, including licensing and security requirements, to supplement state law.⁷⁶

⁷⁶ Note that, in *Fiscal v. City and County of San Francisco*, 70 Cal. Rptr. 3d 324 (Cal. Ct. App. 2008), a court of appeal held that Proposition H, a municipal ordinance prohibiting all handgun possession and the sale, distribution, transfer and manufacture of all firearms and ammunition in San Francisco, was preempted by state law.

III. Responses to Common Opposition Arguments

Opponents of this model law might argue that it creates undue burdens for firearms dealers and ammunition sellers, especially small businesses, by increasing the costs of doing business. However, the provisions of this model law impose modest costs to businesses. Furthermore, the benefits to public safety detailed in the findings of this model law clearly outweigh the costs imposed on the gun industry. In addition, the security measures required by the law prevent the theft of merchandise and protect the dealer's inventory. Responsible firearms dealers and ammunition sellers already use these measures and should welcome the elimination of competition from irresponsible dealers who present a danger to the public.

Several arguments are sometimes raised specifically in opposition to the record-keeping requirement for ammunition purchases. Some of the most common arguments are that:

- The record-keeping requirement for ammunition purchases will significantly delay transactions and drive customers outside the jurisdiction.
- Congress repealed a similar requirement in 1986, presumably because it was ineffective or costly to enforce.
- The requirement violates the purchaser's right to privacy and will lead to identity theft.
- The requirement is unconstitutional because it violates the privilege against self-incrimination.

The record-keeping requirement will not significantly delay transactions or drive customers outside the jurisdiction. The Sacramento Police Department has estimated that this requirement only adds two minutes to a transaction, significantly less time than if the customers got in their cars and traveled elsewhere to purchase ammunition. The inconvenience to law-abiding citizens is minor and is warranted by the lethal nature of the product being purchased.

It is true that the Firearm Owners' Protection Act of 1986 (FOPA) repealed several ammunition-related provisions of the Gun Control Act of 1968. However, the elimination of almost all federal regulation of ammunition sales and transfers constituted only a fraction of FOPA's sweeping changes to federal firearms regulations.⁷⁷ FOPA was sponsored by the gun lobby, and the NRA website currently states that its lobbying arm worked for more than a decade to secure FOPA's passage.⁷⁸ Although the NRA argued that the ammunition record-keeping provisions of federal law were ineffective, the experiences in Los Angeles and Sacramento (discussed above) show that a record-keeping requirement for ammunition sales can be quite effective. In addition, technological advances now allow records to be transmitted electronically, making enforcement less burdensome.

The record-keeping requirement does not violate the purchaser's right to privacy or lead to identity theft. Only the seller and law enforcement are granted access to the information that the

⁷⁷ FOPA also limited the number of inspections of dealers' premises ATF could conduct without a search warrant; prevented a central federal database of firearms, firearms owners, or firearms transactions; legalized sales by dealers at gun shows within the same state; and loosened the requirement of a federal license for persons engaged in the business of firearms sales. Pub. L. No. 99-308.

⁷⁸ National Rifle Association, *About NRA-ILA, Who We Are, And What We Do*, at <http://www.nraila.org/About/>.

ammunition purchaser must provide. This information is identical to the information that a person purchasing a firearm must provide. There is no evidence that identity theft has ever occurred in connection with a firearm sale. Accordingly, there is no reason to believe that ammunition sellers or law enforcement officers will steal an ammunition purchaser's identity.

Moreover, the requirement that ammunition sellers maintain a record of each ammunition sale does not violate the privilege against self-incrimination. As noted above, record-keeping requirements violate the "privilege against self-incrimination" when they are directed principally at persons "inherently suspect of criminal activities."⁷⁹ However, the type of information recorded pursuant to this model law is neutral on its face, and this provision is directed at ammunition purchasers generally, not a group inherently suspect of criminal activity. This requirement therefore does not violate the privilege against self-incrimination.

Finally, opponents of the requirement that firearms dealers provide an inventory of their merchandise to local law enforcement every six months sometimes argue that this requirement constitutes "registration" of commercially manufactured firearms and is therefore preempted by California Government Code § 53071. However, "registration" refers to a system that records the *identity* of the purchasers or owners of firearms along with information about the firearms purchased or owned by those individuals. The inventory requirement described in this model law does not involve recording information about the purchasers or owners of firearms. As a result, it is not a registration requirement and is not preempted.

⁷⁹ *Haynes v. U.S.*, 390 U.S. 85 (1968); *Garner v. U.S.*, 424 U.S. 648 (1976); *California v. Byers*, 402 U.S. 424 (1971).

Conclusion

LCAV hopes that this report will be useful to local jurisdictions in California considering the adoption of ordinances to regulate firearms dealers and/or ammunition sellers. LCAV is available to provide additional legal research, analysis, and drafting assistance to those seeking to enact this or other laws to reduce gun violence. Please see www.lcav.org for more information about our services, and contact us at 415-433-2062 if we can be of assistance.



Legal Community Against Violence

expertise, information & advocacy to end gun violence

LCAV Model Law
**REQUIRING THE REPORTING OF LOST OR STOLEN FIREARMS
(LOCAL GOVERNMENTS IN CALIFORNIA)**

May 2009

About LCAV and Our Model Laws

Legal Community Against Violence (LCAV) is a national public interest law center dedicated to preventing gun violence. As the first and only lawyers' organization in the gun violence prevention movement, LCAV focuses on policy reform at the state and local levels, marshaling the expertise and resources of the legal community in support of gun violence prevention.

LCAV serves governmental and nonprofit organizations nationwide. Our services include legal and technical assistance in the form of legal research and analysis, development of regulatory strategies, legislative drafting, and in certain circumstances, calling upon our network of attorney members to help secure *pro bono* litigation assistance. We also engage in educational outreach and advocacy, producing reports, analyses and model laws. Our website, www.lcav.org, is the most comprehensive resource on U.S. firearm laws in either print or electronic form.

Model laws provide a starting point: a framework from which state or local legislation can be drafted, reviewed, debated, and ultimately adopted. California jurisdictions using this model must integrate it with existing ordinances as appropriate.

This report and model law do not offer, and are not intended to constitute, legal advice.

Executive Summary

Policy Background

Legal Community Against Violence (LCAV) has developed a model ordinance for use by California jurisdictions to require the reporting of lost or stolen firearms.

Federal and California laws currently require licensed firearms dealers, but not gun owners, to report the loss or theft of firearms.¹ Seven states (Connecticut, Massachusetts, Michigan, New Jersey, New York, Ohio, Rhode Island), the District of Columbia, and several local jurisdictions, many in California, impose this requirement on gun owners as well. Local governments with reporting laws include San Francisco, Sacramento, Oakland, Berkeley, Los Angeles, West Hollywood, Thousand Oaks, Simi Valley and Port Hueneme in California, as well as Chicago, Illinois, Cleveland and Columbus, Ohio, Hartford, Connecticut, and New York, New York.

¹ References for the facts identified in the Executive Summary can be found in the "Findings" portion of the model law below.

Laws requiring the reporting of lost or stolen firearms are useful to law enforcement for several reasons. First, when a crime gun is traced by law enforcement to the last purchaser of record, the owner may claim that the gun was lost or stolen to hide his or her involvement in the crime or in gun trafficking.² Reporting laws provide a tool for law enforcement to detect this behavior and charge criminals who engage in it. These laws allow law enforcement to charge an individual with a crime if he or she failed to file a timely report of a lost or stolen firearm, or, alternatively, if he or she filed a false report.

Second, reporting laws help disarm prohibited persons. When a person who legally owned a gun falls into a prohibited category, it is crucial that law enforcement remove the firearm from his or her possession. For example, a gun owner who is convicted of a felony or who becomes the subject of a domestic violence restraining order is not permitted under federal or state law to continue to possess his or her firearm.³ However, when ordered to surrender the firearm by law enforcement or a judge, the owner may falsely claim it has been lost or stolen. Mandatory reporting laws provide a deterrent to this behavior.

Third, the reporting requirement makes it easier for law enforcement to locate a lost or stolen firearm and return it to its owner. Timely reporting of gun thefts or losses enables police to trace guns more effectively, and makes the successful prosecution of users of stolen guns more likely.

Finally, reporting laws make gun owners more accountable for their weapons. Such laws also protect gun owners from unwarranted criminal accusations when a gun that was lost or stolen is later recovered at a crime scene.

According to a December 2008 report by Mayors Against Illegal Guns (a coalition of over 300 mayors that targets illegal guns nationwide), lost or stolen firearm reporting laws “can help law enforcement more easily identify and prosecute gun traffickers.” The report presents data showing that states that require the reporting of lost or stolen firearms export crime guns at less than one-third the rate of states that do not have lost or stolen reporting laws. In a 2007 report, The International Association of Chiefs of Police states, “law enforcement’s early awareness of every lost and stolen gun will enhance their ability to recover those guns and reduce gun violence.” The report recommends that state and local governments mandate reporting of lost or stolen firearms.

A 2008 survey of Americans’ attitudes toward gun violence prevention measures found almost unanimous support for laws requiring the reporting of lost or stolen firearms: 91 percent of all people surveyed, and 88 percent of polled gun owners favored reporting laws.

² Gun trafficking occurs when a person buys a gun legally and subsequently transfers it to another illegally.

³ Note that the California Department of Justice maintains a Prohibited Armed Persons File to identify prohibited persons who remain in possession of firearms. This database currently identifies roughly 13,000 armed and prohibited persons.

Opposition Arguments

Opponents of such laws sometimes argue that these measures could unfairly punish otherwise law-abiding gun owners who fail to report a weapon lost or stolen. However, prosecutorial discretion allows law enforcement officials to focus only on persons suspected of falsely claiming the loss or theft of a firearm, rather than persons who innocently fail to comply with the reporting requirement.

Opponents also sometimes argue that these laws will impose an undue burden on gun owners. However, federal and state laws already require firearms dealers to report lost and stolen firearms. In addition, California requires motorists to report serious automobile accidents to the Department of Motor Vehicles. A reporting requirement for firearms is no more burdensome on gun owners than the accident reporting law is on motorists. Moreover, the highly lethal nature of firearms justifies an increased level of responsibility over that required for ownership of other, less dangerous products.

Another opposition argument is that criminals could easily thwart the law by filing false reports of lost or stolen guns. As noted above, however, a gun owner who repeatedly files reports claiming his or her firearms have been lost or stolen puts law enforcement on notice of possible gun trafficking. In addition, the model law makes it a crime to file a false report that a firearm has been lost or stolen. This provides a deterrent to the filing of false reports, and provides prosecutors another basis upon which to charge a trafficker or someone whose gun turns up at a crime scene where his or her involvement may be suspected.⁴

This Model Law

This model law requires a person to report the loss or theft of a firearm he or she owns or possesses within 48 hours of the time he or she knew or reasonably should have known of such loss or theft.⁵ In addition, an objective standard is used regarding the onset of the reporting period. This means that reporting is required within 48 hours of the time a reasonable person knew or *reasonably should have known* that the firearm was lost or stolen. A subjective standard, based on when the owner actually became aware of the loss or theft, would allow dishonest gun owners to thwart the law simply by claiming that they never knew the firearm was lost or stolen.

The model also provides an optional provision that requires persons who have had a firearm lost or stolen within five years prior to the effective date of the law to report the loss or theft within sixty days of the ordinance's effective date. This provision is

⁴ Opponents of lost or stolen reporting requirements also sometimes argue that gun owners will be unaware of the new duties imposed upon them and will unwittingly fail to comply. However, a jurisdiction adopting such a measure can take steps, such as mailing letters to gun owners or requiring firearms dealers to post notices, to ensure that gun owners learn of the new requirement. And, as noted above, prosecutors have discretion. If the circumstances suggest that an otherwise law-abiding gun owner was truly unaware of the law, it is unlikely that he or she would be prosecuted.

⁵ Forty-eight hours is the reporting time period required of dealers by both federal and state law.

designed to decrease the ability of a gun owner to falsely claim that his or her gun was lost or stolen before the reporting requirement went into effect.

This model law requires the reporting of lost or stolen firearms and is designed specifically for use by local governments in California. LCAV is available to provide additional legal research, analysis, and drafting assistance to those seeking to enact this or other laws to reduce gun violence. Please see www.lcav.org for more information about our services, and contact us at 415-433-2062 if we can be of assistance.

Text of Model Law

CHAPTER 1 REQUIRING THE REPORTING OF LOST OR STOLEN FIREARMS

Sec. 1	Findings
Sec. 2	Reporting of Loss or Theft of Firearm
Sec. 3	Exceptions
Sec. 4	Penalty
Sec. 5	Severability

Sec. 1 Findings

[Findings regarding the need for and benefits of this law should be included. Findings in support of a law are most effective when they are specific and localized. When possible, local data from law enforcement, the public health community, and the media should be added. General findings are provided below.]

Whereas, in 2005, 3,434 people died from firearm-related injuries in California, and 4,553 other people were hospitalized for non-fatal gunshot wounds;⁶

Whereas, federal and California law require licensed firearms dealers to report the loss or theft of firearms to law enforcement within 48 hours;⁷

Whereas, when a crime gun is traced by law enforcement to the last purchaser of record, the owner may falsely claim that the gun was lost or stolen to hide his or her involvement in the crime or in gun trafficking. Reporting laws provide a tool for law enforcement to detect this behavior and charge criminals who engage in it;

Whereas, when a person who legally owned a gun falls into a prohibited category, it is crucial that law enforcement remove the firearm from his or her possession. Reporting laws help disarm prohibited persons by deterring them from falsely claiming that their firearms were lost or stolen;

Whereas, existing reporting laws, like California's requirements that firearms dealers report the lost or theft of firearms and that motorists report serious automobile accidents to the Department of Motor Vehicles, demonstrate that reporting laws are not unduly burdensome. Moreover, the highly lethal nature of firearms justifies an increased level of responsibility over that required for ownership of other, less dangerous products;

Whereas, reporting laws protect gun owners from unwarranted criminal accusations when their guns are recovered at a crime scene, and make it easier for law enforcement to locate a lost or stolen firearm and return it to its lawful owner;

⁶ California Department of Health Services, Epidemiology and Prevention for Injury Control Branch (EPIC), *Firearm Injuries in California* (2008).

⁷ 18 U.S.C. § 923 (g)(6); Cal. Penal Code §§ 12071(b)(13), 12086(c)(3).

Whereas, the extreme danger firearms pose to public safety requires a heightened level of accountability on the part of individuals who choose to own firearms. Reporting laws make gun owners more accountable for their weapons;

Whereas, neither federal nor California law contains any requirement that firearm owners report lost or stolen firearms;

Whereas, Connecticut, Massachusetts, Michigan, New Jersey, New York, Ohio, and Rhode Island, and the District of Columbia, require the reporting of lost or stolen firearms;

Whereas, several local governments in California already require the reporting of lost or stolen firearms, including San Francisco, Sacramento, Oakland, Berkeley, Los Angeles, West Hollywood, Thousand Oaks, Simi Valley and Port Hueneme. Local ordinances often serve as catalysts for statewide policies;⁸

Whereas, several major cities outside of California, including Chicago, Illinois, Cleveland and Columbus, Ohio, Hartford, Connecticut, and New York, New York, also require reporting of lost or stolen firearms;

Whereas, a December 2008 report by Mayors Against Illegal Guns (a coalition of over 300 mayors that targets illegal guns nationwide) states that lost or stolen firearm reporting laws “can help law enforcement more easily identify and prosecute gun traffickers.” The report presents data showing that states that require the reporting of lost or stolen firearms export crime guns to other states at less than one-third the rate of states that do not have lost or stolen reporting laws;⁹

Whereas, in a 2007 report, The International Association of Chiefs of Police states, “law enforcement’s early awareness of every lost and stolen gun will enhance their ability to recover those guns and reduce gun violence.” The report recommends that state and local governments mandate reporting of lost or stolen firearms;¹⁰

Whereas, a 2008 survey of Americans’ attitudes toward gun violence prevention measures found almost unanimous support for requiring the reporting of lost or stolen

⁸ For example, state laws regulating junk guns and requiring trigger locks were enacted only after numerous local communities in California adopted these measures. For citations to these and other local laws, see, Legal Community Against Violence, *Communities on the Move: How California Communities are Addressing the Epidemic of Handgun Violence* (2000), at http://www.lcav.org/library/surveys_local_ordrs/com2000_pdf.pdf.

⁹ Mayors Against Illegal Guns, *The Movement of Illegal Guns in America: The Link between Gun Laws and Interstate Gun Trafficking*, (December 2008), at http://www.mayorsagainstillegalsguns.org/downloads/pdf/trace_report_final.pdf. States “export” a crime gun when the last purchase of record occurred in the state and the gun is later recovered at a crime scene in a different state.

¹⁰ International Association of Chiefs of Police (IACP), *Taking a Stand: Reducing Gun Violence in Our Communities* 16, 22 (Sept. 2007).

firearms: 91 percent of all people surveyed, and 88 percent of polled gun owners favored reporting laws;¹¹

Therefore, the [jurisdiction/governing body] hereby adopts the following:

Sec. 2 Reporting of Loss or Theft of Firearm

It is unlawful for any person to fail to report to the Police/Sheriff's Department the theft or loss of a firearm he or she owns or possesses within forty eight (48) hours of the time he or she knew or reasonably should have known that the firearm has been stolen or lost, if the person resides in City/County or the loss or theft occurs in City/County.*

[Optional provision:

It is unlawful for any person to fail to report to the Police/Sheriff's Department within sixty days (60) of the effective date of this ordinance the theft or loss of a firearm he or she owned or possessed within the five years prior to the effective date of this ordinance if the person resided in City/County at the time of the loss or theft, or the loss or theft occurred in City/County, unless the firearm has been recovered.]¹²

Pursuant to Penal Code § 11108, the Chief of Police/Sheriff shall submit a description of each firearm which has been reported lost or stolen directly into the California Department of Justice automated property system for firearms.

Sec. 3 Exceptions

Section 2 shall not apply to the following persons:

- a) Law enforcement officials while engaged in their official duties;
- b) Members of the Armed Forces of the United States or the National Guard while engaged in their official duties;
- c) Firearms dealers and manufacturers licensed under federal and state law while engaged in the course and scope of their activities as licensees.

Sec. 4 Penalty

- a) Any person violating section 2 is guilty of a misdemeanor;

* Where the words "Police/Sheriff," "City/County" or similar variations appear, simply select the appropriate designation for your jurisdiction.

¹¹ Greenberg Quinlan Rosner Research and The Tarrance Group, *Americans Support Common Sense Measures to Cut Down on Illegal Guns* (April 10, 2008), available at http://www.mayorsagainstillegalguns.org/downloads/pdf/polling_memo.pdf

¹² This provision is designed to decrease the ability of a gun owner to falsely claim that his or her gun was lost or stolen before the reporting requirement went into effect.

b) Any person who reports to any law enforcement officer, pursuant to section 2 of this ordinance, that a firearm has been lost or stolen, knowing the report to be false, is guilty of a misdemeanor.

Sec. 5 Severability

If any section, subsection, sentence or clause of this Chapter is for any reason declared unconstitutional or invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity or the enforceability of the remaining portions of this chapter or any part thereof. The City Council/County Board of Supervisors hereby declares that it would have adopted this chapter notwithstanding the unconstitutionality, invalidity or unenforceability of any one or more of its sections, subsections, sentences or clauses.



Legal Community Against Violence

expertise, information & advocacy to end gun violence

LCAV Model Resolution
**URGING LAW ENFORCEMENT TO OBTAIN AND UTILIZE DEPARTMENT OF
JUSTICE INFORMATION REGARDING PROHIBITED ARMED PERSONS
(LOCAL GOVERNMENTS IN CALIFORNIA)**

May 2009

About LCAV and Our Model Laws

Legal Community Against Violence (LCAV) is a national public interest law center dedicated to preventing gun violence. As the first and only lawyers' organization in the gun violence prevention movement, LCAV focuses on policy reform at the state and local levels, marshaling the expertise and resources of the legal community in support of gun violence prevention.

LCAV serves governmental and nonprofit organizations nationwide. Our services include legal and technical assistance in the form of legal research and analysis, development of regulatory strategies, legislative drafting, and in certain circumstances, calling upon our network of attorney members to help secure *pro bono* litigation assistance. We also engage in educational outreach and advocacy, producing reports, analyses and model laws. Our website, www.lcav.org, is the most comprehensive resource on U.S. firearm laws in either print or electronic form.

Model laws provide a starting point: a framework from which state or local legislation can be drafted, reviewed, debated, and ultimately adopted. California jurisdictions using this model must integrate it with existing ordinances as appropriate.

This report and model resolution do not offer, and are not intended to constitute, legal advice.

Executive Summary

Legal Community Against Violence (LCAV) has developed a model resolution for use by California jurisdictions urging law enforcement to receive information from the California Department of Justice (DOJ) regarding persons who legally purchased firearms in the jurisdiction, but who subsequently became prohibited from possessing them. In addition, the resolution urges law enforcement agencies who have received this information to seek training from DOJ regarding its use, and to retrieve illegally possessed firearms whenever possible.

Federal and state laws prohibit firearm possession by certain persons, such as felons, domestic violence misdemeanants, and persons involuntarily committed to mental institutions. California Penal Code § 12010 requires DOJ to maintain an online database identifying individuals who legally purchased firearms, but who subsequently fell into a prohibited category and did not relinquish their firearms as required by law.¹ This file is known as the Prohibited Armed

¹ References for the facts identified in the Executive Summary can be found in the "Findings" portion of the model resolution below.

Persons File (“the File”). In January 2009, DOJ estimated that the File currently contains approximately 13,000 cases, but could eventually expand to include the names of as many as 60,000 individuals as additional records are added to the system.

Penal Code § 12010 requires DOJ to make information about persons included in the File available to law enforcement officials upon request for the purpose of determining who is armed but prohibited from possessing firearms. In June 2007, DOJ implemented this requirement by allowing law enforcement agencies to sign up for secure mailboxes to receive monthly updated information from the File regarding armed persons in their jurisdiction who are prohibited by law from possessing firearms.

In addition, Penal Code § 12012 states that DOJ is required to assist local law enforcement agencies in investigations of persons who are armed and prohibited from possessing a firearm. DOJ provides training upon request to local law enforcement officers regarding how to use information in the File. As of December 2007, DOJ special agents had trained approximately 500 sworn local law enforcement officials in 196 police departments and 35 sheriff departments on how to use the File during firearm-related investigations.²

DOJ does not have the resources to investigate and disarm every person identified in the File, making additional action by local law enforcement agencies necessary to disarm persons identified in the File. This model resolution urges law enforcement to request monthly updates from DOJ regarding persons in the jurisdiction named in the File, to seek training from DOJ regarding use of information in the File, and to retrieve illegally possessed firearms whenever possible.

LCAV is available to provide additional legal research, analysis, and drafting assistance to those seeking to pass this resolution or enact other measures to reduce gun violence. Please see www.lcav.org for more information about our services, and contact us at 415-433-2062 if we can be of assistance.

² More information about the file can be obtained from the Unit that handles the File within the Bureau of Firearms in the Department of Justice at: 916-227-3944.

Text of Model Resolution

_____ City Council/County Board of Supervisors*

Resolution No. _____

RESOLUTION URGING THE CHIEF OF POLICE/SHERIFF TO REQUEST MONTHLY UPDATES FROM THE DEPARTMENT OF JUSTICE (DOJ) REGARDING PROHIBITED ARMED PERSONS IN THE JURISDICTION, TO SEEK TRAINING FROM DOJ REGARDING USE OF THIS INFORMATION, AND TO RETRIEVE ILLEGALLY POSSESSED FIREARMS WHENEVER POSSIBLE

[Findings regarding the need for and benefits of this resolution should be included. Findings in support of a resolution are most effective when they are specific and localized. When possible, local data from law enforcement, the public health community, and the media should be added. General findings are provided below.]

Whereas, in 2005, 3,434 people died from firearm-related injuries in California, and 4,553 others were hospitalized for non-fatal gunshot wounds;³

Whereas, federal and state laws prohibit firearm possession by certain persons, such as felons, domestic violence misdemeanants, and persons involuntarily committed to a mental institution,

Whereas, California Penal Code § 12010 requires the Department of Justice (DOJ) to maintain a database, known as the Prohibited Armed Persons File (“the File”), identifying individuals who legally purchased firearms, but who subsequently fell into a prohibited category and did not relinquish their firearms as required by law,

Whereas, Penal Code § 12010 requires DOJ to make the information in the File available to all California law enforcement agencies through the California Law Enforcement Telecommunications System (CLETS), and Penal Code § 12012 requires DOJ to provide investigative assistance to local law enforcement agencies to better ensure the investigation of individuals who are armed and prohibited from possessing a firearm,

Whereas, between July 2002 and September 2004, DOJ made more than 250 arrests, and seized more than 3,600 firearms, including 1,020 illegal assault weapons, based on information contained within the File,⁴

Whereas, in June 2007, DOJ began providing law enforcement agencies with secure mailboxes, upon request, to receive monthly updated information from the File listing all armed persons in

* Where the words “Chief of Police/Sheriff,” “City/County” or similar variations appear, simply select the appropriate designation for your jurisdiction.

³ California Department of Health Services, Epidemiology and Prevention for Injury Control Branch (EPIC), *Firearm Injuries in California* (2008).

⁴ California Department of Justice, Office of the Attorney General, *Attorney General Lockyer Announces Governor Signature on Important Gun Safety Legislation*, News Release, Sept. 20, 2004.

their jurisdictions who are prohibited by law from possessing firearms. Between June and August 2007 alone, over 100 law enforcement agencies signed up with DOJ for these secure mailboxes,⁵

Whereas, in January 2009, DOJ estimated that the File contains approximately 13,000 cases, but could eventually expand to include the names of as many as 60,000 individuals as additional offender records are added to the system,⁶

Whereas, DOJ does not have the resources to investigate and disarm every person identified in the File, making additional action by local law enforcement agencies necessary to further disarm persons identified in the File,

Whereas, DOJ provides training upon request to local law enforcement officers regarding the use of information from the File during firearm-related investigations. As of December 2007, DOJ special agents had trained approximately 500 sworn local law enforcement officials in 196 police departments and 35 sheriff departments on how to use the File during firearms investigations,⁷

Whereas, law enforcement agencies in jurisdictions that have signed up with the DOJ to receive monthly updated information from the File have not necessarily received training from the DOJ regarding use of this information or taken steps to retrieve illegally possessed firearms from persons identified in the File,

NOW, THEREFORE, BE IT RESOLVED: That the City Council/County Board of Supervisors by adoption of this resolution hereby urges the Chief of Police/Sheriff to sign up with DOJ to receive monthly updated information from the File listing all armed persons in the City/County who are prohibited by law from possessing firearms, if he/she has not done so already,

FURTHER RESOLVED: That the Chief of Police/Sheriff is encouraged to seek training from DOJ regarding the use of information from the File during firearms investigations,

FURTHER RESOLVED: That the Chief of Police/Sheriff is encouraged to investigate each person who is identified in the information from the File received from DOJ, and to retrieve illegally held firearms whenever possible.

⁵ Letter from Rick Oules, Director, California Department of Justice, Division of Law Enforcement, Bureau of Firearms, to Local Law Enforcement Officials re: Statewide Enforcement by DOJ Against Armed and Prohibited Persons, dated August 15, 2007.

⁶ Telephone conversation with DOJ employees, January 22, 2009. In addition, on December 10, 2007, the Department of Justice issued a press release stating that the File had 9,000 cases as of that date, and could eventually expand to include 60,000 individuals as new offender records are added to the system. California Department of Justice, Office of the Attorney General, *Brown Cracks Down on Illegal Gun Possession*, News Release, Dec. 10, 2007, at: <http://ag.ca.gov/newsalerts/release.php?id=1505&year=2007&month=12>.

⁷ *Id.*



Legal Community Against Violence

expertise, information & advocacy to end gun violence

LCAV Model Resolution
**URGING LAW ENFORCEMENT TO SEND LETTERS TO PROSPECTIVE HANDGUN
PURCHASERS
(LOCAL GOVERNMENTS IN CALIFORNIA)**

September 2009

About LCAV and Our Model Laws

Legal Community Against Violence (LCAV) is a national public interest law center dedicated to preventing gun violence. As the first and only lawyers' organization in the gun violence prevention movement, LCAV focuses on policy reform at the state and local levels, marshaling the expertise and resources of the legal community in support of gun violence prevention.

LCAV serves governmental and nonprofit organizations nationwide. Our services include legal and technical assistance in the form of legal research and analysis, development of regulatory strategies, legislative drafting, and in certain circumstances, calling upon our network of attorney members to help secure *pro bono* litigation assistance. We also engage in educational outreach and advocacy, producing reports, analyses and model laws. Our website, www.lcav.org, is the most comprehensive resource on U.S. firearm laws in either print or electronic form.

Model laws provide a starting point: a framework from which state or local legislation can be drafted, reviewed, debated, and ultimately adopted. California jurisdictions using this model must integrate it with existing ordinances as appropriate.

This report and model resolution do not offer, and are not intended to constitute, legal advice.

Executive Summary

Legal Community Against Violence (LCAV) has developed a model resolution for use by California jurisdictions urging law enforcement to send letters to prospective handgun purchasers who reside in the jurisdiction to inform them of their responsibilities as firearm owners.

This model resolution is based upon a program pioneered by the City of Los Angeles. From July 2005 through July 2009, the Los Angeles City Attorney's office, in cooperation with the California Department of Justice (DOJ) and the Los Angeles Police Department, distributed letters to persons who resided in targeted areas of the City and had applied to purchase a handgun. These letters were distributed to prospective handgun purchasers during the ten-day waiting period required by law prior to a firearm purchase.

The letter, signed by the Attorney General, the City Attorney, and the Chief of Police, reminded the handgun purchaser, in English and Spanish, that if he or she decides to give or sell the handgun to someone else, he or she must process the transaction through a licensed gun store, where a background check is conducted on the purchaser. The letter also mentions that if the

gun is recovered in connection with a crime, the Los Angeles City Attorney will prosecute the gun's previous owner if the owner did not process the transaction through a gun store. A copy of the Los Angeles letter is attached to the resolution as Exhibit A.

While the distribution of these letters in Los Angeles was originally funded through grants from a federal program known as Project Safe Neighborhoods, the City decided to provide its own funding for the letters after the federal funding ended. According to the Los Angeles City Attorney's Office, the letters are an effective way to inform gun purchasers of their legal obligations, and have had a constructive impact on the behavior of gun purchasers.

The RAND Corporation is currently undertaking a study describing the results of the Los Angeles program. While a 2008 preliminary report by RAND did not reach a specific conclusion about the results of the program, it did state, "Our findings suggest that the campaign may have a large impact on straw purchasing."¹ (A "straw purchaser" is a person who buys a gun from a gun dealer with the intention of transferring it to a convicted felon or other prohibited person.)

The California Attorney General has recently agreed that the DOJ may extend the Los Angeles program to other cities or counties in California. A city or county interested in establishing a program to send letters to prospective handgun purchasers should contact Steve Buford at the Bureau of Firearms, California Department of Justice, (916) 227-4340. For more information about the program in Los Angeles, please contact Peter Shutan, Assistant Supervising Attorney, Gang Division, Office of the Los Angeles City Attorney, (213) 978-4659.

LCAV is available to provide additional legal research, analysis, and drafting assistance to those seeking to pass this resolution or enact other measures to reduce gun violence. Please see www.lcav.org for more information about our services, and contact us at 415-433-2062 if we can be of assistance.

¹ Greg Ridgeway et al., *Strategies for Disrupting Illegal Firearms Markets: A Case Study of Los Angeles* 11 (RAND Corp. 2008).

Text of Model Resolution

_____ City Council/County Board of Supervisors*

Resolution No. _____

RESOLUTION URGING THE CHIEF OF POLICE/SHERIFF TO SEND LETTERS TO PROSPECTIVE HANDGUN PURCHASERS WHO RESIDE IN THE JURISDICTION INFORMING THEM OF THEIR RESPONSIBILITIES AS FIREARM OWNERS

[Findings regarding the need for and benefits of this resolution should be included. Findings in support of a resolution are most effective when they are specific and localized. When possible, local data from law enforcement, the public health community, and the media should be added. General findings are provided below.]

Whereas, in 2006, 3,253 people died from firearm-related injuries in California² and 4,305 other people were treated for non-fatal gunshot wounds,³

Whereas, California Penal Code § 11106 requires the Department of Justice (DOJ) to compile information about prospective handgun purchasers based on information received from firearms dealers at the time of application, and to furnish this information to peace officers of the state upon any proper request,

Whereas, Penal Code § 12071(b)(3)(A) prohibits delivery of a firearm until ten days have passed since the purchaser has submitted an application to purchase the firearm,

Whereas, California law imposes certain responsibilities on firearm owners, including the responsibility to process all secondary transfers of firearms through a licensed firearms dealer, thereby allowing DOJ to run a background check on every recipient of a firearm,⁴

Whereas, from July 2005 through July 2009, the Los Angeles Police Department received the names and addresses of prospective handgun purchasers residing in targeted areas of the City from DOJ, and distributed letters during the ten-day waiting period to those purchasers informing them of their responsibilities as firearm owners,⁵

Whereas, the letter sent out to prospective handgun purchasers by the Los Angeles Police Department stated that it is a crime to sell or give a gun to anyone without first completing a

* Where the words "Chief of Police/Sheriff," "City/County" or similar variations appear, simply select the appropriate designation for your jurisdiction.

² California Dep't of Health Servs., Epidemiology & Prevention for Injury Control Branch (EPIC), EPICenter California Injury Data Online, *Fatal Injury Data Custom Data Tables* (2009), at http://www.applications.dhs.ca.gov/epicdata/content/TB_fatal.htm.

³ California Dep't of Health Servs., Epidemiology & Prevention for Injury Control Branch (EPIC), EPICenter California Injury Data Online, *Nonfatal Injury Data Custom Data Tables* (2009), at http://www.applications.dhs.ca.gov/epicdata/content/tb_nonfatal.htm.

⁴ Penal Code §§ 12072(d), 12076.

⁵ *Mayor Antonio R. Vallaraigosa, City of Los Angeles, 2008 Gang and Gun Violence Enforcement Initiative*, May 29, 2008.

Dealer Record of Sale (DROS) form at a gun store, and if the police recover a gun involved in a crime, the City Attorney will prosecute the previous owner if he or she did not fill out a DROS form,

Whereas, the Los Angeles City Attorney's office has found that the letters are an effective way to inform gun purchasers of their legal obligations, and have had a constructive impact on the behavior of gun purchasers,

Whereas, the RAND Corporation is undertaking a study describing the results of the Los Angeles program, and a 2008 preliminary report by RAND stated, "Our findings suggest that the campaign may have a large impact on straw purchasing"⁶ (A "straw purchaser" is a person who buys a gun from a gun dealer with the intention of transferring it to a convicted felon or other prohibited person), and

Whereas, the California Attorney General has agreed that DOJ may extend the Los Angeles program to other cities and counties in California that wish to send letters to prospective handgun purchasers,

NOW, THEREFORE, BE IT RESOLVED: That the City Council/County Board of Supervisors by adoption of this resolution hereby urges the Chief of Police/Sheriff to request assistance from the Department of Justice so that the City/County may send letters to prospective handgun purchasers who reside in the City/County during the ten-day waiting period advising them of their obligations as firearm owners, and

FURTHER RESOLVED: That the letters sent by the Chief of Police/Sheriff should inform the purchaser that it is a crime to sell or give a gun to someone else without first completing a Dealer Record of Sale (DROS) form at a gun store, and if the police recover a gun involved in a crime, the City Attorney may prosecute the previous owner if he or she did not fill out a DROS form.

⁶ Greg Ridgeway et al., *Strategies for Disrupting Illegal Firearms Markets: A Case Study of Los Angeles* 11 (RAND Corp. 2008).

Office of the Attorney General for the State of California
Office of the Los Angeles City Attorney
Los Angeles Police Department



200 North Main Street, Suite 966, Los Angeles, California 90012

August 29, 2007

[NAME AND ADDRESS REDACTED]

Dear [REDACTED],

As you know, gun violence is a serious problem in Los Angeles. We understand that you have recently purchased a gun. It is important that we all do our part to store guns safely and keep guns out of the hands of kids and criminals. We are working in collaboration with the federal program called Project Safe Neighborhood (PSN).

As partners in keeping the streets safe in your neighborhood we want to remind you of your obligations as a gun owner.

If you ever decide to sell or give your gun to someone, you must complete a "Dealer Record of Sale" (DROS) form. These forms can be obtained and completed at any gun store. Remember, it is a crime to transfer a gun to anyone without first filling out this form.

If the police recover a gun that was involved in a crime, the Los Angeles City Attorney will prosecute the gun's previous owner if that owner did not complete the "Dealer Record of Sale" form. Please make sure you go to a firearms dealer and fill out that form if you want to sell or give away your firearm.

You can help us make Los Angeles a safer community by preventing your gun from ending up in the wrong hands.

Thank you,

Handwritten signature of Rocky Delgadillo in black ink.

Rocky Delgadillo
LA City Attorney

Handwritten signature of Edmund G. Brown Jr. in black ink.

Edmund G. Brown Jr.
CA Attorney General

Handwritten signature of William J. Bratton in black ink.

William J. Bratton, Chief
Los Angeles Police Dept.



200 North Main Street, Suite 966, Los Angeles, California 90012

August 29, 2007

[NAME AND ADDRESS REDACTED]

Estimado **[REDACTED]**,

Como usted sabe, violencia con arma de fuego es un problema serio en Los Angeles. Nosotros entendemos que usted recientemente compró una arma de fuego. Es importante que todos nosotros hagamos nuestra parte para guardar las armas de fuego en una manera segura y mantener las armas de fuego afuera de las manos de niños y criminales. Nosotros estamos trabajando en colaboración con el programa federal llamado Project Safe Neighborhood (PSN).

Como compañeros en nuestros esfuerzos para mantener las calles fuera de peligro en su comunidad, nosotros queremos recordarle de sus obligaciones como dueño de una arma de fuego.

Si usted decide vender o regalar su arma de fuego a alguien, usted necesita completar el formulario "Dealer Record of Sale" (DROS). Este formulario se puede obtener y completar en cualquier negocio de armas de fuego. No se olvide, es un crimen transferir una arma de fuego a cualquier persona sin primero completar este formulario.

Si la policía recupera una arma de fuego que fue envuelto en un crimen, el procurador municipal de Los Angeles procesará el dueño anterior de la arma de fuego si el dueño anterior no completó el formulario "Dealer Record of Sale". Por favor no se olvide ir a un negocio de armas de fuego y completar ese formulario si usted vende o regala su arma de fuego.

Usted puede ayudarnos hacer Los Angeles una comunidad mas segura en no permitir que su arma de fuego llegué a manos peligrosas.

Gracias,

Rocky Delgadillo
LA City Attorney

Edmund G. Brown Jr.
CA Attorney General

William J. Bratton, Chief
Los Angeles Police Department



M E M O

Date: September 9, 2009
To: Executive Board Members
From: Rose Jacobs Gibson
ABAG President
Subject: **Youth Gun Violence Task Force**

As I reported to you at the July Executive Board Meeting, the Youth Gun Violence Task Force that you authorized, upon my request, last year has reviewed and recommends Executive Board approval of model ordinances and resolutions* that are designed to stem the tide of gun violence by restricting the sale of ammunition, put into place laws requiring the reporting of lost firearms, letters to prospective purchasers of handguns, etc. By implementing these common sense approaches to dealing with the growing and widespread use of guns and the resulting deaths of young people in our communities, we can make a difference region-wide. As we discussed at the July Meeting, a number of jurisdictions in our region have already adopted some of these ordinances and resolutions.

At the July Meeting your attention was called to the model ordinances and resolutions, prepared by the Legal Community Against Gun Violence and studied by the Task Force. We asked that you go back to your jurisdictions and vet the resolutions and ordinances with your local law enforcement personnel. As some of you will recall on June 18th the Task Force held a convening of organizations and interest groups concerned with the issue of youth gun violence. Approximately 50 individuals representing youth organizations, probation, police, education, and other stakeholder organizations and staff participated in the half-day session that was met with overwhelming support and enthusiasm.

At the upcoming September 17th Executive Board Meeting we hope to answer any remaining questions you may have, ask for your endorsement of the model ordinances and resolutions, and authorize staff to forward them to all jurisdictions in our region and encourage passage throughout the region. Furthermore, we would ask that you advocate on behalf of the passage of these model ordinances and resolutions in your own jurisdictions. I encourage you to come prepared at the September Meeting to take action on this important issue that we believe can have long standing important implications for the health and safety of our communities.

***Model Ordinances and Resolutions**

1. Model Ordinance Regulating Firearms Dealers and Ammunition Sellers
2. Model Ordinance Requiring the Reporting of Lost or Stolen Firearms
3. Model Ordinance Prohibiting the Possession of Large Capacity Ammunition Magazines
4. Model Resolution Urging Law Enforcement to Send Letter to Prospective Handgun Purchasers
5. Model Resolution Urging Law Enforcement to Obtain and Utilize DOJ Information





Memorandum

To: Association of Bay Area Governments (ABAG) Youth Gun Control Task Force
From: Lindsay Nichols, LCAV Staff Attorney
Date: September 8, 2009
Re: Changes made to LCAV's model ordinances and resolutions

Legal Community Against Violence (LCAV) provided drafts of three model ordinances and two model resolutions to ABAG on June 2, 2009. Since that time, LCAV has updated two of these models based upon recent developments, new data, and input LCAV received about these models.

Specifically, we made the following changes to the Model Ordinance Regulating Firearms Dealers and Ammunition Sellers:

- The gun deaths and injuries statistics in the Findings portion has been updated from 2005 numbers to 2006 numbers.
- A finding has been added on page 8 referring to the recent study, Daniel W. Webster et al., *Effects of State-Level Firearm Seller Accountability Policies on Firearms Trafficking*, J. Urb. Health (July 2009), which found a link between dealer regulations and low levels in gun trafficking.
- The definition of "firearm" in section 1 has been modified to exempt antique firearms.
- The definition of "ammunition" in section 1 has been modified to exempt blank cartridges and ammunition that can be used solely in an antique firearm.
- The requirement of a law enforcement permit in section 2 has been amended to clarify that it only applies to businesses in the City/County.
- The separate definition of "a person 'engaged in the business' of selling or transferring ammunition" in section 2 has been deleted, to reflect changes made to AB 962 (De Leon), the state bill that would have required ammunition vendors to obtain a license.
- A definition of the phrase "engage in the business of selling, leasing, or otherwise transferring any firearm, firearm component, or ammunition" has been added in section 1 of the model ordinance. That definition is based upon the City of Sacramento's ordinance, and is intended to define the entire class of persons and entities that are subject to the ordinance.
- The reference to employee background checks has been moved to the proper heading.
- The model now clarifies that a business that is used only "in part" for the sale or transfer of firearms or firearm components is subject to the same security requirements listed in section 6 as a business that is used solely for that purpose.
- Section 6 has been clarified to state that the sign indicating that a customer is being video-recorded must be "in block letters not less than one inch in height."

- The ammunition record-keeping requirement in section 9 has been amended to include a requirement that the transferor verify the identity of the transferee and a requirement that the identification presented by the buyer includes a photograph.
- The ammunition record-keeping requirement in section 9 has been amended to exempt sales or transfers to law enforcement officers and licensed firearms dealers.
- The ammunition record-keeping requirement in section 9 has been amended to clarify that the name of the permittee's agent or employee, and not just the permittee itself, must be recorded.
- "[C]aliber or gauge" has been added in section 9 to the items that must be recorded by an ammunition seller.
- The Second Amendment discussion in the Legal Challenges part now refers to recent Court of Appeals decisions.

In addition, the Model Resolution Urging Law Enforcement to Send Letters to Prospective Handgun Purchasers has been revised in the following manner:

- The California Attorney General has recently agreed that the Department of Justice may extend the Los Angeles program to other jurisdictions. The model has been updated to reflect this fact. The model also now includes contact information for the Department of Justice and the Los Angeles City Attorney's office.
- The model no longer suggests that the letters should include information about safe storage of firearms, reporting of lost or stolen firearms, or other laws unique to the jurisdiction, since that material was not included in the letters agreed to by the Department of Justice for the Los Angeles program.
- The original draft of the model described the results of the Los Angeles program based upon the informal observations of the Los Angeles City Attorney's office. The revised model replaces those observations with a description of the work that the RAND Corporation has been doing to more formally analyze the results of the program.
- The Los Angeles letter has been added as an exhibit to the model.
- The Executive Summary now specifies that the Los Angeles program lasted until July 2009 and describes the funding for the Los Angeles program.

Please contact LCAV at 415-433-2062 or jleftwich@lcapv.org if you have any questions or concerns about these changes.



BACKGROUND

In 2006, 3,345 people died from firearm-related injuries in California and an additional 4,491 people were hospitalized for non-fatal gunshot wounds.ⁱ California law forbids convicted felons and certain misdemeanants from possessing firearms, recognizing that these individuals represent the greatest risk for future firearm violence. Gaps in the law, however, have allowed many of these criminals to retain firearms they owned before being convicted. As a result, the Department of Justice estimates that as many as 60,000 convicted criminals currently possess firearms in California despite being prohibited by law.ⁱⁱ AB 814 seeks to reduce this significant threat to public safety.

EXISTING LAW

Penal Code § 12021 prohibits persons from possessing firearms when they have been convicted of a felony or one of a number of misdemeanor offenses. Using a notice and form created by the Department of Justice, defendants are advised to transfer their firearms to a third party designee who must, within thirty days, relinquish the firearms to a local law enforcement agency, sell or transfer them to a third party through a licensed firearms dealer, or sell them to a dealer. Existing law provides no mechanism, however, to ensure that these firearms are actually relinquished.

Penal Code § 12021.3 also allows prohibited persons who relinquish their firearms to a law enforcement agency to sell those firearms. Currently, any firearms relinquished to or seized by law enforcement must be retained and stored by law enforcement for at least 180 days, during which the prohibited person may sell the weapons. This law places an undue burden upon law enforcement to store the firearms of convicted criminals for a lengthy period of time.

THIS BILL

ESTABLISHES A CLEAR PROCESS FOR TIMELY FIREARM RELINQUISHMENT

AB 814 will facilitate enforcement of existing state laws prohibiting illegal firearm possession by establishing a clear process and timeline for firearm relinquishment by prohibited persons. Under the bill, upon conviction of a crime disqualifying a defendant from firearm possession, a defendant must be instructed by the judge that he or she is prohibited from owning or possessing any firearms. The judge must also provide the defendant with a notice and form describing the manner in which firearms may be relinquished and the penalties attached to failure to comply.

Upon conviction, a prohibited person must transfer his or her firearms to a designee who must sell the firearms to a dealer, sell or transfer them to a third party through a dealer, or relinquish them to local law enforcement. If the prohibited person is not in law enforcement custody following conviction, the relinquishment process must be completed within 5 days. If the prohibited person remains in custody, the process must be completed within 14 days.

REQUIRES PROHIBITED PERSONS TO DECLARE FIREARM OWNERSHIP

Under the bill, all prohibited persons must, within the relinquishment period, submit a form to local law enforcement stating: 1) whether or not they owned any firearms to relinquish; and 2) if so, to whom any firearms were relinquished.

ENCOURAGES LAW ENFORCEMENT TO RETRIEVE PROHIBITED WEAPONS

The bill encourages local law enforcement to review each defendant's sworn submissions against the Department of Justice's handgun transfer databases to help identify prohibited persons who have lied about firearm ownership or relinquishment in their sworn submissions.

The bill also encourages law enforcement to retrieve prohibited weapons whenever possible.

REDUCES BURDEN ON LAW ENFORCEMENT

This bill reduces the length of time during which law enforcement must retain a prohibited person's firearms following relinquishment, from 180 days to 30 days. If a prohibited person has not, through his or her designee, sold a firearm by the end of the 30 days, it becomes the property of the law enforcement agency.

BILL STATUS

2/26/09: Introduced

4/14/09: ASM Public Safety Committee (7-0)

5/28/09: ASM Appropriations (12-0)

6/3/09: ASM Floor (72-3)

Proceeding to Senate

SUPPORT

Sponsor: Legal Community Against Violence

- California Partnership to End Domestic Violence
- City of Los Angeles
- City of Oakland
- Ken James, Chief of Police for the City of Emeryville
- Randy G. Adams, Chief of Police for the City of Glendale
- Chris Magnus, Chief of Police for the City of Richmond
- Craig T. Steckler, Chief of Police for the City of Fremont
- Paul M. Walters, Chief of Police for the City of Santa Ana
- Blair Ullring, Chief of Police for the City of Stockton
- Kamala D. Harris, District Attorney City and County of San Francisco
- Tom Orloff, District Attorney for Alameda County
- Coalition Against Gun Violence (Santa Barbara)
- Coalition To Stop Gun Violence
- Crime Victims United
- Friends Committee on Legislation
- Brady Campaign to Prevent Gun Violence, California Chapters

- Oakland/Alameda County, Orange County, Nevada County and Sacramento Chapters of Brady Campaign to Prevent Gun Violence
- Peace Over Violence (LACAAW)
- Physicians for Social Responsibility
- Rainbow Services, Ltd.
- Women Against Gun Violence
- Youth ALIVE!

FOR MORE INFORMATION

Office of Assistant Majority Leader Krekorian
Josefina Ramirez - (916) 319-2043

Legal Community Against Violence
Juliet Leftwich & Ben Van Houten
(415) 433-2062

ⁱ California Department of Health Services, Epidemiology and Prevention for Injury Control Branch (EPIC), Firearm Injuries in California (2009), at http://www.applications.dhs.ca.gov/epicdata/content/st_firearm.htm.

ⁱⁱ California Department of Justice, Office of the Attorney General, *Brown Cracks Down on Illegal Gun Possession*, News Release, Dec. 10, 2007, at: <http://ag.ca.gov/newsalerts/release.php?id=1505>.

KEVIN DE LEÓN
CHAIR, ASSEMBLY APPROPRIATIONS
FORTY-FIFTH DISTRICT

WEB
<http://democrats.assembly.ca.gov/members/45/>

AB 962 (DE LEÓN): PROTECTION Act of 2009

Providing Regulation & Oversight To End Community Terrorism In Our Neighborhoods

PURPOSE

To safeguard California's communities by combating the easy accessibility to handgun ammunition that fuels gun violence and criminal activity.

BACKGROUND

According to the Department of Justice (DOJ), California's gun violence has increased nearly 35% in just six years, with more than 60% of all murders committed with handguns. In Los Angeles alone, between 2005 and 2006, the LA Sheriff's office handled more than 400 homicides—over 80% involving firearms and nearly 60% committed by gang members.

In a state where firearms outnumber people, there is currently no regulatory control over deadly ammunition that fuels gun violence. **It is easier in California to purchase handgun ammunition than it is a package of cigarettes or allergy medicine.**

It is no secret. Bullets are ending up in the wrong hands across California. A 2006 RAND Corporation study found that, in just a two month period in Los Angeles, felons and others prohibited by law from possessing ammunition purchased over 10,000 rounds of ammunition at gun shops and sporting goods stores across the city.¹ Extrapolate that number, and statewide at least more than a half a million bullets are annually sold to criminals—enough to fully load more than 94,000 handguns in criminal possession each year.

California has enacted legislation designed to keep guns out of the hands of criminals, but it has done little to prevent criminals and gang members from loading up on the ammunition that fuels gun violence. We have absolutely no idea who is selling bullets; not a single statewide law enforcement agency tracks ammunition dealers in California. This blind eye approach is putting ammunition in the hands of killers and it needs to stop.

This bill would require handgun ammunition dealers to obtain a DOJ-issued Handgun Ammunition Vendor's License (HAVL) in order to sell handgun ammunition. This will help crack down on illegal uses of ammunition and assist law enforcement in tracking down criminal purchasers.

Also, this measure would require handgun ammunition vendors to record handgun ammunition sales, and make the records

available to law enforcement for the purposes of crosschecking purchasers with prohibited person's databases, to help crack down on criminals purchasing ammunition.

Thirteen cities across California currently enforce successful local ammunition record-keeping laws used to record ammunition sales and purchases. Notably, the City of Sacramento Police Department reports that the ordinance is an effective enforcement and investigative tool. **In reviewing their ammunition-purchaser records for 2008, the Sacramento Police Department recently found that over 150 prohibited persons purchased ammunition within the year in their city alone.** A statewide requirement is needed to prevent purchasers from loading up on unmonitored ammunition sales outside these city boundaries.

To help law enforcement stop straw purchases, the measure will also make it unlawful to sell or furnish ammunition to any person known to be prohibited from possessing or acquiring ammunition. While it is illegal to knowingly sell a gun to a felon, it is currently perfectly legal to sell or supply known felons with handgun ammunition. Additionally, to keep bullets out of the hands of gang members, this bill will prohibit any person subject to a gang injunction from possessing ammunition.

This measure would cut off the dangerously easy access to handgun ammunition and will ensure that handgun ammunition will not be sold to criminals, gang members, and kids.

PROPOSAL

- **Require handgun ammunition vendors to:**
 - Acquire a Handgun Ammunition Vendor's License from DOJ;
 - Require employees handling ammunition sales/transfers to obtain a DOJ-issued Certificate of Eligibility, which includes a fingerprint and background check clearance.
 - Record handgun ammunition sales and make the records available to law enforcement.
 - Safely store handgun ammunition.
 - Conduct only face-to-face transactions on all ammunition purchases/transfers.
- **Prohibit selling or furnishing ammunition to prohibited persons.**
- **Prohibit gang members from possessing ammunition.**

¹ RAND Corporation. "RAND study finds substantial amounts of ammunition bought by felons, others prohibited from buying bullets."
<http://www.rand.org/news/press.06/10.05.html>. 5 October 2006.

KEVIN DE LEÓN
CHAIR, ASSEMBLY APPROPRIATIONS
FORTY-FIFTH DISTRICT

WEB

<http://democrats.assembly.ca.gov/members/45/>

AB 962 (DE LEÓN)
SUPPORT AND OPPOSITION LIST

SUPPORT

Brady Campaign to Prevent Gun Violence,
Alameda County/Oakland Chapter
Brady Campaign to Prevent Gun Violence, Contra
Costa County Chapter
Brady Campaign to Prevent Gun Violence, Los
Angeles Chapter
Brady Campaign to Prevent Gun Violence, Long
Beach Chapter
Brady Campaign to Prevent Gun Violence, Nevada
County Chapter
Brady Campaign to Prevent Gun Violence, Orange
County Chapter
Brady Campaign to Prevent Gun Violence,
Riverside County Chapter
Brady Campaign to Prevent Gun Violence,
Sacramento Valley Chapter
Brady Campaign to Prevent Gun Violence, San
Diego Chapter
Brady Campaign to Prevent Gun Violence, San
Fernando Valley Chapter
Brady Campaign to Prevent Gun Violence, San
Mateo/Santa Clara Counties Chapter
Brady Campaign to Prevent Gun Violence, Sonoma
County Chapter
Brady Campaign to Prevent Gun Violence, Ventura
County Chapter
Brady Campaign to Prevent Gun Violence, West
Contra Costa County Chapter
California Chapters of the Brady Campaign to
Prevent Gun Violence
Chief of Police Edward Medrano, City of Gardena
Chief of Police Anthony Batts, City of Long Beach
Chief of Police William Bratton, City of Los
Angeles
Chief of Police Cam Sanchez, City of Santa Barbara

Chief of Police Blair Urling, City of Stockton
Chief of Police John Crombach, City of Oxnard
Chief of Police Peter Dunbar, City of Pleasant Hill
Chief of Police Phillip Green, Cities of Corte
Madera/Larkspur
Chief of Police Susan Jones, City of Healdsburg
City of Los Angeles, Mayor Antonio Villaraigosa
City of Oakland, Mayor Ronald V. Dellums
City of Sacramento
Coalition Against Gun Violence
Councilmember Kevin McCarty, City of
Sacramento
Friends Committee on Legislation of California
Legal Community Against Violence
Lutheran Office of Public Policy
Sheriff Leroy D. Baca, County of Los Angeles
Women Against Gun Violence
Violence Prevention Coalition of Greater Los
Angeles
Violence Prevention Coalition of Orange County
Youth ALIVE!
Private Citizens

OPPOSITION

California Association of Firearm Retailers
California Public Defenders Association
California Rifle and Pistol Association
Crossroads of the West Gun Shows
Gun Owners of California
National Rifle Association of America
National Shooting Sports Foundation, Inc.
Outdoor Sportsmen's Coalition of California
Safari Club International
The California Sportsman's Lobby, Inc.
Private Citizens



Legal Community Against Violence

expertise, information & advocacy to end gun violence

Summary of Model Laws/Resolutions Prepared for ABAG February 2009

Legal Community Against Violence (LCAV) has prepared the following model laws for the Association of Bay Area Governments (ABAG):

Model Ordinance Regulating Firearms Dealers and Ammunition Sellers: Federal and state regulation of firearms dealers and ammunition sellers is currently inadequate to protect the public safety. This model ordinance requires anyone engaged in the business of selling firearms or ammunition to fulfill certain local requirements. Among other things, the ordinance requires firearms dealers and ammunition sellers to obtain a permit from the local Sheriff or Chief of Police, be located only in commercial areas of the city or county, perform background checks on employees, use specified security measures, and maintain ammunition sales logs. These requirements will help law enforcement enforce federal and state firearms and ammunition laws and help ensure that these businesses are operating responsibly.

Model Ordinance Requiring the Reporting of Lost or Stolen Firearms: This model ordinance requires a person to report the loss or theft of a firearm he or she owns within 48 hours of the time he or she knew or reasonably should have known of such loss or theft. Laws requiring information about lost or stolen firearms help law enforcement expose and prosecute criminals and gun traffickers, who often falsely claim that their guns have been lost or stolen and used by others to commit crimes. Laws of this type also help law enforcement return lost or stolen firearms to their lawful owners and disarm persons prohibited by law from firearm possession. In addition, these requirements help make gun owners more accountable for their weapons, and help protect gun owners from unwarranted criminal accusations when their guns are recovered at a crime scene.

Model Ordinance Prohibiting the Possession of Large Capacity Ammunition Magazines: Large capacity ammunition magazines or "LCAMs" are devices that attach to a firearm and hold more than ten rounds of ammunition, allowing a shooter to fire multiple bullets without reloading. LCAMs significantly increase the lethality of firearms. California law already prohibits the sale or transfer, but not the possession, of LCAMs. This model ordinance fills this gap in state law, thereby allowing local law enforcement to seize these dangerous devices when discovered, and prosecute individuals who possess them.

Model Resolution Urging Law Enforcement to Send Letters to Prospective Handgun Purchasers: California law imposes a ten-day waiting period prior to purchase of a handgun. It also allows the California Department of Justice (DOJ) to provide local law enforcement with a list of individuals who live in the city or county and who have applied to purchase a handgun. In Los Angeles, local law enforcement uses this list to send letters to prospective handgun purchasers in targeted areas of the City. These letters inform the prospective purchasers of their responsibilities as firearm owners, including their obligation to process secondary transfers through a licensed dealer, who completes a background check. As a result of the Los Angeles



Legal Community Against Violence

exchanging information & strategies to end gun violence

California Jurisdictions with Laws Similar to the Model Laws LCAV Prepared for ABAG February 2009

The following jurisdictions have adopted laws similar to the model ordinances and resolutions Legal Community Against Violence (LCAV) has prepared for the Association of Bay Area Governments (ABAG)¹:

Laws Requiring Firearms Dealers to Obtain a License or Permit:

The following local governments in California require firearms dealers to obtain a license or permit:

Counties: Contra Costa, Los Angeles and Marin

Cities:

Alameda	Hayward	Richmond	Santa Ana
Albany	Hercules	Sacramento	Santa Cruz
Berkeley	Lafayette	Salinas	Santa Monica
Beverly Hills	Los Angeles	San Anselmo	Tiburon
Cathedral City	Oakland	San Diego	West Hollywood
Chino	Palo Alto	San Francisco	
El Cerrito	Piedmont	San Pablo	
Fremont	Pleasanton	San Rafael	

Laws Requiring Firearms Dealers to Carry Liability Insurance

The following local governments in California require firearms dealers to carry liability insurance, typically with a minimum coverage of at least \$1 million:

Counties: Los Angeles and Marin

Cities:

Albany	Pasadena
Berkeley	Piedmont
Beverly Hills	Pleasanton
Cathedral City	Richmond
Fremont	Salinas
Hayward	San Anselmo
Lafayette	San Francisco
Los Angeles	San Pablo
Oakland	San Rafael
Palo Alto	Santa Monica
	Tiburon

¹ This information is primarily taken from LCAV's publication, "*Communities on the Move 2000: How California Communities Are Addressing the Epidemic of Handgun Violence*," available at: http://www.lcav.org/library/surveys_local_ordrs/com2000_pdf.pdf.

Laws Prohibiting Firearms Dealers in Residential Areas

The following local governments in California prohibit firearms dealers in residential areas or from qualifying as a “home occupation” (i.e., a home business):

Counties: Contra Costa, Los Angeles, Monterey² and Sonoma

Cities:

Albany	La Puente	Pleasanton
Artesia	Lafayette	Richmond
Berkeley	Long Beach	Salinas
Beverly Hills	Los Angeles	San Francisco
Burbank	Oakland	San Jose
Calistoga	Oxnard	San Pablo
Cathedral City	Pacifica	San Rafael
Daly City	Palo Alto	Santa Ana
El Cerrito	Pasadena	Santa Monica
Fontana	Piedmont	Stockton
Fremont	Pinole	Vacaville ³
Hercules		

Laws Prohibiting Firearms Dealers Near Sensitive Areas

The following local governments in California prohibit firearms dealers near sensitive areas, such as daycare facilities, schools, parks, places of worship and community/recreation centers:

Counties: Contra Costa and Monterey⁴

Cities:

Albany	Pinole
Cathedral City	Richmond
El Cerrito	Salinas
Hercules	San Francisco
Los Angeles	San Pablo
Oakland	San Rafael
Palo Alto	West Hollywood

² Applies to the sale of handguns only.

³ An additional 33 jurisdictions indirectly prohibit the residential sale of firearms by, for example, allowing only the sale of products from a residence if those products are manufactured at the residence, or prohibiting retail sales entirely as a “home occupation.” For a list of these jurisdictions, see LCAV’s publication, “*Communities on the Move 2000*,” *supra* note 1 at 7.

⁴ Applies to the sale of handguns only.

Laws Requiring Background Checks of Firearms Dealer Employees

The following local governments in California require background checks of employees of firearms dealers:

Counties: Los Angeles and Marin

Cities:

Alameda	Hayward	Pleasanton	San Pablo
Berkeley	Hercules	Palo Alto	San Rafael
Beverly Hills	La Puente	Richmond	Santa Ana
Cathedral City	Lafayette	Sacramento	Santa Monica
Chino	Los Angeles	San Anselmo	Tiburon
El Cerrito	Merced	San Diego	West Hollywood
El Segundo ⁵	Oakland	San Francisco	
Fremont	Piedmont	San Leandro	

Laws Requiring Ammunition Sellers to Obtain a License or Permit

The following local governments in California are among those that require ammunition sellers to obtain a license or permit:⁶

Berkeley
Los Angeles
Richmond
Sacramento
San Francisco

Laws Requiring Ammunition Sellers to Maintain a Log of Ammunition Sales:

The following local governments in California require ammunition sellers to keep records of their ammunition sales.

Counties: Contra Costa and Marin

Cities:

Beverly Hills	San Anselmo
Hayward	San Francisco
Inglewood	Santa Ana
Los Angeles	Santa Monica
Oakland	Tiburon
Pomona	West Hollywood
Sacramento	

⁵ Applies to the sale of handguns only.

⁶ LCAV has not completed an exhaustive search for ordinances of this kind.

Laws Requiring the Reporting of Lost or Stolen Firearms:

The following local governments in California require the reporting of lost or stolen firearms:

- Berkeley
- Los Angeles
- Oakland
- Port Hueneme
- San Francisco
- Sacramento
- Simi Valley
- Thousand Oaks
- West Hollywood

Laws Prohibiting the Possession of Large Capacity Ammunition Magazines:

The City of Richmond currently prohibits the possession of large capacity ammunition magazines.

Resolution Urging Law Enforcement to Send Letters to Prospective Handgun Purchasers:

As described in the resolution itself, this resolution is based on a unique program in Los Angeles.

Resolution Urging Law Enforcement to Obtain and Utilize DOJ Information Regarding Prohibited Armed Persons:

Attached is a list of cities and counties in California that had **not** signed up with the California Department of Justice (DOJ) to receive monthly lists of prohibited armed persons in their jurisdictions as of December 19, 2008. Please note that law enforcement agencies in the jurisdictions that receive these lists have not necessarily received training from DOJ regarding use of the information on the lists or taken steps to retrieve firearms illegally possessed by persons on the lists. Additional information about whether a particular jurisdiction's law enforcement agency receives these lists, has received training from the DOJ or has taken other steps to retrieve illegally possessed firearms can be obtained from DOJ or the agency.

California jurisdictions that have not obtained APPS Mailbox as of 12/19/08.

Have Not Obtained APPS Mailbox as of 12/19/08

	Chapter/County	Done
SHERIFF DEPARTMENTS		
Del Norte County		
Glenn County		
Imperial County		
Kern County		
Kings County		
Mendocino County		
Plumas County		
San Bernardino County		
Siskiyou County		
 POLICE DEPARTMENTS		
Alturus Police Department	(Modoc Co)	
Antioch Police Department	(Contra Costa Co)	
Atascadero Police Department	(San Louis Obispo Co)	
Bear Valley Police Department	(Kern Co)	
Belvedere Police Department	(Marin Co.)	
Blue Lake Police Department	(Humbolt Co.)	
Brawley Police Department	(Imperial Co)	
Calexico Police Department	(Imperial Co)	
Calipatria Police Department	(Imperial Co)	
Colusa Police Department	Sacramento Valley	sent 1/26
Corona Police Department	(Riverside Co)	
Dana Point Police Department	(Orange Co)	
Danville Police Department	(Contra Costa Co)	
Del Rey Oaks Police Department	(Monterey Co)	
Downey Police Department	(Los Angeles Co)	
East Palo Alto Police Department	(San Mateo Co)	
Escondido Police Department	(San Diego Co)	
Gardena Police Department	(Los Angeles Co)	
Gridley Police Department	Sacramento Valley	sent 1/26
Hollister Police Department	(San Benito Co)	
Holtville Police Department	(Imperial Co)	
Imperial Police Department	(Imperial Co)	
Kingsburg Police Department	(Fresno Co)	
Lakeport Police Department	(Lake Co)	
Livingston Police Department	(Merced Co)	
Los Alamitos Police Department	(Orange Co)	
Maricopa Police Department	(Kern Co)	
Marysville Police Department	Sacramento Valley	sent 1/26
Maywood Police Department	(Los Angeles Co)	
Menlo Park Police Department	(San Mateo Co)	
Merced Police Department	(Merced Co)	
Millbrae Police Department	(San Mateo Co)	
Nevada City Police Department	Nevada County	sent 1/25
Novato Police Department	(Marin Co)	
Orange Police Department	(Orange Co)	
Palo Alto Police Department	(Santa Clara Co)	

Pasadena Police Department	(Los Angeles Co)	
Redding Police Department	(Shasta Co)	
Redwood City Police Department	(San Mateo Co)	
Rialto Police Department	(San Bernardino Co)	
Rio Dell Police Department	(Humbolt Co)	
San Anselmo Police Department	(Marin Co)	
San Carlos Police Department	(San Mateo Co)	
San Jacinto Police Department	(Riverside Co)	
Sand City Police Department	(Monterey Co)	
Santa Maria Police Department	(Santa Barbara Co)	
Santa Monica Police Department	(Los Angeles Co)	
Sausalito Police Department	(Marin Co)	
Seal Beach Police Department	(Orange Co)	
Seaside Police Department	(Monterey Co)	
Stallion Springs Police Department	(Kern Co)	
Suisun City Police Department	(Solano Co)	
Sutter Creek Police Department	(Amador Co)	
Taft Police Department	(Kern Co)	
Temecula Police Department	(Riverside Co)	
Tracy Police Department	(San Joaquin Co)	
Trinidad Police Department	(Humbolt Co)	
Truckee Police Department	Nevada County	sent 1/25
Vallejo Police Department	(Solano Co)	
Weed Police Department	(Siskiyou Co)	
Westmorland Police Department	(Imperial Co)	
Whittier Police Department	(Los Angeles Co)	
Windsor Police Department	(Sonoma Co)	

Chief Name	Street Address	City		Zip
Sheriff Dean Wilson	650 5th Street	Crescent City	CA	95531
Sheriff Larry Jones	543 West Oak	Willows	CA	95988
Sheriff Ray Loera	328 West Applestill	El Centro	CA	92244
Sheriff Donny Youngblood	1350 Norris Road	Bakersfield	CA	93308
Sheriff Chris Jordan	1444 West Lacey Blvd.	Hanford	CA	93230
Sheriff Tom Allman	951 Low Gap Road	Ukiah	CA	95482
Sheriff Terry Bergstrand	1400 East Main Street	Quincy	CA	95971
Sheriff Gary Penrod	655 East Third Street	San Bernardino	CA	92415
Sheriff Rick Riggins	311 Lane Street	Yreka	CA	96097
Chief Ken Barnes	200 North Street	Alturas	CA	96101
Chief James Hyde	300 L Street	Antioch	CA	94509
Chief Jim Mulhall	5505 El Camino Real	Atascadero	CA	93422
Chief Terry D. Freeman	25101 Bear Valley Road	Tehachapi	CA	93561
Chief Mark Campbell	450 San Raphael Avenue	Belvedere	CA	94920
(Chief David Gundersen)	111 Greenwood Road	Blue Lake	CA	95525
Chief Mark Gilmore	351 Main Street	Brawley	CA	92227
Chief Lee Neujahr	420 East Fifth Street	Calexico	CA	92231
Chief Reggie Gomez	140 West Main Street	Calipatria	CA	92233
Chief Lyle Montgomery	260 6th Street	Colusa	CA	95932
Chief Richard Madory	849 West Sixth Street	Corona	CA	92882
Chief Mark Levy	33282 Golden Lantern Street	Dana point	CA	92629
Chief Chris Wenzel	510 La Gonda way	Danville	CA	94526
<i>(not listed on website)</i>	650 Canyon Del Rey	Del Rey Oaks	CA	93940
Chief Roy Campos	10911 B rookshire Ave.	Downey	CA	90241
Chief Ronald L. Davis	141 Demeter Street	East Palo Alto	CA	94303
Chief Duane White	700 West Grand Ave.	Escondido	CA	92025
Chief Ed Medrano	1718 West 162nd Street	Gardena	CA	90247
Chief Gary Keeler	685 Kentucky Street	Gridley	CA	95948
Chief Jeff Miller	395 Apollo Court	Hollister	CA	95023
Interim Chief Rick Watson	585 Fern Ave.	Holtville	CA	92250
Chief Miguel Colón	424 Imperial Avenue	Imperial	CA	92251
Chief Jeff Dunn	1300 California Street	Kingsburg	CA	93631
Chief Kevin Burke	916 North Forbes Street	Lakeport	CA	95453
Chief Bill Eldridge	1446 C Street	Livingston	CA	95334
Chief Todd Mattern	3201 Katella Avenue	Los Alamitos	CA	90720
<i>(Under Kern Co Sheriff)</i>	400 California Street	Maricopa	CA	93252
Chief Wallace C. Fullerton	316 6th Street	Marysville	CA	95901
Chief Frank Hauptman	4319 East Slauson Avenue	Maywood	CA	90270
Chief Bruce Goitia	701 Laurel Street	Menlo Park	CA	94025
Chief Russ Thomas	611 West 22nd Street	Merced	CA	95340
Chief Thomas Hitchcock	581 Magnolia Avenue	Millbrae	CA	94030
Chief Louis Trovato	317 Broad Street	Nevada City	CA	95959
Chief Joseph M. Kreins	909 Machin Avenue	Novato	CA	94945
Chief Robert Gustafson	1107 North Batavia Street	Orange	CA	92867
Chief Lynne Johnson	275 Forest Avenue	Palo Alto	CA	94301

Chief Bernard Melekian	207 North Garfield Avenue	Pasadena	CA	91101
Chief Peter T. Hansen	1313 California Street	Redding	CA	96001
Chief Louis A. Cobarruviaz	1301 Maple Street	Redwood City	CA	94064
Chief Mark P. Kling	128 North Willow Avenue	Rialto	CA	92376
Chief Graham Hill	675 Wildwood Avenue	Rio Dell	CA	95562
Chief Charles Maynard	525 San Anselmo Avenue	San Anselmo	CA	94960
Chief Gregory P. Rothaus	600 Elm Street	San Carlos	CA	94070
<i>(Under Riverside Co Sheriff)</i>	160 West 6th Street	San Jacinto	CA	92583
Chief J. Michael Klein	1 Sylvan Park	Sand City	CA	93955
Chief Danny R. Macagni	222 East Cook Street	Santa Maria	CA	93454
Chief Timothy J. Jackman	333 Olympic Blvd,	Santa Monica	CA	90401
Chief Scott Paulin	300 Locust Street	Sausalito	CA	94965
Chief Jeffrey Kirkpatrick	911 Seal Beach Blvd.	Seal Beach	CA	90740
Chief Stephan M. Cercone	440 Harcourt Avenue	Seaside	CA	93955
<i>(not listed on website)</i>	28500 Stallion Springs Drive	Tehachapi	CA	93561
Chief Ed Dadisho	701 Civic center Blvd	Suisun City	CA	94585
Chief J. Robert Duke	18 Main Street	Sutter Creek	CA	95685
Chief Bert Pumphrey	320 Commerce Way	Taft	CA	93268
Chief Jerry Williams	30755-A Auld Road	Murrieta	CA	92563
Interim Chief Rick Golphin	1000 Civic Center Drive	Tracy	CA	95376
Chief Ken Thrailkill	409 Trinity Street	Trinidad	CA	95570
Chief Scott Berry	10183 Truckee Airport Road	Truckee	CA	96161
Chief Robert W. Nichelini	111 Amador Street	Vallejo	CA	94590
Chief Martin G. Nicholas	550 Main Street	Weed	CA	96094
Chief Fred Beltran	355 South Center Street	Westmorland	CA	92281
Chief David M. Singer	7315 Painter Avenue	Whittier	CA	90602
Chief Steve Freitas	9291 Old Redwood Highway	Windsor	CA	95492

Phone

(707) 464-4191
(530) 934-6441
(760) 339-6301
(661) 391-7771
(559) 582-3211 ext. 2795
(707) 463-4411
(530) 283-6300
(909) 387-3400
(530) 842-8300

(530) 233-2011
(925) 779-6902
(805) 466-9111
(616) 821-3239
(415) 435-3266
(707) 668-5895
(760) 344-2111, ext. 2648

Mayor: Marlene Smith, Mayor Prp-Tem Karen Barnes, 311 Greenwood etc.
Mayor: Esteban Vasquez, 383 Main St., Brawley

(760) 768-2146
(760) 348-2211
(530) 458-7777
(951) 736-2330
(949) 770-6011
(925) 314-3701

Mayor: Joseph Russell, Vice Mayor: Jerry Edelen

(831) 394-9333
(562) 861-0771
(650) 853-3160
(760) 839-4721
(310) 217-9670
(530) 846-5670
(831) 636-4330

Mayor: Bianca Padilla, 121 West Fifth St, Holtville

(760) 356-2991
(760) 355-4327
(559) 897-2931
(707) 263-5491
(209) 394-5578
(562) 431-2255
(661)769-8838
(530) 749-3900
(323) 562-5700
(650) 330-6326
(209) 385-6912
(650) 259-2300
(530) 265-2626
(415) 897-4361
(714) 744-7444
(650) 329-2115

(626) 744-4501
(530) 225-4200
(650) 780-7122
(909) 820-2555
(707) 764-5642
(415) 258-4610
(650) 802-4277
(951) 654-2702
(831) 394-1451 ext. 18
(805) 925-0951 ext. 272
(310) 458-8491
(415) 289-4181
(562) 799-4100 ext. 1123
(831) 899-6748
(661) 822-3268
(707) 421-7373
(209) 267-5646
(661) 763-3101
(951) 696-3000
(209) 831-4550
(707) 677-0133
(530) 50-2328
(707) 648-4321
(530) 938-5000
(760) 344-3457
(562) 945-8250
(707) 838-1234

Under contract with Riverside Co Sheriff

P.O. Box 267

Under contract with Sonoma Co Sheriff

Infrastructure Mitigation Strategies

		Priority (CHECK ONLY ONE)											
2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
INFR - a - Multi-Hazard (owned by the infrastructure provider filling out this form, including a city, county, or special district)													
a-1	a-1	Assess the vulnerability of critical facilities owned by infrastructure operators subject to damage in natural disasters or security threats, including fuel tanks and facilities owned outside of the Bay Area that can impact service delivery within the region. Note - Infrastructure agencies, departments, and districts are those that operate transportation and utility facilities and networks.	EQ LS WF FL SEC	x								Agency Management and the Regional Administrative Facility Corporation (RAFC)	RAFC evaluated the only building in which ABAG is an actual partial owner - the MetroCenter facility
a-2	a-2	If a dam owner , comply with State of California and federal requirements to assess the vulnerability of dams to damage from earthquakes, seiches, landslides, liquefaction, or security threats.	EQ LS WF FL SEC							x			Not applicable; ABAG does not own a dam
a-3	a-3	Encourage the cooperation of utility system providers and cities, counties, and special districts, and PG&E to develop strong and effective mitigation strategies for infrastructure systems and facilities.	EQ LS WF FL DR SEC	x									not part of ABAG's mission
a-4	a-4	Retrofit or replace critical lifeline infrastructure facilities and/or their backup facilities that are shown to be vulnerable to damage in natural disasters.	EQ LS WF FL SEC	x								Agency Management and the Regional Administrative Facility Corporation (RAFC)	ABAG worked with MTC on the \$5 million seismic retrofit of the MetroCenter facility using, in part, a \$3 million PDM-C grant from FEMA
a-5	a-5	Support and encourage efforts of other (lifeline infrastructure) agencies as they plan for and arrange financing for seismic retrofits and other disaster mitigation strategies. (For example, a city might pass a resolution in support of a transit agency's retrofit program.)	EQ LS WF FL DR SEC	x								Planning Department - Earthquake and Hazards Program and overall Agency Management	Resolution 04-99 in support of BART retrofit, for example

Infrastructure Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
a-6	a-6	Develop a plan for speeding the repair and functional restoration of water and wastewater systems through stockpiling of shoring materials, temporary pumps, surface pipelines, portable hydrants, and other supplies, such as those available through the Water /Wastewater Agency Response Network (WARN). Communicate that plan to local governments and critical facility operators.	EQ LS WF FL DR SEC							x			Not applicable; not part of ABAG's mission
a-7	a-7	Engage in, support, and/or encourage research by others (such as USGS, universities, or Pacific Earthquake Engineering Research Center- PEER) on measures to further strengthen transportation, water, sewer, and power systems so that they are less vulnerable to damage in disasters	EQ LS WF FL DR SEC	x								Planning Department - Earthquake and Hazards Program and overall Agency Management	On-going activity
a-8	a-8	Pre-position emergency power generation capacity (or have rental/lease agreements for these generators) in critical buildings of cities, counties, and special districts to maintain continuity of government and services.	EQ LS WF FL SEC	x								RAFC	Emergency power is available for the conference rooms
a-9	a-9	(REWORDED) Ensure that critical intersection traffic lights function following loss of power by installing battery back-ups, emergency generators, or lights powered by alternative energy sources such as solar. Proper functioning of these lights is essential for rapid evacuation, such as with hazmat releases resulting from natural disasters.	EQ LS WF FL SEC							x			not part of ABAG's mission
a-10	a-10	Develop unused or new pedestrian rights-of-way as walkways to serve as additional evacuation routes (such as fire roads in park lands).	EQ LS WF FL SEC							x			not part of ABAG's mission
a-11	a-11	Minimize the likelihood that power interruptions will adversely impact lifeline utility systems or critical facilities by ensuring that they have adequate back-up power.	EQ LS WF FL SEC							x			not part of ABAG's mission

Infrastructure Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
a-12	a-12	Encourage replacing above ground electric and phone wires and other structures with underground facilities, and use the planning-approval process to ensure that all new phone and electrical utility lines are installed underground.	EQ LS WF FL SEC							x			not part of ABAG's mission
a-13	a-13	If you own a dam , coordinate with the State Division of Safety of Dams to ensure an adequate timeline for the maintenance and inspection of dams, as required of dam owners by State law, and communicate this information to local governments and the public.	EQ LS WF FL SEC							x			Not applicable; ABAG does not own a dam
a-14	a-14	Encourage communication between State Emergency Management Agency (CalEMA) , FEMA, and utilities related to emergencies occurring outside of the Bay Area that can affect service delivery in the region.	EQ LS WF FL DR SEC	x								Planning Department - Earthquake and Hazards Program	On-going activity
a-15	a-15	Ensure that transit operators, private ambulance companies, cities, and/or counties have mechanisms in place for medical transport during and after disasters that take into consideration the potential for reduced capabilities of roads following these same disasters.	EQ LS WF FL SEC							x			not part of ABAG's mission
a-16	new	Recognize that heat emergencies produce the need for non-medical transport of people to cooling centers by ensuring that (1) transit operators have plans for non-medical transport of people during and after such emergencies including the use of paratransit and (2) cities, counties, and transit agencies have developed ways to communicate the plan to the public.	Heat							x			not part of ABAG's mission
a-17	a-16	Effectively utilize the Regional Transportation Management Center (TMC) in Oakland , the staffing of which is provided by Caltrans, the CHP and MTC. The TMC is designed to maximize safety and efficiency throughout the highway system. It includes the Emergency Resource Center (ERC) which was created specifically for primary planning and procedural disaster management. RESPONSIBLE AGENCY: MTC only.	EQ LS WF FL SEC							x			not part of ABAG's mission

Infrastructure Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
a-18	new	Develop (with the participation of paratransit providers, emergency responders, and public health professionals) plans and procedures for paratransit system response and recovery from disasters.	EQ LS WF FL Heat SEC							x			not part of ABAG's mission
a-19	new	Coordinate with other critical infrastructure facilities to establish plans for delivery of water and wastewater treatment chemicals.	EQ LS WF FL SEC							x			not part of ABAG's mission
a-20	new	Establish plans for delivery of fuel to critical infrastructure providers.	EQ LS WF FL SEC							x			not part of ABAG's mission
a-21	new	As an infrastructure operator, designate a back-up Emergency Operations Center with redundant communications systems.	EQ LS WF FL SEC							x			not part of ABAG's mission
a-22	new	Monitor scientific studies of the Sacramento-San Joaquin Delta and policy decisions related to the long-term disaster resistance of that Delta system to ensure that decisions are made based on comprehensive analysis and in a scientifically-defensible manner. Levee failure due to earthquakes, flooding, and climate change (including sea level rise and more frequent and more severe flooding) are all of concern. The long-term health of the Delta area is critical to the Bay Area's water supply, is essential for the San Francisco Bay and estuary's environmental health, provides recreation opportunities for Bay Area residents, and provides the long-term sustainability of Delta communities. While only part of the Delta is within the nine Bay Area counties covered by this multi-jurisdictional LHMP, the Delta is tied to the infrastructure, water supply, and economy of the Bay Area.	EQ FL		x							Planning Department - Earthquake and Hazards Program and Water Resources Program	On-going activity

INFR - b - Earthquakes

Infrastructure Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
b-1	b-1	Expedite the funding and retrofit of seismically-deficient city- and county-owned bridges and road structures by working with Caltrans and other appropriate governmental agencies.	EQ							x			not part of ABAG's mission
b-2	b-2	Establish a higher priority for funding seismic retrofit of existing transportation and infrastructure systems (such as BART) than for expansion of those systems.	EQ							x			not directly a part of ABAG's mission; however, ABAG indirectly encourages such priorities through its Smart Growth efforts
b-3	b-3	Include "areas subject to high ground shaking, earthquake-induced ground failure, and surface fault rupture" in the list of criteria used for determining a replacement schedule for pipelines (along with importance, age, type of construction material, size, condition, and maintenance or repair history).	EQ							x			not part of ABAG's mission
b-4	b-4	Install specially-engineered pipelines in areas subject to faulting, liquefaction, earthquake-induced landsliding, or other earthquake hazard.	EQ							x			not part of ABAG's mission
b-5	b-5	Replace or retrofit water-retention structures that are determined to be structurally deficient, including levees, dams, reservoirs and tanks.	EQ							x			not part of ABAG's mission
b-6	b-6	Install portable facilities (such as hoses, pumps, emergency generators, or other equipment) to allow pipelines to bypass failure zones such as fault rupture areas, areas of liquefaction, and other ground failure areas (using a priority scheme if funds are not available for installation at all needed locations).	EQ							x			not part of ABAG's mission
b-7	b-7	Install earthquake-resistant connections when pipes enter and exit bridges and work with bridge owners to encourage retrofit of these structures.	EQ							x			not part of ABAG's mission
b-8	b-8	Comply with all applicable building and fire codes, as well as other regulations (such as state requirements for fault, landslide, and liquefaction investigations in particular mapped areas) when constructing or significantly remodeling infrastructure facilities.	EQ	x								Regional Administrative Facility Corporation (RAFC)	On-going activity; specifically used when MetroCenter facility seismically upgraded.

Infrastructure Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
b-9	b-9	Clarify to workers in critical facilities and emergency personnel, as well as to elected officials and the public, the extent to which the facilities are expected to perform only at a life safety level (allowing for the safe evacuation of personnel) or are expected to remain functional following an earthquake.	EQ	x								Agency Management and the Regional Administrative Facility Corporation (RAFC)	On-going activity; specifically used during MetroCenter facility seismic upgrade
b-10	b-10	Develop a water-based transportation "system" across the Bay for use in the event of major earthquakes. Implementation of such a system could prove extremely useful in the event of structural failure of either the road-bridge systems or BART and might serve as an adjunct to existing transportation system elements in the movement of large numbers of people and/or goods.	EQ							x			Not applicable for ABAG; role of WETA
INFR - c - Wildfire													
c-1	c-1	Ensure a reliable source of water for fire suppression (meeting acceptable standards for minimum volume and duration of flow) for existing and new development.	WF							x			not part of ABAG's mission
c-2	c-2	Develop a coordinated approach between fire jurisdictions and water supply agencies to identify needed improvements to the water distribution system, initially focusing on areas of highest wildfire hazard (including wildfire threat areas and in wildland-urban-interface areas).	WF							x			not part of ABAG's mission
c-3	c-3	Develop a defensible space vegetation program that includes the clearing or thinning of (a) non-fire resistive vegetation within 30 feet of access and evacuation roads and routes to critical facilities, or (b) all non-native species (such as eucalyptus and pine, but not necessarily oaks) within 30 feet of access and evacuation roads and routes to critical facilities.	WF							x			not part of ABAG's mission
c-4	c-4	For new development , ensure all dead-end segments of public roads in high hazard areas have at least a "T" intersection turn-around sufficient for typical wildland fire equipment.	WF							x			not part of ABAG's mission
c-5	c-5	For new development , enforce minimum road width of 20 feet with an additional 10-foot clearance on each shoulder on all driveways and road segments greater than 50 feet in length in wildfire hazard areas.	WF							x			not part of ABAG's mission

Infrastructure Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
c-6	c-6	Require that development in high fire hazard areas provide adequate access roads (with width and vertical clearance that meet the minimum standards of the <i>Fire Code</i> or relevant local ordinance), onsite fire protection systems, evacuation signage, and fire breaks.	WF							x			not part of ABAG's mission
c-7	c-7	Ensure adequate fire equipment road or fire road access to developed and open space areas.	WF							x			not part of ABAG's mission
c-8	c-8	Maintain fire roads and/or public right-of-way roads and keep them passable at all times.	WF							x			not part of ABAG's mission

Infrastructure Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
INFR - d - Flooding													
d-1	d-1	Conduct a watershed analysis of runoff and drainage systems to predict areas of insufficient capacity in the storm drain and natural creek system.	FL					x				Planning Department - Water Resources Program	
d-2	d-2	Develop procedures for performing a watershed analysis to examine the impact of development on flooding potential downstream, including communities outside of the jurisdiction of proposed projects.	FL		x							Planning Department - Water Resources Program	Additional funding needed
d-3	d-3	Conduct a watershed analysis at least once every ten years unless there is a major development in the watershed or a major change in the Land Use Element of the General Plan of the cities or counties within the watershed.	FL					x				Planning Department - Water Resources Program	
d-4	d-4	Assist, support, and/or encourage the U.S. Army Corp of Engineers, various Flood Control and Water Conservation Districts, and other responsible agencies to locate and maintain funding for the development of flood control projects that have high cost-benefit ratios (such as through the writing of letters of support and/or passing resolutions in support of these efforts).	FL				x					Planning Department - Water Resources Program	Funding being sought
d-5	d-5	Pursue funding for the design and construction of storm drainage projects to protect vulnerable properties, including property acquisitions, upstream storage such as detention basins, and channel widening with the associated right-of-way acquisitions, relocations, and environmental mitigations.	FL							x			not part of ABAG's mission
d-6	d-6	Continue to repair and make structural improvements to storm drains, pipelines, and/or channels to enable them to perform to their design capacity in handling water flows as part of regular maintenance activities. (This strategy has the secondary benefit of addressing fuel, chemical, and cleaning product issues.)	FL							x			not part of ABAG's mission
d-7	d-7	Continue maintenance efforts to keep storm drains and creeks free of obstructions, while retaining vegetation in the channel (as appropriate) to allow for the free flow of water.	FL						x				not part of ABAG's mission

Infrastructure Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
d-8	d-8	Enforce provisions under creek protection, stormwater management, and discharge control ordinances designed to keep watercourses free of obstructions and to protect drainage facilities to conform with the Regional Water Quality Control Board's Best Management Practices.	FL							x			not part of ABAG's mission
d-9	d-9	Develop an approach and locations for various watercourse bank protection strategies, including for example, (1) an assessment of banks to inventory areas that appear prone to failure, (2) bank stabilization, including installation of rip rap, or whatever regulatory agencies allow (3) stream bed depth management using dredging, and (4) removal of out-of-date coffer dams in rivers and tributary streams.	FL							x			not part of ABAG's mission
d-10	d-10	Use reservoir sediment or reed removal as one way to increase storage for both flood control and water supply.	FL							x			not part of ABAG's mission
d-11	d-11	Identify critical locally-owned bridges affected by flooding and either elevate them to increase stream flow and maintain critical ingress and egress routes or modify the channel to achieve equivalent objectives.	FL							x			not part of ABAG's mission
d-12	d-12	Provide or support the mechanism to expedite the repair or replacement of levees that are vulnerable to collapse from earthquake-induced shaking or liquefaction, rodents, and other concerns, particularly those protecting critical infrastructure.	FL						x			Planning Department - Water Resources Program	ABAG is currently studying the issues related to long-term sustainability of the Delta to determine its position on various proposals
d-13	d-13	Ensure that utility systems in new developments are constructed in ways that reduce or eliminate flood damage.	FL							x			not part of ABAG's mission
d-14	d-14	Determine whether or not wastewater treatment plants are protected from floods, and if not, investigate the use of flood-control berms to not only protect from stream or river flooding, but also increase plant security.	FL							x			not part of ABAG's mission
d-15	d-15	Work cooperatively with water agencies, flood control districts, Caltrans, and local transportation agencies to determine appropriate performance criteria for watershed analysis.	FL		x							Planning Department - Water Resources Program	Currently working with these agencies

Infrastructure Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
d-16	d-16	Work for better cooperation among the patchwork of agencies managing flood control issues.	FL	x								Planning Department - Water Resources Program	Currently working with these agencies
d-17	d-17	Improve monitoring of creek and watercourse flows to predict potential for flooding downstream by working cooperatively with land owners and the cities and counties in the watershed.	FL							x			not part of ABAG's mission
d-18	new	Using criteria developed by EPA for asset management, inventory existing assets, the condition of those assets, and improvements needed to protect and maintain those assets. Capture this information in a Geographic Information System (GIS) and use it to select locations for creek monitoring gauges.	FL							x			not part of ABAG's mission
INFR - e - Landslides													
e-1	e-1	Include "areas subject to ground failure" in the list of criteria used for determining a replacement schedule (along with importance, age, type of construction material, size, condition, and maintenance or repair history) for pipelines.	LS							x			not part of ABAG's mission
e-2	e-2	Establish requirements in zoning ordinances to address hillside development constraints in areas of steep slopes that are likely to lead to excessive road maintenance or where roads will be difficult to maintain during winter storms due to landsliding.	LS							x			not part of ABAG's mission

Infrastructure Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
INFR - f - Building Reoccupancy													
f-1	f-1	<p>Ensure that critical buildings owned or leased by special districts or private utility companies participate in a program similar to San Francisco's Building Occupancy Resumption Program (BORP). The BORP program permits owners of buildings to hire qualified engineers to create facility-specific post-disaster inspection plans and allows these engineers to become automatically deputized as City/County inspectors for these buildings in the event of an earthquake or other disaster. This program allows rapid reoccupancy of the buildings.</p> <p>Note - A qualified (deleted structural) engineer is a California licensed engineer with relevant experience.</p>	EQ LS WF FL SEC	x								Regional Administrative Facility Corporation (RAFC)	RAFC is contracting with URS to prepare the BORP for the MetroCenter.

Infrastructure Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program- Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
INFR - g - Public Education													
g-1	g-1	Provide materials to the public related to planning for power outages.	EQ LS WF FL SEC							x			not part of ABAG's mission
g-2	g-2	Provide materials to the public related to family and personal planning for delays due to traffic or road closures, or due to transit system disruption caused by disasters.	EQ LS WF FL SEC	x								Planning Department - Earthquake and Hazards Program	see quake.abag.ca.gov/traffic
g-3	g-3	Provide materials to the public related to coping with reductions in water supply or contamination of that supply BEYOND regulatory notification requirements.	EQ LS WF FL DR SEC							x			not currently part of ABAG's mission
g-4	g-4	Provide materials to the public related to coping with disrupted storm drains, sewage lines, and wastewater treatment (such as materials developed by ABAG's Sewer Smart Program).	EQ LS WF FL DR SEC	x								ABAG's Sewer Smart Program	On-going activity
g-5	g-5	Facilitate and/or coordinate the distribution of emergency preparedness or mitigation materials that are prepared by others, such as by making the use of the internet or other electronic means , or placing materials on community access channels or in city or utility newsletters, as appropriate.	EQ LS WF FL DR SEC	x								Planning Department - Earthquake and Hazards Program	On-going activity
g-6	new	Sponsor the formation and training of Community Emergency Response Teams (CERT) for the employees of your agency. [Note – these programs go by a variety of names in various cities and areas.]	EQ LS WF FL DR SEC							x			not currently part of ABAG's mission

Infrastructure Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
g-7	new	Develop and distribute culturally appropriate materials related to disaster mitigation and preparedness, such as those on the http://www.preparenow.org website related to infrastructure issues.	EQ LS WF FL DR SEC	x								Planning Department - Earthquake and Hazards Program and Information Services Department	ABAG, through abagOnline, currently hosts this website; ABAG continues to try to incorporate culturally appropriate materials into its web site. However, more information should be translated into other languages.

Health Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Priority (CHECK ONLY ONE)										Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
				Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, or Not Appropriate, or Not Cost Effective	Not Yet Considered				
HEAL - a - Hospitals and Other Critical Health Care Facilities (including those facilities licensed by OSHPD, as well as water agencies, public & private hospitals as noted). To be filled out by cities, counties, and county health departments.															
a-1	a-1	Work to ensure that cities, counties, county health departments, and hospital operators coordinate with each other (and that hospitals cooperate with the California Office of Statewide Health Planning and Development - OSHPD) to comply with current state law that mandates that critical facilities are structurally sound and have nonstructural systems designed to remain functional following disasters by 2013. In particular, this coordination should include understanding any problems with obtaining needed funding. RESPONSIBLE AGENCIES: Cities, counties, county health departments, and hospitals	EQ WF FL SEC									X			While not directly part of ABAG's mission, ABAG has coordinated the financing for some hospital retrofit projects.
a-2	a-2	Encourage hospitals in your community to work with OSHPD to formalize arrangements with structural engineers to report to the hospital, assess damage, and determine if the buildings can be reoccupied. The program should be similar to San Francisco's Building Occupancy Resumption Program (BORP) that permits owners of buildings to hire qualified structural engineers to create building-specific post-disaster inspection plans and allows these engineers to become automatically deputized as inspectors for these buildings in the event of an earthquake or other disaster. OSHPD, rather than city/county building departments, has the authority and responsibility for the structural integrity of hospital structures. RESPONSIBLE AGENCIES: Cities, counties, county health departments, and hospitals	EQ WF FL SEC									X			not part of ABAG's mission
a-3	a-3	Ensure health care facilities are adequately prepared to care for victims with respiratory problems related to smoke and/or particulate matter inhalation. RESPONSIBLE AGENCIES: Cities, counties, county health departments, and hospitals	EQ WF SEC									X			not part of ABAG's mission
a-4	a-4	Ensure these health care facilities have the capacity to shut off outside air and be self-contained. RESPONSIBLE AGENCIES: Cities, counties, county health departments, and hospitals	EQ WF SEC									X			not part of ABAG's mission

Health Mitigation Strategies

2009-2010 Strategic Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
a-5	a-5	Ensure that hospitals and other major health care facilities have auxiliary water and power sources. RESPONSIBLE AGENCIES: Cities, counties, county health departments, water suppliers, and hospitals	EQ LS WF FL SEC							X			not part of ABAG's mission
a-6	a-6	Work to ensure that county health departments work with health care facilities to institute isolation capacity should a need for them arise following a communicable disease epidemic. Isolation capacity varies from a section of the hospital for most communicable diseases to the entire hospital for a major pandemic flu. RESPONSIBLE AGENCIES: Cities, counties, county health departments, and hospitals	EQ WF FL SEC							X			not part of ABAG's mission
a-7	a-7	Develop printed materials, utilize existing materials (such as developed by FEMA, the American Red Cross, and others, including non-profit organizations), conduct workshops, and/or provide outreach encouraging employees of these critical health care facilities to have family disaster plans and conduct mitigation activities in their own homes. RESPONSIBLE AGENCIES: Cities, counties, county health departments, and hospitals	EQ LS WF FL SEC							X			not part of ABAG's mission
HEAL - b - Ancillary Health-Related Facilities (including medical offices, pharmacies, free-standing or specialty clinics, etc.)													
b-1	b-1	Identify these ancillary facilities in your community. These facilities are not regulated by OSHPD in the same way as hospitals. RESPONSIBLE AGENCIES: Cities, counties, and county health departments	EQ LS WF FL SEC						X			Planning Department - Earthquake and Hazards Program	ABAG is investigating the costs associated with identifying these facilities and mechanism to institutionalize this process.
b-2	b-2	Encourage these facility operators to develop disaster mitigation plans. RESPONSIBLE AGENCIES: Cities, counties, and county health departments	EQ LS WF FL SEC							X			not part of ABAG's mission
b-3	b-3	Encourage these facility operators to create, maintain, and/or continue partnerships with local governments to develop response and business continuity plans for recovery. RESPONSIBLE AGENCIES: Cities, counties, and county health departments	EQ LS WF FL SEC							X			not part of ABAG's mission

Health Mitigation Strategies

2009-2010 Strategic Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
HEAL - c - Coordination Initiatives													
c-1	c-1	Designate locations for the distribution of antibiotics to large numbers of people should the need arise, as required to be included in each county's Strategic National Stockpile Plan. RESPONSIBLE AGENCIES: County Health Departments	FLU SEC							X			not part of ABAG's mission
c-2	c-2	Ensure that you know the Metropolitan Medical Response System (MMRS) cities in your area. Fremont, Oakland, San Francisco, and San Jose (plus Sacramento and Stockton) are the MMRS cities in or near the Bay Area . MMRS cities are provided with additional federal funds for organizing, equipping, and training groups of local fire, rescue, medical, and other emergency management personnel to respond to a mass casualty event. (The coordination among public health, medical, emergency management, coroner, EMS, fire, and law enforcement is a model for all cities and counties.) RESPONSIBLE AGENCIES: Cities, counties, county health departments, and hospitals	EQ LS WF FL SEC							X			not part of ABAG's mission
c-3	c-3	Know that National Disaster Medical System (NDMS) uniformed or non-uniformed personnel are within one-to-four hours of your community. These federal resources include veterinary, mortuary, and medical personnel. Teams in or near the Bay Area are headquartered in the cities of Santa Clara and Sacramento. RESPONSIBLE AGENCIES: Cities, counties, county health departments, and hospitals	EQ LS WF FL SEC							X			not part of ABAG's mission
c-4	c-4	Plan for hazmat related-issues due to a natural or technological disaster. Hazmat teams should utilize the State of California Department of Health Services laboratory in Richmond for confirmation of biological agents and Lawrence Livermore National Laboratory or Sandia (both in Livermore) for confirmation of radiological agents. RESPONSIBLE AGENCIES: Cities, counties, county health departments, and hospitals.	EQ WF FL SEC							X			not part of ABAG's mission

Health Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
c-5	d-1	Create discussion forums for food and health personnel (including, for example, medical professionals, veterinarians, and plant pathologists) to develop safety, security, and response strategies for food supply contamination (at the source, in processing facilities, in distribution centers, and in grocery stores) . RESPONSIBLE AGENCIES: County environmental health departments	FL SEC							X			not part of ABAG's mission
c-6	new	Ensure mental health continuity of operations and disaster planning is coordinated among county departments, (including Public Health and Emergency Services), private sector mental health organizations, professional associations, and national and community-based non-profit agencies involved in supporting community mental health programs. First , such planning should ensure that the capability exists to provide both immediate on-site mental health support at facilities such as evacuation centers, emergency shelters, and local assistance centers, as well as to coordinate on-going mental health support during the long-term recovery process. Second , this planning should ensure that mental health providers, in collaboration with the county agencies responsible for providing public information, are prepared to provide consistent post-disaster stress and other mental health guidance to the public impacted by the disaster.	EQ LS WF FL SEC							X			not part of ABAG's mission
deleted	d-2	(duplicate information to c-2)											
deleted	d-3	(duplicate information to c-3)											
deleted	d-4	(duplicate information to c-4)											

Housing Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Priority (CHECK ONLY ONE)										Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
				Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered				
HSNG - a - Multi-Hazard															
a-1	a-1	Assist in ensuring adequate hazard disclosure by working with real estate agents to improve enforcement of real estate disclosure requirements for residential properties with regard to seven official natural hazard zones: 1) Special Flood Hazard Areas (designated by FEMA), 2) Areas of Potential Flooding from dam failure inundation, 3) Very High Fire Hazard Severity Zones, 4) Wildland Fire Zones, 5) Earthquake Fault Zones (designated under the Alquist-Priolo Earthquake Fault Zoning Act), and the 6) Liquefaction and Landslide Hazard Zones (designated under the Seismic Hazard Mapping Act).	EQ LS WF FL SEC										X		not part of ABAG's mission
a-2	a-2	Create incentives for private owners of historic or architecturally significant residential buildings to undertake mitigation to levels that will minimize the likelihood that these buildings will need to be demolished after a disaster, particularly if those alterations conform to the federal Secretary of the Interior's <i>Guidelines for Rehabilitation</i> .	EQ LS WF FL SEC										X		ABAG's Financial Services facilities financing, but does not create incentives.
a-3	NEW Was GOVT b-4	Develop a plan for short-term sheltering of residents of your community in conjunction with the American Red Cross.	EQ LS WF FL SEC										X		not part of ABAG's mission
a-4	NEW Was GOVT b-4	Develop a plan for interim housing for those displaced by working with the Regional Catastrophic Planning Grant Program (CPGP) that funded this effort in 2009. (Estimated completion is 2011.)	EQ LS WF FL SEC										X		not part of ABAG's mission

Housing Mitigation Strategies

2009-2010 Strategic Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
HSNG - b - Single-Family Homes Vulnerable to Earthquakes													
b-1	b-1	Utilize or recommend adoption of a retrofit standard that includes standard plan sets and construction details for voluntary bolting of homes to their foundations and bracing of outside walls of crawl spaces ("cripple" walls), such as Plan Set A developed by a committee representing the East Bay-Peninsula-Monterey Chapters of the International Code Council (ICC), California Building Officials (CALBO), the Structural Engineers Association of Northern California (SEAONC), the Northern California Chapter of the Earthquake Engineering Research Institute (EERI-NC), and ABAG's Earthquake Program.	EQ		X							Planning Department - Earthquake and Hazards Program	ABAG continues to assist others in developing these Plan Sets. Additional funding is needed to improve the information and conduct training classes.
b-2	b-2	Require engineered plan sets for seismic retrofitting of heavy two-story homes with living areas over garages, as well as for split level homes (that is, homes not covered by Plan Set A) , until standard plan sets and construction details become available.	EQ							X			not part of ABAG's mission
b-3	b-3	Require engineered plan sets for seismic retrofitting of homes on steep hillsides (because these homes are not covered by Plan Set A) .	EQ							X			not part of ABAG's mission
b-4	b-4	Encourage local government building inspectors to take classes on a periodic basis (such as the FEMA-developed training classes offered by ABAG) on retrofitting of single-family homes, including application of Plan Set A .	EQ	X								Planning Department - Earthquake and Hazards Program	ABAG continues to assist others in developing these Plan Sets. Additional funding is needed to develop and conduct training classes.
b-5	b-5	Encourage private retrofit contractors and home inspectors doing work in your area to take retrofit classes on a periodic basis (such as the FEMA-developed training classes offered by ABAG or additional classes that might be offered by the CALBO Training Institute) on retrofitting of single-family homes.	EQ	X								Planning Department - Earthquake and Hazards Program	ABAG continues to assist others in developing these Plan Sets. Additional funding is needed to develop and conduct training classes.
b-6	b-6	Conduct demonstration projects on common existing housing types demonstrating structural and nonstructural mitigation techniques as community models for earthquake mitigation.	EQ							X			not part of ABAG's mission

Housing Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
b-7	b-7	Provide retrofit classes or workshops for homeowners in your community, or help promote utilization of subregional workshops in the South Bay, East Bay, Peninsula, and North Bay as such workshops become available through outreach using existing community education programs.	EQ		X							Planning Department - Earthquake and Hazards Program	ABAG continues to assist others in conducting training classes.
b-8	b-8	Establish tool-lending libraries with common tools needed for retrofitting for use by homeowners with appropriate training.	EQ							X			not part of ABAG's mission
b-9	b-9	(reworded) Provide financial incentives to owners of single-family homes to retrofit if those retrofits comply with Plan Set A or IEBC 2006 in addition to that provided by existing state law State law that makes such retrofits exempt from increases in property taxes.	EQ							X			ABAG's Financial Services facilities financing, but does not currently create incentives.
HSNG - c - Soft-Story Multifamily Residential Structures Vulnerable to Earthquakes													
c-1	c-1	Require engineered plan sets for voluntary or mandatory soft-story seismic retrofits by private owners until a standard plan set and construction details become available.	EQ							X			not part of ABAG's mission
c-2	c-2	Adopt the 2009 (changed date) International Existing Building Code or the latest applicable standard for the design of voluntary or mandatory soft-story building retrofits for use in city/county building department regulations. In addition, allow use of changes to that standard recommended by SEAOC for the 2012 IEBC.	EQ							X			not part of ABAG's mission
c-3	c-3	Work to educate building owners, local government staff, engineers, and contractors on privately-owned soft-story retrofit procedures and incentives using materials such as those developed by ABAG and the City of San Jose (see http://quake.abag.ca.gov/eqhouse.html .)	EQ		X							Planning Department - Earthquake and Hazards Program	ABAG continues to educate the public through its web site. Additional funding is needed to improve the information and conduct training classes.
c-4	c-4	Conduct an inventory of privately-owned existing or suspected soft-story residential structures as a first step in establishing voluntary or mandatory programs for retrofitting these buildings.	EQ		X							Planning Department - Earthquake and Hazards Program	ABAG was able to inventory some of these buildings in Oakland; even with volunteers, the cost for a regional inventory is approx. \$1 million

Housing Mitigation Strategies

2009-2010 Strategic Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program- Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
c-5	c-5	Use the soft-story inventory to require private owners to inform all existing tenants (and prospective tenants prior to signing a lease agreement) that they may live in this type of building.	EQ							X			While not part of ABAG's mission, ABAG continues to work with cities to encourage these efforts.
c-6	c-6	Use the soft-story inventory to require private owners to inform all existing and prospective tenants that they may need to be prepared to live elsewhere following an earthquake if the building has not been retrofitted .	EQ							X			While not part of ABAG's mission, ABAG continues to work with cities to encourage these efforts.
c-7	c-7	Investigate and adopt appropriate financial, procedural, and land use incentives (such as parking waivers) for private owners of soft-story buildings to facilitate retrofit such as those described by ABAG (see http://quake.abag.ca.gov/fixit).	EQ							X			While not part of ABAG's mission, ABAG continues to work with cities to encourage these efforts.
c-8	c-8	(reworded) Explore development of State regulations or legislation to require or encourage private owners of soft-story structures to strengthen them.	EQ		X							Planning Department - Earthquake and Hazards Program	ABAG has worked with the state legislature on this issue. However, the current economic climate makes mandatory programs difficult.
c-9	c-9	Provide technical assistance in seismically strengthening privately-owned soft-story structures.	EQ							X			not part of ABAG's mission
HSNG - d - Unreinforced Masonry Housing Stock													
d-1	d-1	Continue to actively implement existing State law that requires cities and counties to maintain lists of the addresses of unreinforced masonry buildings and inform private property owners that they own this type of hazardous structure.	EQ							X			While not part of ABAG's mission, ABAG continues to work with cities to ensure such lists are maintained.
d-2	d-2	Accelerate retrofitting of privately-owned unreinforced masonry structures that have not been retrofitted, for example, by (a) actively working with owners to obtain structural analyses of their buildings, (b) helping owners obtain retrofit funding, (c) adopting a mandatory versus voluntary, retrofit program, and/or (d) applying penalties to owners who show inadequate efforts to upgrade these buildings.	EQ							X			While not part of ABAG's mission, ABAG continues to work with cities to encourage these efforts.
d-3	d-3	Require private owners to inform all existing tenants (and prospective tenants prior to signing a lease agreement) that they live in an unreinforced masonry building and the standard to which it may have been retrofitted.	EQ							X			While not part of ABAG's mission, ABAG continues to work with cities to encourage these efforts.

Housing Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
d-4	d-4	As required by State law, require private owners to inform all existing tenants that they may need to be prepared to live elsewhere following an earthquake even if the building has been retrofitted, because it has probably been retrofitted to a life-safety standard, not to a standard that will allow occupancy following major earthquakes.	EQ							X			While not part of ABAG's mission, ABAG continues to work with cities to encourage these efforts.

Housing Mitigation Strategies

2009-2010 Strategic Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
HSNG - e - Other Privately-Owned Structurally Vulnerable Residential Buildings and Earthquakes													
e-1	e-1	Identify and work toward tying down mobile homes used as year-round permanent residences using an appropriate cost-sharing basis (for example, 75% grant, 25% owner).	EQ							X			not part of ABAG's mission
e-2	e-2	Inventory non-ductile concrete, tilt-up concrete (such as converted lofts), and other privately-owned potentially structurally vulnerable residential buildings.	EQ					X				Planning Department - Earthquake and Hazards Program	While not directly a high priority for ABAG, ABAG continues to encourage others to conduct such inventories, including the Concrete Coalition.
e-3	e-3	Adopt the 2009 International Existing Building Code or the latest applicable standard for the design of voluntary or mandatory retrofit of privately-owned seismically vulnerable buildings.	EQ							X			not part of ABAG's mission
e-4	e-4	Adopt one or more of the following strategies as incentives to encourage retrofitting of privately-owned seismically vulnerable residential buildings: (a) waivers or reductions of permit fees, (b) below-market loans, (c) local tax breaks, (d) grants to cover the cost of retrofitting or of a structural analysis, (e) land use (such as parking requirement waivers) and procedural incentives, or (f) technical assistance.	EQ							X			While not part of ABAG's mission, ABAG continues to work with cities to encourage these efforts.
HSNG - f - New Construction and Earthquakes													
f-1	f-1	Continue to require that all new housing be constructed in compliance with (deleted "structural") requirements of the most recently adopted version of the California Building Code.	EQ							X			not part of ABAG's mission
f-2	f-2	Conduct appropriate employee training and support continued education to ensure enforcement of building codes and construction standards, as well as identification of typical design inadequacies of housing and recommended improvements.	EQ							X			not part of ABAG's mission
HSNG - g - Wildfire and Structural Fires													
g-1	g-1	Increase efforts to reduce hazards in existing private development in wildland-urban-interface fire-threatened communities or in areas exposed to high-to-extreme fire threat through improving engineering design and vegetation management for mitigation, appropriate code enforcement, and public education on defensible space mitigation strategies.	WF							X			not part of ABAG's mission
g-2	g-2	Tie public education on defensible space and a comprehensive defensible space ordinance to a field program of enforcement.	WF							X			not part of ABAG's mission

Housing Mitigation Strategies

2009-2010 Strategic Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program- Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
g-3	g-3	Require that new homes in wildland-urban-interface fire-threatened communities or in areas exposed to high-to-extreme fire threat be constructed of fire-resistant building materials (including roofing and exterior walls) and incorporate fire-resistant design features (such as minimal use of eaves, internal corners, and open first floors) to increase structural survivability and reduce ignitability. Note - See Structural Fire Prevention Field Guide for Mitigation of Wildfires at http://osfm.fire.ca.gov/structural.html .	WF							X			not part of ABAG's mission
g-4	g-4	Create or identify "model" properties showing defensible space and structural survivability in neighborhoods that are wildland-urban-interface fire-threatened communities or in areas exposed to high-to-extreme fire threat.	WF							X			not part of ABAG's mission
g-5	g-5	Consider fire safety, evacuation, and emergency vehicle access when reviewing proposals to add secondary units or additional residential units in wildland-urban-interface fire-threatened communities or in areas exposed to high-to-extreme fire threat.	WF							X			not part of ABAG's mission
g-6	g-6	Adopt and amend as needed updated versions of the <i>California Building and Fire Codes</i> so that optimal fire-protection standards are used in construction and renovation projects of private buildings .	WF							X			not part of ABAG's mission
g-7	g-7	Create a mechanism to enforce provisions of the <i>California Building and Fire Codes</i> and other local codes that require the installation of smoke detectors and fire-extinguishing systems on existing residential buildings by making installation a condition of (a) finalizing a permit for any work valued at over a fixed amount and/or (b) on any building over 75 feet in height, and/or (b) as a condition for the transfer of property.	WF							X			not part of ABAG's mission
g-8	g-8	Work to ensure a reliable source of water for fire suppression in rural-residential areas through the cooperative efforts of water districts, fire districts, and residents.	WF							X			not part of ABAG's mission

Housing Mitigation Strategies

2009-2010 Strat. Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
g-9	g-9	Expand vegetation management programs in wildland-urban- interface fire-threatened communities or in areas exposed to high-to-extreme fire threat to more effectively manage the fuel load through roadside collection and chipping, mechanical fuel reduction equipment, selected harvesting, use of goats or other organic methods of fuel reduction, and selected use of controlled burning.	WF							X			not part of ABAG's mission
g-10	g-11	Establish special funding mechanisms (such as Fire Hazard Abatement Districts or regional bond funding) to fund reduction in fire risk of existing properties through vegetation management that includes reduction of fuel loads, use of defensible space, and fuel breaks.	WF							X			not currently part of ABAG's mission
g-11	g-12	Work with residents in rural-residential areas to ensure adequate plans are developed for appropriate access and evacuation in wildland-urban-interface fire-threatened communities or in areas exposed to high-to-extreme fire threat. For example, in some areas, additional roads can be created, and in other areas, the communities will need to focus on early warning and evacuation because additional roads are not feasible.	WF							X			not part of ABAG's mission
g-12	g-13	Require fire sprinklers in new homes located more than 1.5 miles or a 5-minute response time from a fire station or in an identified high hazard wildland-urban-interface wildfire area.	WF							X			not part of ABAG's mission
g-13	g-14	Require fire sprinklers in all new or substantially remodeled multifamily housing, regardless of distance from a fire station.	WF							X			not part of ABAG's mission
g-14	g-15	Require sprinklers in all mixed use development to protect residential uses from fires started in non-residential areas.	WF							X			not part of ABAG's mission
g-15	g-16	Compile a list of privately-owned high-rise and high-occupancy buildings which are deemed, due to their age or construction materials, to be particularly susceptible to fire hazards, and determine an expeditious timeline for the fire-safety inspection of all such structures.	WF							X			not part of ABAG's mission
g-16	g-17	Conduct periodic fire-safety inspections of all multi-family buildings, as required by State law.	WF							X			not part of ABAG's mission

Housing Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
g-17	g-18	Ensure that city/county-initiated fire-preventive vegetation-management techniques and practices for creek sides and high-slope areas do not contribute to the landslide and erosion hazard. For example, vegetation in these sensitive areas could be thinned, rather than removed, or replanted with less flammable materials. When thinning, the non-native species should be removed first. Other options would be to use structural mitigation, rather than vegetation management in the most sensitive areas.	WF LS							X			not part of ABAG's mission
g-18	g-19	Create a mechanism to require the bracing of water heaters and flexible couplings on gas appliances, and/or (as specified under "b. Single-family homes vulnerable to earthquakes" above) the bolting of homes to their foundations and strengthening of cripple walls to reduce fire ignitions due to earthquakes.	EQ WF							X			not part of ABAG's mission
g-19	g-20	Work with the State Fire Marshall, the California Seismic Safety Commission, Pacific Earthquake Engineering Research Center (PEER), and other experts to identify and manage gas-related fire risks of soft-story residential or mixed use buildings that are prone to collapse and occupant entrapment consistent with the natural gas safety recommendations of Seismic Safety Commission Report SSC-02-03. Note - See http://www.seismic.ca.gov/pub/CSSC_2002-03_Natural%20Gas%20Safety.pdf . Also note - any valves that are installed may need to have both excess flow and seismic triggers ("hybrid" valves).	EQ WF		X							Planning Department - Earthquake and Hazards Program	On-going effort; underfunded.
g-20	new	Work with insurance companies to create a public/private partnership to give a discount on fire insurance premiums to "Forester Certified" Fire Wise landscaping and fire-resistant building materials on private property.	WF							X			not part of ABAG's mission
HSNG - h - Flooding													
h-1	h-1	To reduce flood risk, thereby reducing the cost of flood insurance to private property owners, work to qualify for the highest-feasible rating under the Community Rating System of the National Flood Insurance Program.	FL							X			not part of ABAG's mission
h-2	h-2	Balance the housing needs of residents against the risk from potential flood-related hazards.	FL							X			not part of ABAG's mission

Housing Mitigation Strategies

2009-2010 Strategic Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
h-3	h-3	Ensure that new private development pays its fair share of improvements to the storm drainage system necessary to accommodate increased flows from the development, or does not increase runoff by draining water to pervious areas or detention facilities.	FL							X			not part of ABAG's mission
h-4	h-4	Provide sandbags and plastic sheeting to residents in anticipation of rainstorms, and deliver those materials to vulnerable populations upon request.	FL							X			not part of ABAG's mission
h-5	h-5	Provide public information on locations for obtaining sandbags and/or deliver those sandbags to those various locations throughout a city and/or county prior to and/or during the rainy season.	FL							X			not part of ABAG's mission
h-6	h-6	Apply floodplain management regulations for private development in the floodplain and floodway.	FL							X			not part of ABAG's mission
h-7	h-7	Ensure that new subdivisions are designed to reduce or eliminate flood damage by requiring lots and rights-of-way be laid out for the provision of approved sewer and drainage facilities, providing on-site detention facilities whenever practicable.	FL							X			not part of ABAG's mission
h-8	h-8	Encourage home and apartment owners to participate in home elevation programs within flood hazard areas .	FL							X			not part of ABAG's mission
h-9	h-9	As funding opportunities become available, encourage home and apartment owners to participate in acquisition and relocation programs for areas within floodways.	FL							X			not part of ABAG's mission
h-10	h-10	Encourage owners of properties in a floodplain to consider purchasing flood insurance. For example, point out that most homeowners' insurance policies do not cover a property for flood damage.	FL							X			not part of ABAG's mission

Housing Mitigation Strategies

2009-2010 Strategic Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
HSNG - i - Landslides and Erosion													
i-1	i-1	Increase efforts to reduce landslides and erosion in existing and future development by improving appropriate code enforcement and use of applicable standards for private property , such as those appearing in the <i>California Building Code</i> , <i>California Geological Survey Special Report 117 – Guidelines for Evaluating and Mitigating Seismic Hazards in California</i> , <i>American Society of Civil Engineers (ASCE) report Recommended Procedures for Implementation of DMG Special Publication 117: Guidelines for Analyzing and Mitigating Landslide Hazards in California</i> , and the <i>California Board for Geologists and Geophysicists Guidelines for Engineering Geologic Reports</i> . Such standards should cover excavation, fill placement, cut-fill transitions, slope stability, drainage and erosion control, slope setbacks, expansive soils, collapsible soils, environmental issues, geological and geotechnical investigations, grading plans and specifications, protection of adjacent properties, and review and permit issuance.	LS							X			not part of ABAG's mission
i-2	i-2	Increase efforts to reduce landslides and erosion in existing and future private development through continuing education of design professionals on mitigation strategies.	LS		X							ABAG's San Francisco Estuary Partnership	On-going effort; supplemental income obtained sporadically; additional funding needed

Housing Mitigation Strategies

2009-2010 Strategic Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
HSNG - j - Building Reoccupancy													
j-1	i-1 same as econ i-5	Develop and enforce a repair and reconstruction ordinance to ensure that damaged buildings are repaired in an appropriate and timely manner and retrofitted concurrently. This repair and reconstruction ordinance should apply to all public and private buildings, and also apply to repair of all damage, regardless of cause. See http://quake.abag.ca.gov/recovery/info-repair-ord.html.	EQ LS WF FL SEC							X			While not part of ABAG's mission, ABAG continues to work with cities to encourage these efforts.
j-2	NEW same as econ i-6	Establish preservation-sensitive measures for the repair and reoccupancy of historically significant privately-owned structures, including requirements for temporary shoring or stabilization where needed, arrangements for consulting with preservationists, and expedited permit procedures for suitable repair or rebuilding of historically or architecturally valuable structures.	EQ LS WF FL SEC							X			not part of ABAG's mission
HSNG - k - Public Education													
k-1	k-1	Provide information to residents of your community on the availability of interactive hazard maps showing your community on ABAG's web site.	EQ LS WF FL SEC	X								Planning Department - Earthquake and Hazards Program	Through website quake.abag.ca.gov/fixit
k-2	k-2	Develop printed materials, utilize existing materials (such as developed by FEMA and the American Red Cross), conduct workshops, and/or provide outreach encouraging residents to have family disaster plans that include drop-cover-hold earthquake drills, fire and storm evacuation procedures, and shelter-in-place emergency guidelines.	EQ LS WF FL SEC		X							Planning Department - Earthquake and Hazards Program	Through website quake.abag.ca.gov/fixit
k-3	k-3	Inform residents of comprehensive mitigation activities, including elevation of appliances above expected flood levels, use of fire-resistant roofing and defensible space in high wildfire threat and wildfire-urban-interface areas, structural retrofitting techniques for older homes, and use of intelligent grading practices through workshops, publications, and media announcements and events.	EQ LS WF FL SEC							X			not currently part of ABAG's mission
k-4	k-4	Develop a public education campaign on the cost, risk, and benefits of earthquake, flood, and other hazard insurance as compared to mitigation .	EQ LS FL SEC								X		

Housing Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
k-5	k-5	Use disaster anniversaries, such as April (the 1906 earthquake), September (9/11), and October (Loma Prieta earthquake and Oakland Hills fire), to remind the public of safety and security mitigation activities.	EQ LS WF FL SEC	X								Planning Department - Earthquake and Hazards Program	On-going effort for 1868 Hayward, 1906 San Francisco, and 1989 Loma Prieta earthquakes
k-6	k-6	Sponsor the formation and training of Community Emergency Response Teams (CERT) for residents in your community. [Note – these programs go by a variety of names in various cities and areas.]	EQ LS WF FL SEC						X				not part of ABAG's mission
k-7	k-7	Include flood fighting technique session based on California Department of Water Resources training to the list of available public training classes offered by CERT.	FL						X				not part of ABAG's mission
k-8	k-8	Institute the neighborhood watch block captain and team programs outlined in the Citizen Corps program guide.	EQ LS WF FL SEC						X				not part of ABAG's mission
k-9	k-9	Assist residents in the development of defensible space through the use of, for example, "tool libraries" for weed abatement tools, roadside collection and/or chipping services (for brush, weeds, and tree branches) in wildland-urban-interface fire-threatened communities or in areas exposed to high-to-extreme fire threat.	WF						X				not part of ABAG's mission
k-10	k-10	Train homeowners to locate and shut off gas valves if they smell or hear gas leaking.	EQ LS WF FL SEC						X				not part of ABAG's mission
k-11	k-12	Develop a program to provide at-cost NOAA weather radios to residents of flood hazard areas that request them, with priority to neighborhood watch captains and others trained in their use.	FL						X				not part of ABAG's mission
k-12	k-13	Make use of the materials on the ABAG web site at http://quake.abag.ca.gov/fixit and other web sites to increase residential mitigation activities related to earthquakes. (ABAG plans to continue to improve the quality of those materials over time.)	EQ		X							Planning Department - Earthquake and Hazards Program	Active role in site development; currently seeking additional funding to upgrade site from USGS.
k-13	k-14	Develop a "Maintain-a-Drain" campaign, similar to that of the City of Oakland, encouraging private businesses and residents to keep storm drains in their neighborhood free of debris.	FL						X				not part of ABAG's mission

Housing Mitigation Strategies

2009-2010 Strategic Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
k-14	k-15	Encourage the formation of a community- and neighborhood-based approach to wildfire education and action through local Fire Safe Councils and the <i>Fire Wise Program</i> . This effort is important because grant funds are currently available to offset costs of specific council-supported projects.	WF							X			not part of ABAG's mission
k-15	k-16	Inform shoreline-property owners of the possible long-term economic threat posed by rising sea levels.	FL							X			ABAG currently "points" to BCDC maps for information, but does not "actively inform" these owners.
k-16	k-17	Distribute appropriate materials related to disaster mitigation and preparedness to residents. Appropriate materials are (1) culturally appropriate and (2) suitable for special needs populations. For example, such materials are available on the http://www.preparenow.org website and from non-governmental organizations that work with these communities on an on-going basis.	EQ LS WF FL SEC		x							Planning Department - Earthquake and Hazards Program and Information Services Department	ABAG, through abagOnline, currently hosts this website; ABAG continues to try to incorporate culturally appropriate materials into its web site. However, more information should be translated into other languages.
deleted	g-10	DELETED - REPLACED BY DISCUSSION OF REVERSE 911 in GOVT c-14.											
deleted	k-11												

Economy Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Priority (CHECK ONLY ONE)							Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
				Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, or Not Appropriate, or Not Cost Effective		
ECON - a - Multi-Hazard												
a-1	a-1	Assist in ensuring adequate hazard disclosure by working with real estate agents to improve enforcement of real estate disclosure requirements for commercial and industrial properties with regard to seven official natural hazard zones: 1) Special Flood Hazard Areas (designated by FEMA), 2) Areas of Potential Flooding from dam failure inundation, 3) Very High Fire Hazard Severity Zones, 4) Wildland Fire Zones, 5) Earthquake Fault Zones (designated under the Alquist-Priolo Earthquake Fault Zoning Act), and the 6) Liquefaction and Landslide Hazard Zones (designated under the Seismic Hazard Mapping Act).	EQ LS WF FL SEC							X		not part of ABAG's mission
a-2	a-2	Create incentives for private owners of historic or architecturally significant commercial and industrial buildings to undertake mitigation to levels that will minimize the likelihood that these buildings will need to be demolished after a disaster, particularly if those alterations conform to the federal Secretary of the Interior's <i>Guidelines for Rehabilitation</i> .	EQ LS WF FL SEC							X		ABAG's Financial Services facilities financing, but does not create incentives.
ECON - b - Soft-Story Commercial Buildings Vulnerable to Earthquakes												
b-1	b-1	Require engineered plan sets for voluntary or mandatory soft-story seismic retrofits by private owners until a standard plan set and construction details become available.	EQ							X		not part of ABAG's mission
b-2	b-2	Adopt the 2009 (changed date) International Existing Building Code or the latest applicable standard for the design of voluntary or mandatory soft-story building retrofits for use in city/county building department regulations. In addition, allow use of changes to that standard recommended by SEAOC for the 2012 IEBC.	EQ							X		not part of ABAG's mission
b-3	b-3	Work to educate building owners, local government staff, engineers, and contractors on privately-owned soft-story retrofit procedures and incentives using materials such as those developed by ABAG and the City of San Jose (see http://quake.abag.ca.gov/eqhouse.html .)	EQ		X						Planning Department - Earthquake and Hazards Program	ABAG continues to educate the public through its web site. Additional funding is needed to improve the information and conduct training classes.

Economy Mitigation Strategies

2009-2010 Strat. Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
b-4	b-4	Conduct an inventory of privately-owned existing or suspected soft-story commercial or industrial structures as a first step in establishing voluntary or mandatory programs for retrofitting these buildings.	EQ				X					Planning Department - Earthquake and Hazards Program	ABAG was able to inventory some of these buildings in Oakland; even with volunteers, the cost for a regional inventory is approx. \$1 million
b-5	b-5	Use the soft-story inventory to require private owners to inform all existing tenants (and prospective tenants prior to signing a lease agreement) that they may work in this type of building.	EQ							X			While not part of ABAG's mission, ABAG continues to work with cities to encourage these efforts.
b-6	b-6	Use the soft-story inventory to require private owners to inform all existing and prospective tenants that they may need to be prepared to work elsewhere following an earthquake if the building has not been retrofitted.	EQ							X			While not part of ABAG's mission, ABAG continues to work with cities to encourage these efforts.
b-7	b-7	Investigate and adopt appropriate financial, procedural, and land use incentives (such as parking waivers) for private owners of soft-story buildings to facilitate retrofit such as those described by ABAG (see http://quake.abag.ca.gov/fixit).	EQ							X			While not part of ABAG's mission, ABAG continues to work with cities to encourage these efforts.
b-8	b-8	(reworded) Explore development of State regulations or legislation to require or encourage private owners of soft-story structures to strengthen them.	EQ		X							Planning Department - Earthquake and Hazards Program	ABAG has worked with the state legislature on this issue. However, the current economic climate makes mandatory programs difficult.
b-9	b-9	Provide technical assistance in seismically strengthening privately-owned soft-story structures.	EQ						X				not part of ABAG's mission

Economy Mitigation Strategies

2009-2010 Strategic Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
ECON - c - Unreinforced Masonry Buildings in Older Downtown Areas													
c-1	c-1	Continue to actively implement existing State law that requires cities and counties to maintain lists of the addresses of unreinforced masonry buildings and inform private property owners that they own this type of hazardous structure.	EQ							X			While not part of ABAG's mission, ABAG continues to work with cities to ensure such lists are maintained.
c-2	c-2	Accelerate retrofitting of privately-owned unreinforced masonry structures that have not been retrofitted, for example, by (a) actively working with owners to obtain structural analyses of their buildings, (b) helping owners obtain retrofit funding, (c) adopting a mandatory (rather than voluntary) retrofit program, and/or (d) applying penalties to owners who show inadequate efforts to upgrade these buildings.	EQ							X			While not part of ABAG's mission, ABAG continues to work with cities to encourage these efforts.
c-3	c-3	Require private owners to inform all existing tenants (and prospective tenants) prior to signing a lease agreement) that they work in an unreinforced masonry building and the standard to which it may have been retrofitted.	EQ							X			While not part of ABAG's mission, ABAG continues to work with cities to encourage these efforts.
c-4	c-4	As required by State law, require private owners to inform all existing tenants that they may need to be prepared to work elsewhere following an earthquake even if the building has been retrofitted, because it has probably been retrofitted to a life-safety standard, not to a standard that will allow occupancy following major earthquakes.	EQ							X			While not part of ABAG's mission, ABAG continues to work with cities to encourage these efforts.
ECON - d - Privately-Owned Structurally Vulnerable Buildings													
d-1	d-1	Inventory non-ductile concrete, tilt-up concrete, and other privately-owned structurally vulnerable buildings.	EQ					X				Planning Department - Earthquake and Hazards Program	While not directly a high priority for ABAG, ABAG continues to encourage others to conduct such inventories, including the Concrete Coalition.
d-2	d-2	Adopt the 2009 International Existing Building Code or the latest applicable standard for the design of voluntary or mandatory retrofit of privately-owned seismically vulnerable buildings.	EQ							X			not part of ABAG's mission

Economy Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
d-3	d-3	Adopt one or more of the following strategies as incentives to encourage retrofitting of privately-owned seismically vulnerable commercial and industrial buildings: (a) waivers or reductions of permit fees, (b) below-market loans, (c) local tax breaks, (d) grants to cover the cost of retrofitting or of a structural analysis, (e) land use (such as parking requirement waivers) and procedural incentives, or (f) technical assistance.	EQ							X			While not part of ABAG's mission, ABAG continues to work with cities to encourage these efforts.
ECON - e - Wildfire and Structural Fires													
e-1	e-1	Increase efforts to reduce hazards in existing private development in wildland-urban-interface fire-threatened communities or in areas exposed to high-to-extreme fire threat through improving engineering design and vegetation management for mitigation, appropriate code enforcement, and public education on defensible space mitigation strategies.	WF							X			not part of ABAG's mission
e-2	new	Tie public education on defensible space and a comprehensive defensible space ordinance to a field program of enforcement.	WF							X			not part of ABAG's mission
e-3	e-2	Require that new privately-owned business and office buildings in high fire hazard areas be constructed of fire-resistant building materials and incorporate fire-resistant design features (such as minimal use of eaves, internal corners, and open first floors) to increase structural survivability and reduce ignitability.	WF							X			not part of ABAG's mission
e-4	e-3	Adopt and amend as needed updated versions of the <i>California Building and Fire Codes</i> so that optimal fire-protection standards are used in construction and renovation projects of private buildings.	WF							X			not part of ABAG's mission
e-5	e-4	Create a mechanism to enforce provisions of the <i>California Building and Fire Codes</i> and other local codes that require the installation of smoke detectors and fire-extinguishing systems on existing privately-owned buildings by making installation a condition of (a) finalizing a permit for any work valued at over a fixed amount and/or (b) on any building over 75 feet in height, and/or (b) as a condition for the transfer of property.	WF							X			not part of ABAG's mission

Economy Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
e-6	e-5	(reworded to more closely match the HSNG strategy) Expand vegetation management programs in wildland-urban-interface fire-threatened communities or in areas exposed to high-to-extreme fire threat to more effectively manage the fuel load through roadside collection and chipping, mechanical fuel reduction equipment, selected harvesting, use of goats or other organic methods of fuel reduction, and selected use of controlled burning.	WF							X			not part of ABAG's mission
e-7	e-6	Establish special funding mechanisms (such as Fire Hazard Abatement Districts or regional bond funding) to fund reduction in fire risk of existing properties through vegetation management that includes reduction of fuel loads, use of defensible space, and fuel breaks.	WF							X			not currently part of ABAG's mission
e-8	e-7	Establish special funding mechanisms (such as Fire Hazard Abatement Districts or regional bond funding) to fund fire-safety inspections of private properties, roving firefighter patrols on high fire-hazard days, and public education efforts.	WF							X			not currently part of ABAG's mission
e-9	e-8	Compile a list of privately-owned high-rise and high-occupancy buildings that are deemed, due to their age or construction materials, to be particularly susceptible to fire hazards, and determine an expeditious timeline for the fire-safety inspection of all such structures.	WF							X			not currently part of ABAG's mission
e-10	e-9	Conduct periodic fire-safety inspections of all privately-owned commercial and industrial buildings.	WF							X			not part of ABAG's mission
e-11	e-10	Work with the State Fire Marshall, the California Seismic Safety Commission, Pacific Earthquake Engineering Research Center (PEER), and other experts to identify and manage gas-related fire risks of privately-owned soft-story mixed use buildings that are prone to collapse and occupant entrapment consistent with the natural gas safety recommendations of Seismic Safety Commission Report SSC-02-03. Note - See http://www.seismic.ca.gov/pub/CSSC_2002-03_Natural%20Gas%20Safety.pdf . Also note - any values that are installed may need to have both	EQ WF		X							Planning Department - Earthquake and Hazards Program	On-going effort; underfunded.
e-12	e-11	Ensure that city/county-initiated fire-preventive vegetation-management techniques and practices for creek sides and high-slope areas do not contribute to the landslide and erosion hazard.	WF							X			not part of ABAG's mission

Economy Mitigation Strategies

2009-2010 Strategic Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
e-13	e-12	Work with insurance companies to create a public/private partnership to give a discount on fire insurance premiums to "Forester Certified" <i>Fire Wise</i> landscaping and fire-resistant building materials on private property .	WF							X			not part of ABAG's mission
ECON - f - Flooding													
f-1	f-1	To reduce flood risk, thereby reducing the cost of flood insurance to private property owners, work to qualify for the highest-feasible rating under the Community Rating System of the National Flood Insurance Program.	FL							X			not part of ABAG's mission
f-2	f-2	Balance the needs for private commercial and industrial development against the risk from potential flood-related hazards.	FL							X			not part of ABAG's mission
f-3	f-3	Ensure that new private development pays its fair share of improvements to the storm drainage system necessary to accommodate increased flows from the development, or does not increase runoff by draining water to pervious areas or detention facilities.	FL							X			not part of ABAG's mission
f-4	f-4	Provide sandbags and plastic sheeting to private businesses in anticipation of rainstorms, and deliver those materials to vulnerable populations upon request.	FL							X			not part of ABAG's mission
f-5	f-5	Provide information to private business on locations for obtaining sandbags and deliver those sandbags to those various locations throughout a city and/or county.	FL							X			not part of ABAG's mission
f-6	f-6	Apply floodplain management regulations for private development in the floodplain and floodway.	FL							X			not part of ABAG's mission
f-7	f-7	Encourage private business owners to participate in building elevation programs within flood hazard areas .	FL							X			not part of ABAG's mission
f-8	f-8	As funding becomes available, encourage private business owners to participate in acquisition and relocation programs for areas within floodways.	FL							X			not part of ABAG's mission
f-9	f-9	Require an annual inspection of approved flood-proofed privately-owned buildings to ensure that (a) all flood-proofing components will operate properly under flood conditions and (b) all responsible personnel are aware of their duties and responsibilities as described in their building's <i>Flood Emergency Operation Plan and Inspection & Maintenance Plan</i> .	FL							X			not part of ABAG's mission

Economy Mitigation Strategies

2009-2010 Strategic Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
ECON - g - Landslides and Erosion													
g-1	g-1	Increase efforts to reduce landslides and erosion in existing and future development by improving appropriate code enforcement and use of applicable standards for private property , such as those appearing in the <i>California Building Code</i> , <i>California Geological Survey Special Report 117 – Guidelines for Evaluating and Mitigating Seismic Hazards in California</i> , American Society of Civil Engineers (ASCE) report <i>Recommended Procedures for Implementation of DMG Special Publication 117: Guidelines for Analyzing and Mitigating Landslide Hazards in California</i> , and the California Board for Geologists and Geophysicists <i>Guidelines for Engineering Geologic Reports</i> . Such standards should cover excavation, fill placement, cut-fill transitions, slope stability, drainage and erosion control, slope setbacks, expansive soils, collapsible soils, environmental issues, geological and geotechnical investigations, grading plans and specifications, protection of adjacent properties, and review and permit issuance.	LS							X			not part of ABAG's mission
g-2	g-2	Increase efforts to reduce landslides and erosion in existing and future private development through continuing education of design professionals on mitigation strategies.	LS		X							ABAG's San Francisco Estuary Partnership	On-going effort; supplemental income obtained sporadically; additional funding needed
ECON - h - New Construction and Earthquakes													
h-1	h-1	Continue to require that all new privately-owned commercial and industrial buildings be constructed in compliance with (deleted "structural") requirements of the most recently adopted version of the <i>California Building Code</i> .	EQ							X			not part of ABAG's mission
h-2	h-2	Conduct appropriate employee training and support continued education to ensure enforcement of construction standards for private development .	EQ							X			not part of ABAG's mission
h-3	h-3	Work with private building owners to help them recognize that many strategies that increase earthquake resistance also decrease damage in an explosion. In addition, recognize that ventilation systems can be designed to contain airborne biological agents.	EQ SEC							X			not part of ABAG's mission

Economy Mitigation Strategies

2009-2010 Strategic Number	Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
ECON - i - Building Reoccupancy													
i-1	i-1	Institute a program to encourage owners of private buildings to participate in a program similar to San Francisco's Building Occupancy Resumption Program (BORP). This program permits owners of private buildings to hire qualified structural engineers to create building-specific post-disaster inspection plans and allows these engineers to become automatically deputized as City/County inspectors for these buildings in the event of an earthquake or other disaster.	EQ LS WF FL SEC	X								Planning Department - Earthquake and Hazards Program	Due to lack of funding, the principal focus of ABAG's effort is quasi-public lifeline agencies, such as water districts and transit agencies.
i-2	i-2	Actively notify private owners of historic or architecturally significant buildings of the availability of the local BORP-type program and encourage them to participate to ensure that appropriately qualified structural engineers are inspecting their buildings, thus reducing the likelihood that the buildings will be inappropriately evaluated following a disaster.	EQ LS WF FL SEC							X			not part of ABAG's mission
i-3	i-3	Actively notify owners of educational facility buildings of the availability of the local BORP-type program and encourage them to participate to ensure that appropriately qualified structural engineers are inspecting their buildings, thus reducing the likelihood that the buildings will be inappropriately evaluated following a disaster.	EQ LS WF FL SEC	X								Planning Department - Earthquake and Hazards Program	Due to lack of funding, the principal focus of ABAG's effort has been to speak at workshops on this issue.
i-4	i-4	Allow private building owners to participate in a BORP-type program as described above, but not actively encourage them to do so.	EQ LS WF FL SEC							X			not part of ABAG's mission
i-5	i-5	Develop and enforce a repair and reconstruction ordinance to ensure that damaged buildings are repaired in an appropriate and timely manner and retrofitted concurrently. This repair and reconstruction ordinance should apply to all public and private buildings, and also apply to repair of all damage, regardless of cause. See http://quake.abag.ca.gov/recovery/info-repair-ord.html.	EQ LS WF FL SEC							X			While not part of ABAG's mission, ABAG continues to work with cities to encourage these efforts.

Economy Mitigation Strategies

2009-2010 Strategic Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
i-6	i-6	Establish preservation-sensitive measures for the repair and reoccupancy of historically significant privately-owned structures, including requirements for temporary shoring or stabilization where needed, arrangements for consulting with preservationists, and expedited permit procedures for suitable repair or rebuilding of historically or architecturally valuable structures.	EQ LS WF FL SEC							X			not part of ABAG's mission
ECON - j - Public Education													
j-1	j-1	Provide information to private business owners and their employees on the availability of interactive hazard maps on ABAG's web site.	EQ LS WF FL SEC	X								Planning Department - Earthquake and Hazards Program	Through website quake.abag.ca.gov/b usiness
j-2	j-2	Develop printed materials, utilize existing materials (such as developed by FEMA and the American Red Cross), conduct workshops, and/or provide outreach encouraging private businesses' employees to have family disaster plans that include drop-cover-hold earthquake drills, fire and storm evacuation procedures, and shelter-in-place emergency guidelines.	EQ LS WF FL SEC		X							Planning Department - Earthquake and Hazards Program	Through website quake.abag.ca.gov/b usiness
j-3	j-3	Develop and print materials, conduct workshops, and provide outreach to Bay Area private businesses focusing on business continuity planning.	EQ LS WF FL SEC		X							Planning Department - Earthquake and Hazards Program	Through website quake.abag.ca.gov/b usiness
j-4	j-4	Inform Bay Area private business owners of mitigation activities, including elevation of appliances above expected flood levels, use of fire-resistant roofing and defensible space in wildland-urban-interface fire-threatened communities or in areas exposed to high-to-extreme fire threat, structural retrofitting techniques for older buildings, and use of intelligent grading practices through workshops, publications, and media announcements and events.	WF FL							X			not currently part of ABAG's mission
j-5	j-5	Sponsor the formation and training of Community Emergency Response Teams (CERT) training for other than your own employees through partnerships with local private businesses. [Note – these programs go by a variety of names in various cities and areas.]	EQ LS WF FL SEC							X			not part of ABAG's mission

Economy Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
j-6	j-6	Assist private businesses in the development of defensible space through the use of, for example, "tool libraries" for weed abatement tools, roadside collection and/or chipping services (for brush, weeds, and tree branches) in wildland-urban-interface fire-threatened communities or in areas exposed to high-to-extreme fire threat.	WF							X			not part of ABAG's mission
j-7	j-7	Make use of the materials developed by others (such as found on ABAG's web site at http://quake.abag.ca.gov/business) to increase mitigation activities related to earthquakes by groups other than your own agency . ABAG plans to continue to improve the quality of those materials over time.	EQ		X							Planning Department - Earthquake and Hazards Program	Active role in site development; currently seeking additional funding to upgrade site from USGS.
j-8	j-8	Develop a "Maintain-a-Drain" campaign, similar to that of the City of Oakland, encouraging private businesses and residents to keep storm drains in their neighborhood free of debris.	FL							X			not part of ABAG's mission
j-9	j-9	Encourage the formation of a community- and neighborhood-based approach to wildfire education and action through local Fire Safe Councils and the <i>Fire Wise Program</i> . This effort is important because grant funds are currently available to offset costs of specific council-supported projects.	WF							X			not part of ABAG's mission
j-10	j-10	Encourage private businesses and laboratories handling hazardous materials or pathogens increase security to a level high enough to create a deterrent to crime and terrorism, including active implementation of "cradle-to-grave" tracking systems.	SEC EQ							X			not part of ABAG's mission
j-11	j-11	Encourage joint meetings of security and operations personnel at major private employers to develop innovative ways for these personnel to work together to increase safety and security.	SEC EQ							X			not part of ABAG's mission
j-12	j-12	Inform private shoreline-property owners of the possible long-term economic threat posed by rising sea levels.	FL							X			ABAG currently "points" to BCDC maps for information, but does not "actively inform" these owners.

Economy Mitigation Strategies

2009-2010 Stratagem Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
j-13	j-13	Distribute appropriate materials related to disaster mitigation and preparedness to private business owners. Appropriate materials are (1) culturally appropriate and (2) suitable for special needs populations. For example, such materials are available on the http://www.preparenow.org website and from non-governmental organizations that work with these communities on an on-going basis.	EQ LS WF FL SEC	X								Planning Department - Earthquake and Hazards Program and Information Services Department	ABAG, through abagOnline, currently hosts this website; ABAG continues to try to incorporate culturally appropriate materials into its web site. However, more information should be translated into other languages.

Government Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Priority (CHECK ONLY ONE)										Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
				Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered				
GOVT - a - Focus on Critical Facilities (...Owned by the Local Government Filling Out This Form)															
a-1	a-1	Assess the vulnerability of critical facilities (such as city halls, fire stations, operations and communications headquarters , community service centers, seaports, and airports) to damage in natural disasters and make recommendations for appropriate mitigation.	EQ LS WF FL	X										Agency Management and the Regional Administrative Facility Corporation (RAFC)	RAFC evaluated the only building in which ABAG is an actual partial owner - the MetroCenter facility
a-2	a-2	Retrofit or replace critical facilities that are shown to be vulnerable to damage in natural disasters.	EQ LS WF FL SEC	X										Agency Management and the Regional Administrative Facility Corporation (RAFC)	ABAG worked with MTC on the \$5 million seismic retrofit of the MetroCenter facility using, in part, a \$3 million PDM-C grant from FEMA
a-3	a-3	Clarify to workers in critical facilities and emergency personnel, as well as to elected officials and the public, the extent to which the facilities are expected to perform only at a life safety level (allowing for the safe evacuation of personnel) or are expected to remain functional following an earthquake.	EQ	X										Agency Management and the Regional Administrative Facility Corporation (RAFC)	On-going activity; specifically used during MetroCenter facility seismic upgrade
a-4	a-4	Conduct comprehensive programs to identify and mitigate problems with facility contents, architectural components, and equipment that will prevent critical buildings from being functional after major natural disasters. Such contents and equipment includes computers and servers, phones, files, and other tools used by staff to conduct daily business.	EQ LS WF FL SEC		X									Agency Management and the Regional Administrative Facility Corporation (RAFC)	On-going activity; more to be done
a-5	a-5	Encourage joint meetings of security and operations personnel at critical facilities to develop innovative ways for these personnel to work together to increase safety and security.	EQ LS WF FL SEC	X										Agency Management and the Regional Administrative Facility Corporation (RAFC)	On-going activity

Government Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
a-6	a-6	When Installing micro and/or surveillance cameras around critical public assets tied to web-based software, and develop a surveillance protocol to monitor these cameras, investigate the possibility of using the cameras for the secondary purpose of post-disaster damage assessment.	EQ LS WF FL SEC								X	Regional Administrative Facility Corporation (RAFC)	RAFC has not yet evaluated this strategy.
a-7	a-7	Identify and undertake cost-effective retrofit measures related to security on critical facilities (such as moving and redesigning air intake vents and installing blast-resistant features) when these buildings undergo major renovations related to other natural hazards.	EQ LS WF FL SEC	X								Regional Administrative Facility Corporation (RAFC)	MetroCenter building HVAC system upgrade completed in 2008.
a-8	a-8	Coordinate with the State Division of Safety of Dams to ensure that cities and counties are aware of the timeline for the maintenance and inspection of dams whose failure would impact their jurisdiction.	EQ LS WF FL SEC							X			not currently part of ABAG's mission
a-9	a-9	As a secondary focus, assess the vulnerability of non-critical facilities to damage in natural disasters based on occupancy and structural type, make recommendations on priorities for structural improvements or occupancy reductions, and identify potential funding mechanisms.	EQ LS WF FL SEC							X			Not applicable; ABAG only has one facility.
a-10	a-10	Ensure that new government-owned facilities comply with and are subject to the same or more stringent regulations as imposed on privately-owned development.	EQ LS WF FL SEC							X			Not applicable; ABAG only has a part of one facility.
a-11	a-11	Comply with all applicable building and fire codes, as well as other regulations (such as state requirements for fault, landslide, and liquefaction investigations in particular mapped areas) when constructing or significantly remodeling government-owned facilities.	EQ LS WF FL SEC	X								Regional Administrative Facility Corporation (RAFC)	On-going activity
a-12	a-12	Prior to acquisition of property to be used as a critical facility, conduct a study to ensure the absence of significant structural hazards and hazards associated with the building site.	EQ LS WF FL SEC							X			Not applicable; ABAG only has a part of one facility.
a-13	new	Ensure that any regulations imposed on private-owned businesses related to repair and reconstruction (see "Economy Section") are enforced and imposed on local government's own buildings and structures.	EQ LS WF FL SEC							X			not currently part of ABAG's mission

Government Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
GOVT - b - Maintain and Enhance Local Government's Emergency Recovery Planning													
b-1	b-1	Establish a framework and process for pre-event planning for post-event recovery that specifies roles, priorities, and responsibilities of various departments within the local government organization, and that outlines a structure and process for policy-making involving elected officials and appointed advisory committees.	EQ WF FL SEC	X								Agency Management and Planning Department - Earthquake and Hazards Program	On-going activity and existing ABAG contracts with Oakland and San Jose
b-2	b-2	Prepare a basic Recovery Plan that outlines the major issues and tasks that are likely to be the key elements of community recovery, as well as integrate this planning into response planning (such as with continuity of operations plans).	EQ WF FL SEC		X							Agency Management	On-going activity
b-3	b-3	Establish a goal for the resumption of local government services that may vary from function to function.	EQ WF FL SEC		X							Agency Management	On-going activity
b-4	b-25	Develop a continuity of operations plan that includes back-up storage of vital records, such as plans and back-up procedures to pay employees and vendors if normal finance department operations are disrupted, as well as other essential electronic files .	EQ WF FL SEC		X							Agency Management and Information Services	On-going activity
b-5	new	Plan for the emergency relocation of government-owned facilities critical to recovery, as well as any facilities with known structural deficiencies or in hazardous areas .	EQ WF FL SEC							X			Not applicable; ABAG only has a part of one facility.
GOVT - c - Maintain and Enhance Local Government's Emergency Response Capacity													
c-1	new (old b-4 moved to HSNG a-3)	Develop a plan for short-term and intermediate-term sheltering of your employees .	EQ WF FL SEC		X							Agency Management	On-going activity; plans developed.
c-2	new	Encourage your employees to have a family disaster plan .	EQ WF FL SEC	X								Agency Management	On-going activity; plans developed.
c-3	new	Offer CERT/NERT-type training to your employees .	EQ WF FL SEC		X					X			ABAG has only a small staff

Government Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Mitigation Status										Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments	
				Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered					
c-4	b-5 (a)	Periodically assess the need for new or relocated fire or police stations and other emergency facilities.	EQ LS WF FL SEC									X				ABAG only has one facility
c-5	b-5 (b)	Periodically assess the need for changes in staffing levels, as well as for additional or updated supplies, equipment, technologies, and in-service training classes.	EQ LS WF FL SEC									X				ABAG has only a small staff
c-6	b-6	Ensure that fire, police, and other emergency personnel have adequate radios, breathing apparatuses, protective gear, and other equipment to respond to a major disaster.	EQ LS WF FL SEC									X				not part of ABAG's mission
c-7	b-7	Participate in developing and maintaining a system of interoperable communications for first responders from cities, counties, special districts, state, and federal agencies.	EQ LS WF FL SEC	X								X				not part of ABAG's mission
c-8	b-8	Harden emergency response communications, including, for example, building redundant capacity into public safety alerting and/or answering points, replacing or hardening microwave and simulcast systems, adding digital encryption for programmable radios, and ensuring a plug-and-play capability for amateur radio.	EQ LS WF FL SEC	X								X				not part of ABAG's mission
c-9	b-9	Purchase command vehicles for use as mobile command/EOC vehicles if current vehicles are unsuitable or inadequate.	EQ LS WF FL SEC									X				not part of ABAG's mission
c-10	b-10	Maintain the local government's emergency operations center in a fully functional state of readiness.	EQ LS WF FL SEC	X								X				not part of ABAG's mission
c-11	b-11	Expand or participate in expanding traditional disaster exercises involving city and county emergency personnel to include airport and port personnel, transit and infrastructure providers, hospitals, schools, park districts, and major employers.	EQ LS WF FL SEC	X								X				not part of ABAG's mission
c-12	b-12	Maintain and update as necessary the local government's Standardized Emergency Management System (SEMS) Plan and the National Incident Management System (NIMS) Plan, and submit an appropriate NIMSCAST report.	EQ LS WF FL SEC									X				not part of ABAG's mission

Government Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
c-13	b-13	Continue to participate not only in general mutual-aid agreements, but also in agreements with adjoining jurisdictions for cooperative response to fires, floods, earthquakes, and other disasters.	EQ LS WF FL SEC	X						X			not part of ABAG's mission
c-14	b-14 & b-22	Install alert and warning systems for rapid evacuation or shelter-in-place. Such systems include outdoor sirens and/or reverse-911 calling systems.	EQ LS WF FL SEC							X			not part of ABAG's mission
c-15	b-15	Conduct periodic tests of the alerting and warning system. (deleted some wording)	EQ LS WF FL SEC							X			not part of ABAG's mission
c-16	b-16	Regulate and enforce the location and design of street-address numbers on buildings and minimize the naming of short streets (that are actually driveways) to single homes.	EQ LS WF FL SEC							X			not part of ABAG's mission
c-17	b-17	Monitor weather during times of high fire risk using, for example, weather stations tied into police and fire dispatch centers.	WF							X			not part of ABAG's mission
c-18	b-18	Establish regional protocols on how to respond to the NOAA Monterey weather forecasts, such as the identifying types of closures, limits on work that could cause ignitions, and repositioning of suppression forces. A multi-agency coordination of response also helps provide unified messages to the public about how they should respond to these periods of increased fire danger. Response should also be modified based on knowledge of local micro-climates. Local agencies with less risk then may be available for mutual aid.	WF							X			not part of ABAG's mission
c-19	b-19	Increase local patrolling during periods of high fire weather.	WF							X			not part of ABAG's mission
c-20	b-20	Create and maintain an automated system of rain and flood gauges that is web enabled and publicly-accessible. Work toward creating a coordinated regional system.	FL LS							X			not part of ABAG's mission
c-21	b-21	Place remote sensors in strategic locations for early warning of hazmat releases or use of weapons of mass destruction, understanding that the appropriate early warning strategy depends on the type of problem.	EQ LS WF FL SEC							X			not part of ABAG's mission
c-22	b-23	Review and update, as necessary, procedures pursuant to the <i>State Dam Safety Act</i> for the emergency evacuation of areas located below major water-storage facilities.	EQ LS FL SEC							X			not part of ABAG's mission

Government Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
c-23	a-8	Improve coordination among cities, counties, and dam owners so that cities and counties can better plan for evacuation of areas the could be inundated if a dam failed, impacting their jurisdiction.	EQ LS FL SEC							X			not part of ABAG's mission
c-24	b-24	Develop procedures for the emergency evacuation of areas identified on tsunami evacuation maps as these maps become available.	EQ (TS)							X			not part of ABAG's mission
c-25	new	Support and encourage planning and identification of facilities for the coordination of distribution of water, food, blankets, and other supplies, coordinating this effort with the American Red Cross.	EQ LS WF FL SEC							X			not part of ABAG's mission
GOVT - d - Participate in National, State, Multi-Jurisdictional and Professional Society Efforts to Identify and Mitigate Hazards													
d-1	c-1	Promote information sharing among overlapping and neighboring local governments, including cities, counties, and special districts, as well as utilities.	EQ LS WF FL SEC	X								Planning Department - Earthquake and Hazards Program	On-going activity
d-2	c-2	Recognize that emergency services is more than the coordination of police and fire response; it also includes planning activities with providers of water, food, energy, transportation, financial, information, and public health services.	EQ LS WF FL SEC	X								Planning Department - Earthquake and Hazards Program	On-going activity
d-3	c-3	Recognize that a multi-agency approach is needed to mitigate flooding by having flood control districts, cities, counties, and utilities meet at least annually to jointly discuss their capital improvement programs for most effectively reducing the threat of flooding. Work toward making this process more formal to insure that flooding is considered at existing joint-agency meetings.	FL							X			not currently part of ABAG's mission
d-4	c-4	As new flood-control projects are completed, request that FEMA revise its flood-insurance rate maps and digital Geographic Information System (GIS) data to reflect flood risks as accurately as possible.	FL							X			not part of ABAG's mission
d-5	c-5	Participate in FEMA's National Flood Insurance Program.	FL							X			not part of ABAG's mission
d-6	c-6	Participate in multi-agency efforts to mitigate fire threat, such as the Hills Emergency Forum (in the East Bay), various FireSafe Council programs, and city-utility task forces. Such participation increases a jurisdiction's competitiveness in obtaining grants.	WF					X					not specifically a part of ABAG's mission

Government Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
d-7	c-7	Work with major employers and agencies that handle hazardous materials to coordinate mitigation efforts for the possible release of these materials due to a natural disaster such as an earthquake, flood, fire, or landslide.	EQ LS WF FL SEC							X			not part of ABAG's mission
d-8	c-8	Encourage staff to participate in efforts by professional organizations to mitigate earthquake and landslide disaster losses, such as the efforts of the Northern California Chapter of the Earthquake Engineering Research Institute, the East Bay-Peninsula Chapter of the International Code Council, the Structural Engineers Association of Northern California, and the American Society of Grading Officials.	EQ LS	X								Planning Department - Earthquake and Hazards Program	On-going activity
d-9	c-9	Conduct and/or promote attendance at local or regional hazard conferences and workshops for elected officials and staff to educate them on the critical need for programs in mitigating earthquake, wildfire, flood, and landslide hazards.	EQ LS WF FL SEC		X							Planning Department - Earthquake and Hazards Program	On-going activity
d-10	c-10	Cooperate with researchers working on government-funded projects to refine information on hazards, for example, by expediting the permit and approval process for installation of seismic arrays, gravity survey instruments, borehole drilling, fault trenching, landslide mapping, flood modeling, and/or damage data collection.	EQ LS WF FL SEC	X								Regional Administrative Facility Corporation (RAFC)	On-going activity
GOVT - e - Take a Lead in Loss and Risk Assessment Activities													
e-1	e-1	Work with the cities, counties, and special districts in the Bay Area to encourage them to adopt a Local Hazard Mitigation Plan and to assist them in integrating it into their overall planning process. RESPONSIBILITY: ABAG only; all others are "not applicable."	EQ LS WF FL DR TS SEC Flu Ag Heat		X							Planning Department - Earthquake and Hazards Program	On-going activity
e-2	e-2	Improve the risk assessment and loss estimation work in the <i>Taming Natural Disasters</i> report and multi-jurisdictional plan related to natural disasters. RESPONSIBILITY: ABAG only; all others are "not applicable."	EQ LS WF FL DR TS Flu Ag Heat		X							Planning Department - Earthquake and Hazards Program	On-going activity

Education Mitigation Strategies

		Specific Mitigation Strategy	Priority (CHECK ONLY ONE)								Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other
2009-2010 Strategic Number	Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Appropriate, or Not Cost Effective	Not Yet Considered	
EDUC - a - Focus on Critical Facilities (...Owned by School Districts)												
a-1	a-1	Assess the vulnerability of critical public education facilities to damage in natural disasters and make recommendations for appropriate mitigation.	EQ LS WF FL SEC							X		not part of ABAG's mission
a-2	a-2	Retrofit or replace critical public education facilities that are shown to be vulnerable to damage in natural disasters.	EQ LS WF FL SEC							X		not part of ABAG's mission
a-3	a-3	Conduct comprehensive programs to identify and mitigate problems with facility contents, architectural components, and equipment that will prevent critical public education buildings from being functional after major disasters.	EQ LS WF FL SEC							X		not part of ABAG's mission
a-4	a-4	As a secondary focus, assess the vulnerability of non-critical educational facilities (that is, those that do not house students) to damage in natural disasters based on occupancy and structural type, make recommendations on priorities for structural improvements or occupancy reductions, and identify potential funding mechanisms.	EQ LS WF FL SEC							X		not part of ABAG's mission
a-5	new	Assess the vulnerability of critical private education, pre-school, and day care facilities to damage in natural disasters and make recommendations for appropriate mitigation.	EQ LS WF FL SEC							X		not part of ABAG's mission
a-6	a-5	(Major Rewording) Work with CalEMA and the Division of the State Architect to ensure that there will be an adequate group of Safety Assessment Program (SAP) inspectors trained and deployed by CalEMA to schools for post-disaster inspection. In addition, if a school district is uncomfortable with delays in inspection due to too few SAP inspectors available in catastrophic disasters, formalized arrangements can also be created with those inspectors certified by the Division of the State Architect as construction inspectors to report to the district, assess damage, and determine if the buildings can be reoccupied.	EQ LS WF FL SEC							X		not part of ABAG's mission
EDUC - b - Use of Educational Facilities as Emergency Shelters												
b-1	b-1	Work cooperatively with the American Red Cross, cities, counties, and non-profits to set up memoranda of understanding for use of education facilities as emergency shelters following disasters.	EQ LS WF FL SEC							X		not part of ABAG's mission

Education Mitigation Strategies

2009-2010 Strategic Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other
b-2	b-2	Work cooperatively to ensure that school district personnel and relevant staff understand and are trained that being designated by the American Red Cross or others as a potential emergency shelter does NOT mean that the school has had a hazard or structural evaluation to ensure that it can be used as a shelter following any specific disaster.	EQ LS WF FL SEC							X			not part of ABAG's mission
b-3	b-3	Work cooperatively to ensure that school district personnel understand and are trained that they are designated as disaster service workers and must remain at the school until released.	EQ LS WF FL SEC							X			not part of ABAG's mission
EDUC - c - Actions Related to Disaster Preparedness and Recovery Planning													
c-1	new	Encourage employees of schools to have family disaster plans and conduct mitigation activities in their own homes.	EQ LS WF FL SEC							X			not part of ABAG's mission
c-2	c-2	Develop plans, in conjunction with fire jurisdictions, for evacuation or sheltering in place of school children during periods of high fire danger, thereby recognizing that overloading of streets near schools by parents attempting to pick up their children during these periods can restrict access by fire personnel and equipment.	EQ LS WF FL SEC							X			not part of ABAG's mission
c-3	c-3	Offer the 20-hour basic CERT training to teachers and after-school personnel.	EQ LS WF FL SEC							X			not part of ABAG's mission
c-4	c-4	Offer the 20-hour basic Student Emergency Response Training (SERT, rather than CERT) training to middle school and/or high school students as a part of the basic science or civics curriculum, as an after school club, or as a way to earn public service hours.	EQ LS WF FL SEC							X			not part of ABAG's mission
c-5	c-5	Offer the 20-hour basic CERT training course through the Adult School system and/or through the Community College system (either using instructors with teaching credentials or by making facilities available for classes not run by school personnel themselves).	EQ LS WF FL SEC							X			not part of ABAG's mission
c-6	c-6	Develop and maintain the capacity for schools to take care of the students for the first 48 hours after a disaster, and notify parents that this capacity exists.	EQ LS WF FL SEC							X			not part of ABAG's mission

Education Mitigation Strategies

2009-2010 Strategic Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Very High - Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other
c-7	new	Develop a continuity of operations and disaster recovery plan using models such as that developed by the University of California Berkeley. (The American Red Cross has a role in promoting this activity, as well, in schools that they plan to use as shelters.)	EQ LS WF FL SEC						X			not part of ABAG's mission
EDUC - d- Actions Related to Schools as Conduits for Information to Families About Emergencies												
d-1	c-1	Utilize the unique ability of schools to reach families through educational materials on hazards, mitigation, and preparedness, particularly after disasters and at the beginning of the school year. These efforts will not only make the entire community more disaster-resistant, but speed the return of schools from use as shelters to use as teaching facilities, particularly if coordinated with cities, counties, the American Red Cross and others.	EQ LS WF FL SEC						X			not part of ABAG's mission
d-2	c-7	Develop and distribute culturally appropriate materials related to disaster mitigation and preparedness, such as those on the http://www.preparenow.org website.	EQ LS WF FL SEC						X			not part of ABAG's mission; however, ABAG currently hosts this website.

Environment Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Priority (CHECK ONLY ONE)										Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
				Existing Program	Existing Program, underfunded very high	Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered				
ENVI - a - Environmental Sustainability and Pollution Reduction															
a-1	a-1	Continue to enforce State-mandated requirements, such as the <i>California Environmental Quality Act</i> , to ensure that mitigation activities for hazards, such as seismic retrofits and vegetation clearance programs for fire threat, are conducted in a way that reduces environmental degradation such as air quality impacts, noise during construction, and loss of sensitive habitats and species, while respecting the community value of historic preservation.	EQ LS WF FL DR SEC	X										Administration	Standard practice, such as when MetroCenter facility retrofitted
a-2	a-2	Encourage regulatory agencies to work collaboratively with safety professionals to develop creative mitigation strategies that effectively balance environmental and safety needs, particularly to meet critical wildfire, flood, and earthquake safety levels.	EQ WF FL SEC	X										Planning Department	On-going effort
a-3	a-3	Continue to enforce and/or comply with State-mandated requirements, such as the <i>California Environmental Quality Act</i> and environmental regulations to ensure that urban development is conducted in a way to minimize air pollution. For example, air pollution levels can lead to global warming, and then to drought, increased vegetation susceptibility to disease (such as pine bark beetle infestations), and associated increased fire hazard.	LS WF FL DR SEC	X										Planning Department	On-going effort
a-4	a-4	Develop and implement a comprehensive program for watershed management optimizing ecosystem health with water yield to balance water supply, flooding, fire, and erosion concerns.	LS WF FL DR SEC		X									Planning Department - Water Resources Program	On-going effort
a-5	a-5	Balance the need for the smooth flow of storm waters versus the need to maintain wildlife habitat by developing and implementing a comprehensive Streambed Vegetation Management Plan that ensures the efficacy of flood control efforts, mitigates wildfires and maintains the viability of living rivers.	LS WF FL DR		X									Planning Department - Water Resources Program	On-going effort
a-6	a-8	Comply with applicable performance standards of any <i>National Pollutant Discharge Elimination System</i> municipal stormwater permit that seeks to manage increases in stormwater run-off flows from new development and redevelopment construction projects.	FL								X				not part of ABAG's mission

Environment Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded very high	Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
a-7	a-9	Enforce and/or comply with the grading, erosion, and sedimentation requirements by prohibiting the discharge of concentrated stormwater flows by other than approved methods that seek to minimize associated pollution.	LS FL							X			not part of ABAG's mission
a-8	a-10	Explore ways to require that hazardous materials stored in the flood zone be elevated or otherwise protected from flood waters.	FL							X			not part of ABAG's mission
a-9	a-11	Enforce and/or comply with the hazardous materials requirements of the State of California Certified Unified Program Agency (CUPA).	EQ LS WF FL SEC							X			not part of ABAG's mission
a-10	a-12	Provide information on hazardous waste disposal and/or drop off locations.	EQ LS WF FL SEC					X					
a-11	new	When remodeling existing government and infrastructure buildings and facilities, remove asbestos to speed up clean up of buildings so that they can be reoccupied more quickly.	EQ LS WF FL SEC	X								Administration	Standard practice, such as when MetroCenter facility retrofitted
a-12	a-13	Develop and implement a program to control invasive and exotic species that contribute to fire and flooding hazards (such as eucalyptus, cattails, and cordgrass). This program could include vegetation removal, thinning, or replacement in hazard areas where there is a direct threat to structures.	WF FL							X			not part of ABAG's mission
a-13	a-14	Enforce provisions under creek protection, stormwater management, and discharge control ordinances designed to keep watercourses free of obstructions and to protect drainage facilities to conform with the Regional Water Quality Control Board's Best Management Practices.	FL							X			not part of ABAG's mission
ENVI - b - Climate Change													
b-1	a-6 + a-7	Stay informed of scientific information compiled by regional and state sources on the subject of rising sea levels and global warming, especially on additional actions that local governments can take to mitigate this hazard including special design and engineering of government-owned facilities in low-lying areas, such as wastewater treatment plants, ports, and airports.	LS WF FL DR	X								Planning Department	On-going effort
b-2	new	Inventory global warming emissions in your own local government's operations and in the community, set reduction targets and create an action plan.	LS WF FL DR							X			not part of ABAG's mission

Environment Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded very high -	Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
b-3	new	Adopt and enforce land-use policies that reduce sprawl, preserve open space, and create compact, walkable urban communities.	LS WF FL DR	X								Planning Department	Part of Smart Growth Initiative
b-4	new	Promote transportation options such as bicycle trails, commute trip reduction programs, incentives for car pooling and public transit.	LS WF FL DR	X								Planning Department	Promoted through working with MTC on Bay Trail and Smart Growth Initiative
b-5	new	Increase the use of clean, alternative energy by, for example, investing in "green tags", advocating for the development of renewable energy resources, recovering landfill methane for energy production, and supporting the use of waste to energy technology.	LS WF FL DR	X								ABAG's Power Program	On-going effort as funding allows
b-6	new	Make energy efficiency a priority through building code improvements, retrofitting city facilities with energy efficient lighting and urging employees to conserve energy and save money.	LS WF FL DR	X								Agency Management and the Regional Administrative Facility Corporation (RAFC)	On-going effort
b-7	new	Purchase only Energy Star equipment and appliances for local government use.	LS WF FL DR	X								Agency Management	On-going effort as existing equipment is replaced
b-8	new	Practice and promote sustainable building practices using the U.S. Green Building Council's LEED program or a similar system.	LS WF FL DR	X								Agency Management and the Regional Administrative Facility Corporation (RAFC)	On-going effort
b-9	new	Increase the average fuel efficiency of municipal fleet vehicles; reduce the number of vehicles; launch an employee education program including anti-idling messages; convert diesel vehicles to bio-diesel.	LS WF FL DR	X								Agency Management	On-going effort as existing equipment is replaced
b-10	new	Evaluate opportunities to increase pump efficiency in water and wastewater systems; recover wastewater treatment methane for energy production.	LS WF FL DR						X				not part of ABAG's mission

Environment Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded very high	Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other Comments
b-11	new	Increase recycling rates in local government operations and in the community.	LS WF FL DR	X								Agency Management	On-going effort
b-12	new	Maintain healthy urban forests; promote tree planting to increase shading and to absorb CO2.	LS WF FL DR						X				not part of ABAG's mission
b-13	new	Help educate the public, schools, other jurisdictions, professional associations, business and industry about reducing global warming pollution.	LS WF FL DR		X							Planning Department - Green Business Program	On-going effort as funding allows
ENVI - c - Agricultural and Aquaculture Resilience													
c-1	b-1	Maintain a variety of crops in rural areas of the region to increase agricultural diversity and crop resiliency. RESPONSIBLE AGENCIES: County Offices of the Agricultural Commissioner.	Ag DR SEC						X				not part of ABAG's mission
c-2	b-2	Promote and maintain the public-private partnerships dedicated to preventing the introduction of agricultural pests into regionally-significant crops, such as the glassy-winged sharpshooter into vineyards. RESPONSIBLE AGENCIES: County Offices of the Agricultural Commissioner.	Ag DR SEC						X				not part of ABAG's mission
c-3	b-4	Encourage livestock operators to develop an early-warning system to detect animals with communicable diseases (due to natural causes or bioterrorism). RESPONSIBLE AGENCIES: County Health Department and Office of the County Agricultural Commissioner.	Ag Flu SEC						X				not part of ABAG's mission
deleted	b-3	(deleted since not a disaster-related strategy)											

Land Use Mitigation Strategies

2009-2010 Strategy Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Priority (CHECK ONLY ONE)							Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other	
				Existing Program	Existing Program, underfunded	Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective			Not Yet Considered
LAND - a - Earthquake Hazard Studies for New Private Developments													
a-1	a-1	Enforce and/or comply with the State-mandated requirement that site-specific geologic reports be prepared for development proposals within Alquist-Priolo Earthquake Fault Zones, and restrict the placement of structures for human occupancy. (This Act is intended to deal with the specific hazard of active faults that extend to the earth's surface, creating a surface rupture hazard.)	EQ							X			not part of ABAG's mission
a-2	a-2	Require preparation of site-specific geologic or geotechnical reports for development and redevelopment proposals in areas subject to earthquake-induced landslides or liquefaction as mandated by the State Seismic Hazard Mapping Act in selected portions of the Bay Area where these maps have been completed, and condition project approval on the incorporation of necessary mitigation measures related to site remediation, structure and foundation design, and/or avoidance.	EQ							X			not part of ABAG's mission
a-3	a-3	Recognizing that some faults may be a hazard for surface rupture, even though they do not meet the strict criteria imposed by the Alquist-Priolo Earthquake Fault Zoning Act, identify and require geologic reports in areas adjacent to locally-significant faults.	EQ							X			not part of ABAG's mission
a-4	new	Ensure that development proposed near faults with a history of complex surface rupture (multiple traces, warping, thrusting, etc.) has larger setbacks than the minimum fifty feet.	EQ							X			not part of ABAG's mission
a-5	new	Consider imposing requirements similar to the Alquist-Priolo Earthquake Fault Zoning Act for structures without human occupancy if these buildings are still essential for the economic recovery of the community or region.	EQ							X			not part of ABAG's mission
a-6	a-4	Recognizing that the California Geological Survey has not completed earthquake-induced landslide and liquefaction mapping for much of the Bay Area, identify and require geologic reports in areas mapped by others as having significant liquefaction or landslide hazards.	EQ							X			not part of ABAG's mission
a-7	a-5	Support and/or facilitate efforts by the California Geological Survey to complete the earthquake-induced landslide and liquefaction mapping for the Bay Area.	EQ	X								Planning Department - Earthquake and Hazards Program	On-going effort

Land Use Mitigation Strategies

2009-2010 Strategic Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other
a-8	a-6	Require that local government reviews of geologic and engineering studies are conducted by appropriately trained and credentialed personnel.	EQ							X			not part of ABAG's mission
LAND - b - Wildland and Structural Fires													
b-1	b-1	Review new development proposals to ensure that they incorporate required and appropriate fire-mitigation measures, including adequate provisions for occupant evacuation and access by emergency response personnel and equipment.	WF							X			not part of ABAG's mission
b-2	b-2	Develop a clear legislative and regulatory framework at both the state and local levels to manage the wildland-urban-interface consistent with <i>Fire Wise</i> and sustainable community principles.	WF							X			not part of ABAG's mission
LAND - c - Flooding													
c-1	c-1	Establish and enforce requirements for new development so that site-specific designs and source-control techniques are used to manage peak stormwater runoff flows and impacts from increased runoff volumes.	FL							X			not part of ABAG's mission
c-2	c-2	Incorporate FEMA guidelines and suggested activities into local government plans and procedures for managing flood hazards.	FL							X			not part of ABAG's mission
c-3	c-3	Provide an institutional mechanism to ensure that development proposals adjacent to floodways and in floodplains are referred to flood control districts and wastewater agencies for review and comment (consistent with the NPDES program).	FL							X			not part of ABAG's mission
c-4	c-4	Establish and enforce regulations concerning new construction (and major improvements to existing structures) within flood zones in order to be in compliance with federal requirements and, thus, be a participant in the Community Rating System of the <i>National Flood Insurance Program</i> .	FL							X			not part of ABAG's mission
c-5	new	Encourage new development near floodways to incorporate a buffer zone or setback from that floodway to allow for changes in stormwater flows in the watershed over time.	FL							X			not part of ABAG's mission
c-6	new	For purposes of creating an improved hazard mitigation plan for the region as a whole, ABAG, and Bay Area cities and counties, jointly request geographically defined repetitive flooding loss data from FEMA for their own jurisdictions.	FL							X			not part of ABAG's mission

Land Use Mitigation Strategies

2009-2010 Strategic Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other
LAND - d - Landslides and Erosion													
d-1	d-1	Establish and enforce provisions (under subdivision ordinances or other means) that geotechnical and soil-hazard investigations be conducted and filed to prevent grading from creating unstable slopes, and that any necessary corrective actions be taken prior to development approval.	LS							X			not part of ABAG's mission
d-2	d-2	Require that local government reviews of these investigations are conducted by appropriately trained and credentialed personnel.	LS							X			not part of ABAG's mission
d-3	d-3	Establish and enforce grading, erosion, and sedimentation ordinances by requiring, under certain conditions, grading permits and plans to control erosion and sedimentation prior to development approval.	LS							X			not part of ABAG's mission
d-4	d-4	Establish and enforce provisions under the creek protection, storm water management, and discharge control ordinances designed to control erosion and sedimentation.	LS							X			not part of ABAG's mission
d-5	d-5	Establish requirements in zoning ordinances to address hillside development constraints, especially in areas of existing landslides.	LS							X			not part of ABAG's mission
LAND - e - Hillside - Multi-Hazard													
e-1	e-1	For new development, require a buffer zone between residential properties and landslide or wildfire hazard areas.	LS WF							X			not part of ABAG's mission
e-2	e-2	Discourage, add additional mitigation strategies, or prevent new construction or major remodels on slopes greater than a set percentage, such as 15%, due to landslide or wildfire hazard concerns.	LS WF							X			not part of ABAG's mission
LAND - f - Smart Growth to Revitalize Urban Areas and Promote Sustainability													
f-1	f-1	Prioritize retrofit of infrastructure that serves urban areas (or urban services areas) over constructing new infrastructure to serve outlying areas.	EQ LS X WF FL DR SEC									Planning Department	Smart Growth Preamble and Policies adopted by MTC, ABAG, BAAQMD, and BCDC and Resolution 04-99
f-2	f-2	Work to retrofit homes in older urban neighborhoods to provide safe housing close to job centers.	EQ LS WF FL DR SEC							X			not part of ABAG's mission

Land Use Mitigation Strategies

2009-2010 Strat. Number	2005 Original Strategy Number	Specific Mitigation Strategy	Applicable Hazards	Existing Program	Existing Program, underfunded	Unofficial Program - Becomes Official on Plan Adoption, no funding needed	High - Actively Looking for Funding	Moderate	Under Study	Not Applicable, Not Appropriate, or Not Cost Effective	Not Yet Considered	Responsible Agency or Department (Required if Existing Program, Existing Program under funded, Very High, High, or Under Study)	Ordinance or Resolution # (if existing program), Estimated Cost and Possible Funding Agency (if high priority), Estimated Date of Completion (if study), WHY if not same as regional priority, OR Other
f-3	f-3	Work to retrofit older downtown areas and redevelopment districts to protect architectural diversity and promote disaster-resistance.	EQ LS WF FL SEC							X			not part of ABAG's mission
f-4	f-4	Work with non-profits and through other mechanisms to protect as open space areas susceptible to extreme hazards (such as through land acquisition, zoning, and designation as priority conservation areas).	EQ LS WF FL SEC		X							Planning Department	ABAG has been working with cities and counties on Priority Conservation Areas.
f-5	f-5	Strive to provide and preserve existing buffers between development and existing users of large amounts of hazardous materials, such as major industry, due to the potential for catastrophic releases or fires due to an earthquakes, accidents , or terrorism. (Flooding might also result in release or spread of these materials, however it is unlikely.) In areas where buffers do not exist or cannot be created, provide alternative mitigation.	EQ LS WF FL SEC							X			not part of ABAG's mission
LAND - g - Hazard Abatement Districts													
g-1	new	Use hazard abatement districts as a funding mechanism to ensure that mitigation strategies are implemented and enforced over time.	EQ LS WF FL							X			not part of ABAG's mission



MEMO

Submitted by: **Jeanne Perkins, Consultant to ABAG Earthquake and Hazards Program**
Danielle Hutchings, ABAG Earthquake and Hazards Specialist

Subject: **Multi-Jurisdictional Hazard Mitigation Plan for the San Francisco Bay Area**

Date: **September 17, 2009**

Jeanne Perkins
Danielle Hutchings

Executive Summary

ABAG is taking the lead in updating the 2005 multi-jurisdictional Local Hazard Mitigation Plan (MJ-LHMP) for the San Francisco Bay Area, as required by FEMA, along with 100 cities, counties, and special districts. *The goal of the MJ-LHMP is to maintain and enhance a disaster-resistant region by reducing the potential loss of life, property damage, and environmental degradation from natural disasters, while accelerating economic recovery from those disasters.*

For the update, the list of strategies has been increased to specifically deal with climate change and recovery planning issues as they relate to mitigation. In addition, the update includes regional priorities for mitigation which were developed by consensus at a series of sub-regional workshops attended by staff from cities, counties and special districts.

ABAG has also designated its own priorities for this plan.

Recommended Action

Following comment from the ABAG Executive Board and members of the public, staff respectfully asks for the ABAG Executive Board to:

- (1) endorse the MJ-LHMP regional mitigation strategy priorities, endorsed by the Regional Planning Committee at their August meeting; and
- (2) review the draft mitigation strategy priorities for ABAG internally, withholding formal approval pending completion of the final MJ-LHMP.

Next Steps

Public comments on ABAG's internal agency mitigation strategy priorities should be submitted to shaky@abag.ca.gov by September 30, 2009.

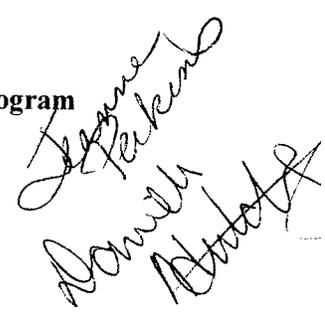
Staff will continue with this MJ-LHMP planning process. The MJ-LHMP must be submitted to FEMA this fall in order to receive FEMA approval no later than April 22, 2010 when the 2005 plan expires.

Upon FEMA approval of the entire MJ-LHMP, each jurisdiction will need to adopt the plan by council or board approval within 12 months. In addition, staff will bring the final plan to ABAG Executive Board for adoption.

Attachments:

- Memo on Multi-Jurisdictional Local Hazard Mitigation Plan for the San Francisco Bay Area
- Table of Regional and ABAG Mitigation Strategy Priorities

Date: September 17, 2009
To: ABAG Executive Board
From: Jeane Perkins, Consultant to ABAG Earthquake and Hazard Program
Danielle Hutchings, ABAG Earthquake and Hazards Specialist
Subject: Local Hazard Mitigation Plan for the San Francisco Bay Area



Recommended Action

Following comment from the ABAG Executive Board and members of the public, staff respectfully asks for the ABAG Executive Board to:

- (1) endorse the MJ-LHMP regional mitigation strategy priorities, endorsed by the Regional Planning Committee at their August meeting; and
- (2) review the draft mitigation strategy priorities for ABAG internally, withholding formal approval pending completion of the final MJ-LHMP.

Background

In 2005 ABAG took the lead in developing the Local Hazard Mitigation Plan for the Bay Area. 87 cities, counties and special districts participated in that plan. The plan consisted of 324 mitigation strategies focusing on actions geared to reducing damage from disasters across a broad spectrum of issues including those related to government services, health care systems, infrastructure, housing, the economy, education, and land use. Strategies were geared to reduce loss of life and property damage, as well as speed up recovery of those systems. This MJ-LHMP is related to, but not the same as, the regional disaster recovery planning initiative of ABAG. Approval of a MJ-LHMP by FEMA makes jurisdictions eligible for various mitigation grants through FEMA and results in the waiver of a 6.25% local match for Public Assistance dollars.

This year, ABAG is again taking the lead to update the plan as required by FEMA, along with at least 100 cities, counties and special districts. Several cities, counties, and special districts that did not participate in the original MJ-LHMP are participating in the 2009 update. However, some jurisdictions are no longer participating, including Contra Costa County and San Francisco.

For the update, the list of strategies has been increased to 360 to specifically deal with climate change and recovery planning issues as they relate to mitigation. In addition, the update includes regional priorities for mitigation which were developed by consensus at a series of sub-regional workshops attended by staff from cities, counties and special districts.

The final list of 360 mitigation strategies, together with their regional priority and ABAG's priority, is attached to this report.

Plan Structure

The goal of the MJ-LHMP is to maintain and enhance a disaster-resistant region by reducing the potential loss of life, property damage, and environmental degradation from natural disasters, while accelerating economic recovery from those disasters.

The MJ-LHMP identifies major hazards that affect the Bay Area. These include hazards related to **earthquakes (surface faulting, ground shaking, liquefaction, landslides and tsunamis) and weather (flooding, landslides, wildfires and drought)**. Several of these weather-related hazards are influenced by climate change. Other hazards relate to man-made conditions, including releases of hazardous materials, dam failures, energy shortages, and weapons of mass destruction. These other hazards are only addressed as they relate to earthquake and weather-related hazards. The only one of these additional hazards that is readily mapped and analyzed is dam failure.

The plan is organized into eight commitment areas, which are related to the services supplied either directly, or indirectly, by local governments, rather than by hazard. With this organization, each of the Bay Area's cities and counties should find ways to address these major commitments by reducing identified risks. In addition, the Bay Area's special districts can address many of these commitments, depending on the roles and responsibilities of a district. The commitment areas are **infrastructure, health, housing, economy (private business), government services, education, environment, and land use**.

Process

The update of the MJ-LHMP began in 2007. The update has been comprehensive in scope, with two key issue areas identified for expanded emphasis and improvement relative to past effort:

- ◆ disaster recovery and the need for speeding up the recovery process as one of the criteria used in designing mitigation strategies; and
- ◆ climate change as related to impacts on wildfires, drought, and flooding (including sea level rise).

A series of RPC workshops that have focused on long-term recovery helped inform a reevaluation of the mitigation strategies of the plan based on long-term recovery issues.

A total of 121 local governments have participated in the planning process and at least 100 will be writing annexes to the ABAG plan. Each agency's annex will describe their individual agency, the process they went through to help develop the overall plan and to determine their local priorities, identification of any local hazards that differ from the region, how they intend to implement these mitigation strategies and what major mitigation activities have been accomplished since the 2005 plan. The agency's update effort has focused on building upon pre-existing efforts and identifying gaps that may lead to disaster vulnerabilities in order to work on ways to address risks through mitigation.

One of the shortcomings of the 2005 plan was the lack of consistent priorities. This inconsistency detracted from the quality of the plan. To correct that deficiency, for the plan update ABAG staff created a multi-tiered process that focused on workshops and outreach to the public to reach consensus on the regional mitigation priorities. These workshops in spring 2009 also provided an opportunity for local governments to participate in the planning process for the multi-jurisdictional plan. Key aspects of the planning process are outlined below.

- ◆ To ensure broad representation from transit agencies, sewer agencies, and water districts, three separate forums were created for those staff. At these workshops, strategies that specifically affected these agencies were discussed and regional priorities were set.
- ◆ Five sub-regional meetings held from April 27, 2009 to May 12, 2009 were attended by a total of 110 staff from 83 cities, counties, and special districts. At these workshops strategies relating specifically to local governments were discussed and the preference of each region was documented separately.

- ◆ Three regional workshops were held to review these priorities and receive additional feedback from subject area experts, additional local government staff and the public, specifically focusing on areas where there wasn't clear consensus among the various regions and agencies.
 - A workshop on earthquake issues in conjunction with the ABAG Earthquake and Hazards Outreach Committee meeting was held on May 27, 2009, in which several retrofit contractors, private engineers, and members of the public commented on the housing and economy-related strategies and priorities.
 - A workshop on wildfire was held on July 2, 2009, in which 13 cities, counties, fire districts, school districts and members of the public attended.
 - A workshop on flooding was held on July 7, 2009, which 12 cities and 3 water districts and one member of the public were in attendance.
- ◆ The entire revised mitigation strategies and priorities will be posted online for public comment.
- ◆ The revised mitigation strategies and draft priorities were submitted to ABAG's Regional Planning Committee for recommended endorsement at the RPC's August meeting and during which the public had an opportunity to comment.
- ◆ The final mitigation strategies and regional priorities are being submitted to ABAG's Executive Board in a public meeting on September 17, 2009.

Regional Priorities and Local Implementation

MJ-LHMP priorities reflect the vision of the region as a whole. Individual jurisdictions may have different priorities depending on the nature of their district or local government. For example, mitigating soft-story problems (that is, strengthening buildings built prior to 1990 with parking or commercial space on all or part of the first floor) is an extremely high priority for the region as whole, but many individual cities do not have soft-story residential buildings within their city limits, and special districts do not have control over soft-story housing issues. In this case, these jurisdictions have the option to emphasize priorities that differ from the regional priority by explaining differences relative to jurisdictional context or agency authority. ABAG will also be identifying its local priorities as they reflect the function of ABAG.

Mitigation Strategies and Attached Table of Priorities

The first two columns provide the number for the strategy in the 2005 plan, and for this updated plan (for ease in comparison).

The next column is the mitigation strategy itself. Red designates wording changes.

The third column provides information on the hazards addressed:

EQ = earthquake

LS = landslide

FL = flooding

SEC = security

TS = tsunami

WF = wildfire

For each of mitigation strategies, the regional and local priorities were chosen from eight categories. The category *Existing program, underfunded* was added in this plan to reflect the current economic situation of the region and to identify areas that need additional funding.

- ◆ *Existing program* – no additional funding needed
- ◆ *Existing program, underfunded* – additional funding needed to fully implement this program

- ◆ *Very high priority* – an existing unofficial program made official by adoption of this plan. No additional funding is needed.
- ◆ *High priority* – jurisdiction is actively looking for money
- ◆ *Moderate priority* – jurisdiction would act if money fell from the sky, otherwise not a priority
- ◆ *Under study* – say who is doing the study and when it will be completed
- ◆ *Not applicable, not appropriate, or not cost effective*
- ◆ *Not yet considered*

The regional priority is shaded in blue and ABAG's priorities are marked with an 'X' for each of the strategies. Where ABAG's priorities differ from the region, this is explained in the final column. Whenever ABAG's priority for a strategy is designated as Existing program, Existing program underfunded, Very high, High, or Under study the second to last column in the row explains what ABAG is doing or how it is seeking funding to implement said strategy.

Next Steps

Public comments on ABAG's internal agency mitigation strategy priorities should be submitted to shaky@abag.ca.gov by September 30, 2009.

Staff will continue with this MJ-LHMP planning process. The MJ-LHMP must be submitted to FEMA this fall in order to receive FEMA approval no later than April 22, 2010 when the 2005 plan expires.

This summer, local jurisdictions are focusing on determining their local mitigation priorities and holding public meetings to solicit comment relative to proposed local priorities. In addition, each participating jurisdiction will write an annex to the main plan which documents the process that they went through in the update and highlights specific mitigation actions that were taken since the adoption of the 2005 plan.

Staff will revise the ABAG existing 2005 annex that encompasses the actions and priorities within the plan for ABAG. Staff will be preparing the written text of the master plan and updating the list of critical facilities in the region exposed to hazards including facilities owned by cities, counties and special districts, as well as critical health care facilities, bridge and road structures and school campuses.

Upon FEMA approval of the entire MJ-LHMP, each jurisdiction will need to adopt the plan by council or board approval within 12 months. In addition, staff will bring the final plan to ABAG Executive Board for adoption.

Multi-Jurisdictional Hazard Mitigation Plan for the San Francisco Bay Area

See Separate Attachment: Table of Regional and ABAG Mitigation Strategy Priorities

MEMO

Submitted to: ABAG Executive Board

Submitted by: Ezra Rapport, ABAG Deputy Executive Director

Subject: Solar and Energy Efficiency Financing District

Date: September 2, 2009

Executive Summary

ABAG and PG&E are collaborating to explore the viability of a San Francisco Bay Area region-wide solar and energy efficiency financing district. As currently envisioned, the program would offer a “one-stop shop” for customers to take advantage of property-based financing in support of ‘bundled’ energy efficiency and renewable projects to meet their energy management needs. The initial program concept was outlined in a staff report for the March 2009 ABAG Executive Board meeting, and status updates have been provided at the May and July 2009 ABAG Executive Board meetings. This staff report highlights initial findings from a market research study, the approach for developing a business case, and the status of Senate Bill 279. Since the program is in the development phase, information provided in this report is subject to change.

Recommended Action

This agenda item is informational. The attached staff report provides an update on program activities.

Next Steps

ABAG and PG&E will continue working together to advance program design, market research analysis, business case development, and passage of SB 279.

Attachments: Solar and Energy Efficiency Financing District Report

Solar and Energy Efficiency Financing District Program Update

Program Concept

ABAG and PG&E are collaborating to explore the viability of a San Francisco Bay Area region-wide solar and energy efficiency financing district. As currently envisioned, the program would offer a “one-stop shop” for customers to take advantage of property-based financing in support of ‘bundled’ energy efficiency and renewable projects to meet their energy management needs. The program would be supportive of climate goals outlined in the *Scoping Plan* prepared by the California Air Resources Board, the California Energy Efficiency Strategic Plan, and local climate action plans, while also promoting job creation. The initial program concept was outlined in a staff report for the March 2009 ABAG Executive Board meeting, and status updates have been provided at the May and July 2009 ABAG Executive Board meetings. This staff report highlights initial findings from a market research study, the approach for developing a business case, and the status of Senate Bill 279. Since the program is in the development phase, information provided in this report is subject to change.

Initial Market Research Findings

ABAG and PG&E fielded a market research study to explore the customer interest in an Energy Financing district concept. The study was fielded online with 1000 customers who reside in one of ABAG’s nine counties. Participants in the survey were homeowners, home improvement decision makers, and PG&E customers. The study gathered information about customer’s demographics, psychographics, and intended home improvement activities. Customers were presented with a detailed Energy Financing district concept to gauge interest in the general concept and in specific program variables.

The objectives of the study were to identify which residential customers are most likely to participate in an energy efficiency home retrofit financing program and why; optimize the financing program offering, so that future policy is based on customer needs; and design and identify the levers that are most likely to increase customer program participation.

In general, customers are interested in home improvement activities. A majority of homeowners (76%) intend to install home improvements in the next 5 years, and about two-thirds of these (51% of the total) intend to do so in the next 12 months. Top reasons homeowners give for wanting to make energy improvements are to “improve the physical comfort of my home” (mentioned by 38% as their number one reason) and to “save money on energy bills” (mentioned by 29%).

Eight percent of customers are aware of the concept of an Energy Financing district and more importantly, 40% state that they would be more likely to make energy-related home improvements if this financing option was available. After customers were presented with the Energy Financing concept, they were asked to select their most preferred

payment method for home improvements. Customers selected Energy Financing as the second most preferred payment method (21%), preceded by savings (49%). A home equity line of credit is third with 13%.

Those who prefer the Energy Finance Program are differentiated by: having higher summer and winter PG&E bills, participating in more PG&E programs, having their property taxes impounded, and generally using credit more (40% have an outstanding HELOC or second mortgage and 27% are likely to carry a balance on their credit cards). Eighty percent state that their credit is Excellent or Very Good. The customers who are most likely to select the Energy Financing program are more likely to be females with children living at home.

Homeowners have a stronger preference for smaller loan amounts (\$5k to \$10k) over larger ones (\$20k to \$40k). PGE (35%) is the most preferred provider of an Energy Financing program, followed by PG&E and ABAG (19%). Only eight percent of customers select ABAG as the programs' preferred provider: this is likely because ABAG's awareness is only 32%. There is also a strong preference for the option of being able to pay off the loan early. Not surprising, customers prefer lower interest rates to higher ones and longer length terms to shorter ones.

Business Case Approach

ABAG and PG&E are working together to produce a joint business case to provide both agencies' leadership information to decide whether the program concept is viable and should be pursued. Major components to the business case include a description of program services, strategic business goals, market overview, financial and risk analysis, exit strategy, and measurements for program success.

PG&E is working with ABAG to prepare a financial model for the business case. Results from the recently completed market survey will inform the financial model and program design. The business case will test two potential program delivery channels: through existing home improvement retailers or through web based channels. In addition, the business case will estimate various programmatic factors, such as: market size, participation/penetration rate, operating costs, and financing costs. Once completed, the business case will be presented to the ABAG Executive Board and PG&E decision-making entities

Legislative Update on SB 279

The energy financing district concept is based on the financing mechanism that would be allowed by the passage of Senate Bill 279 (SB 279). The bill is based on the Mello-Roos Community Facilities Act of 1982, which allows a community facilities district to finance community improvements, and would amend this act to allow a district to finance energy efficiency and renewable energy improvements to or on real property. Passage of this bill is seen as critical to the creation of the energy financing district. Senator Hancock introduced SB 279 this year. The bill passed the Senate and passed the Assembly floor. *The bill was amended to incorporate water conservation.* The bill now returns to the Senate for concurrence. Critical legislative dates are as follow:

Sep. 11	Last day for bill to be passed
Oct. 11	Last day for Governor to sign or veto bills

Therefore, by the September 17th ABAG Executive Board meeting, staff will be able to provide an update as to whether the bill was passed by the legislature.

Next Steps

Prior to the November Executive Board meeting, next steps in defining the regional solar and energy efficiency district include continuing market research studies, monitoring SB 279, and finalizing the business case. PG&E is also assessing the potential impacts to this project from some content contained in the CPUC Proposed Decision to the 2010 to 2012 Energy Efficiency Portfolios.

LEGISLATION & GOVERNMENTAL ORGANIZATION COMMITTEE

Committee Chair: Councilmember Carole Dillon-Knutson—City of Novato

Committee Vice Chair: Supervisor Mike Kerns—County of Sonoma

Staff: Patricia Jones – Assistant Executive Director 510/ 464-7933; FAX 510/464-7970; PatJ@abag.ca.gov
 Kathleen Cha – Senior Communications Officer 510/ 464-7922; KathleenC@abag.ca.gov

Thursday, September 17, 2009 – 3:30 p.m. to 5:00 p.m.

ABAG Large Conference Room B, MetroCenter, 101 Eighth Street, Oakland

AGENDA*

1.	OPEN AGENDA Committee members may raise issues for consideration; members of the public may speak.	Information/ Action
2.	APPROVAL OF MINUTES Committee will review and approve the minutes of the May 21, 2009, L&GO meeting.	Information/ Action
3.	2009 LEGISLATIVE SESSION—BILLS FOR CONSIDERATION** Review the following two federal bills: S.1619: The Livable Communities Act of 2009 , Senator Chris Dodd (D-CT) H.R. 3525: Tax Exempt Private Activity Bond (PAB) Use for Renewable Energy Generation and Energy and Water Efficiency Projects , Congressman Mike Thompson (D-CA) <i>General status update on state bills previously considered:</i> SB 406 (DeSaulnier) Land Use: Environmental Quality SB 575 (Steinberg) Local Planning: Housing Element SB 279 (Hancock) Local Government: Community Facilities Districts AB 155 (Mendoza) Local Government—Bankruptcy	Information/ Action
4.	UPDATE FROM YOUTH GUN VIOLENCE TASK FORCE ON MODEL ORDINANCES AND RESOLUTIONS Updates and recommendations to Executive Board	Action
5.	ADJOURNMENT Next meeting is scheduled for November 19, 2009.	Action
	Agenda and other written materials are available at ABAG/Frontdesk, 101 8 th Street, Oakland, or at http://www.abag.ca.gov/meetings -- Legislation and Governmental Organization Committee	

* The Committee may take any action on any item on the agenda

** California Bill Texts and actions can be read and printed out from state website: www.leginfo.ca.gov.



ASSOCIATION OF BAY AREA GOVERNMENTS
 Representing City and County Governments of the San Francisco Bay Area

LEGISLATION
2009 State Legislative Session
Legislation & Governmental Organization Committee
September 1, 2009

Bill Author	Subject	Status	Staff Recommendation	L&GO Position	Legislation Summary
NEW BILLS					

Bills to be reviewed are listed in numeric order with Assembly bills listed first, followed by Senate bills
***Federal Bills listed on page 15**

ASSEMBLY BILLS					
----------------	--	--	--	--	--

AB 18 Knight	Local Government: City Councils	ASM: Concurred SEN amendments To Enrollment <u>ab 18 knight</u>	Watch After amended, LCC support	After amendments, Changed to Support 7/16 Was Oppose	Amended 3/17, 4/27, 6/10, 8/18: Extends the amount of time that a city council has to fill a vacancy in an elective city office from 30 days to 60 days. Would require the city council to, within 60 days of a vacancy in an elective office, fill that vacancy by appointment or call a special election to fill the vacancy. <i>Originally: Would authorize a city council to leave a seat on the city council vacant for up to one year or the next general election, whichever comes first: if the remaining city council members cannot agree up an appropriate appointee and the remaining city council members can still form a quorum.</i> <i>Existing law requires a city council to, within 30 days of a vacancy in an elective office to fill that vacancy by appointment or call a special election to fill the vacancy.</i>
AB 46 Blakeslee	Energy: Energy Conservation Assistance	SEN: Second Reading <u>ab 46 blakeslee</u>	Support concept	Watch	Amended 3/31, 6/22: This bill extends the sunset dates, from January 1, 2011 to January 1, 2020, for the Energy Conservation Assistance Account (ECAA) and the Local Jurisdiction Energy Assistance Account (LJEA), each administered by the California Energy Commission (CEC): continues local assistance energy programs nine more years. Originally: Would extend the operation of the State Energy

Bill Author	Subject	Status	Staff Recommendation	L&GO Position	Legislation Summary	Page 2
AB 55 Jeffries	Water Supply Planning	ASM: Parks and Wildlife Committee <u>ab 55 jeffries</u>	Watch	Watch	<p>Conservation Assistance Account to January 1, 2015: a continuously appropriated account in the General Fund that provides grants and loans to local governments and public institutions to maximize energy use savings. In existing law will end January 1, 2011.</p> <p><i>Is now being considered a Two-Year bill</i> Existing law requires a city or county that determines a project is subject to CEQA to identify any public water system that may supply water for the project and request those public water systems to prepare a water supply assessment. This bill would revise the definition of "Project" to include within the scope of the definition and water supply requirements related to projects the following: specified business, commercial, hotel or motel, industrial, manufacturing, and mixed use developments with an equivalent water demand similar to a 500 dwelling unit project.</p>	
AB 68 Brownley	Solid Waste: Single-use Carryout Bags	ASM: Appropriations Hearing 5/6/09 Postponed by committee <u>ab 68 brownley</u>	Watch	Watch, but encourage bag giveaway programs	<p>Amended 3/31 and 4/23: <i>Amended definition of "Reusable bag" to mean a bag that is specifically designed and manufactured for multiple reuse, meaning 50 or more uses.</i> This bill would, on and after July 1, 2010, prohibit a store, as defined, from providing a single-use carryout bag to a customer unless the store charges a fee of not less than \$0.25 per bag at the point of sale. The bill would exempt certain customers from paying the fee. The bill would establish the Bag Pollution Fund in the State Treasury and would require a store to remit the single-use carryout bag fees, less a specified amount, to the State Board of Equalization for deposit in that fund. The bill would prohibit a store from distributing a single-use carryout bag that is not a plastic or compostable carryout bag that meets specific requirements. recommendations to further encourage the use of reusable bags.</p>	
AB 87 Davis	Single-use Carryout Bags: Environmental Effects—Mitigation	ASM: Appropriations In committee; hearing postponed by Committee <u>ab 87 davis</u>	Watch	Support 5/21/09 Watch, but encourage bag giveaway programs	<p>Amended 3/18 and 4/27: This bill restricts grocery and convenience stores from providing single-use carry out bags to their customers. Specifically: 1) As of July 1, 2010, prohibits grocery and convenience stores and pharmacies, as defined, from providing single-use carryout bags, to customers without charging a sales tax-free fee of 25 cents per bag (the Bag Pollution Cleanup Fee). 2) Exempts from the fee customers participating in certain low-income assistance programs. 3) Allows stores charging the fee to retain a portion of the amount generated by the fee to pay for implementation of the requirements of the bill, including educational programs and donation of reusable bags to community groups, nonprofits,</p>	

Bill Author	Subject	Status	Staff Recommendation	L&GO Position	Legislation Summary	Page 3
					<p>and similar entities. 4) Creates the Bag Pollution Fund, available for annual legislative appropriation to the Integrated Waste Management Board for state programs for litter cleanup and source reduction and for grants to cities and counties for those same purposes.</p> <p>Originally: Would on and after July 1, 2010, prohibit a store from providing a single-use carryout bag, including a green carryout bag, to a customer unless the store charges a fee of not less than 25 cents per bag at the point of sale. Would establish a Bag Pollution Fund and by January 31, 2011, would require stores that collect the single-use carryout bag fees to remit the fees to the State Board of Equalization for deposit in the fund, and do so on a quarterly basis. Would require the manufacturer of single-use carryout bags to develop educational materials to encourage the reduction, reuse and recycling of single-use bags for those store required to comply with program. Would require a biennial report to legislature in coordination with other state agencies and stakeholders on the effectiveness of the program and recommendations to further encourage the use of reusable bags.</p>	
AB 155 Mendoza	Local Government: Bankruptcy Proceedings	SEN Local Government Committee Set, first hearing. Testimony taken. Further hearing to be set. ab 155 mendoza	Oppose CSAC Oppose LCC Oppose	Oppose	<p>Has become a two-year bill</p> <p>Prohibits a local public entity (defined as a county, city, district, public authority, public agency) from exercising its rights under applicable federal bankruptcy law unless granted approval by the California Debt and Investment Advisory Commission (CDIAC), under CDIAC's terms and conditions.</p>	
AB 280 Blakeslee and Ma	California Earthquake Authority: Retrofit Programs—Grants	ASM Appropriations Held under Submission ab 280 blakeslee	Support Concept	Support in concept	<p>Would authorize the 3-member governing Board (Governor, Treasurer, Commissioner) to create a program, administered by the Earthquake Authority, to access and dispense federal stimulus dollars for purposes of retrofitting multiunit, soft-story buildings. Includes parameters of a city or county having adopted by ordinance a retrofit program, and other stipulations.</p>	
AB 338 Ma	Transit Village Developments: Infrastructure Financing	SEN Third Reading ab 338 ma	Watch	Watch	<p>Author's Amendments 6/25/09: Would recast the area included in a transit village plan to include all land within not more than ½ mile of the main entrance of a transit station. Would eliminate the requirement for voter approval for the formation of an</p>	

Bill Author	Subject	Status	Staff Recommendation	L&GO Position	Legislation Summary	Page 4
AB 349 Silva	State Mandates	SEN Budget and Fiscal Review Com. <u>ab 349 silva</u>	Support Concept CSAC Support	Support	<p>infrastructure financing district, adoption of an infrastructure financing plan, and an issuance of bonds for the purpose of implementing a transit facility. Allows local officials to divert property tax increment revenues to pay for public facilities and amenities within transit village development districts. Includes other stipulations about public benefit and affordable housing. <i>Would become operative only if AB 1158 and this bill are both chaptered and become effective on or before January 2, 2010 and this bill is chaptered last.</i></p> <p>Requires, beginning January 1, 1012, the administration o produce draft trailer bill language with its January budget proposal that repeals mandates that are proposed to be suspended for a least the third consecutive year. Specifically, requires the Director of Finance to provide to the Legislature all proposed statutory changes necessary to repeal reimbursable state mandates that have been suspended for three consecutive years in the Governor's Budget.</p>	
AB 744 Torrice	Transportation: Toll Lanes— Express Lane Network	SEN Appropriations <u>ab 744 torrice</u>	Support	SUPPORT	<p>Authorizes the Bay Area Toll Authority (BATA) to develop a Bay Area Express Lane Network (network).</p> <p>Specifically: This bill would authorize the Bay Area Toll Authority to acquire, administer, and operate a Bay Area Express Lane Network on state highways within the 9 Bay Area counties pursuant to a development plan recommended by the Bay Area Express Lane Network Project Oversight Committee, which the authority would be required to establish.</p> <p>-- would authorize the authority to establish the fee structure for use of the express lanes and would require a public hearing in that regard.</p> <p>--would authorize the authority to determine the types of vehicles that may use the lanes.</p> <p>--would provide for agreements between the authority and the Department of Transportation and the Department of the California Highway Patrol.</p> <p>--would require revenues from the express lanes to be deposited in the Bay Area Express Lane Network Account, which the authority would be required to create, and would authorize the authority to issue revenue bonds for the express lane program.</p> <p>--would require the Sunol Smart Carpool Lane Joint Powers Authority, the Alameda County Congestion Management Agency, and the Santa Clara Valley Transportation Authority to enter into agreements with the Bay Area Toll Authority by January 1, 2011, to provide for the transfer of their rights and obligations relative to HOT lane projects to the Bay Area Toll</p>	

Bill Author	Subject	Status	Staff Recommendation	L&GO Position	Legislation Summary	Page 5
AB 782 Jeffries	Regional Transportation Plans: Sustainable Communities Strategies	ASM Natural Resources Committee Last action: 4/27 Hearing cancelled at request of author <u>ab 782</u> <u>jeffries</u>	Watch	Watch	<p>Authority. The bill would enact other related provisions. The bill outlines a number stipulations regarding what happens after Sustainable Communities Strategy or alternative planning strategy (resulting from SB 375 requirements) is accepted: stipulations on project approval, adding commercial builders/business community to a business advisor committee to be created by MPOs, extending CEQA exemptions, and states Legislative intent to enact legislation to resolve conflicts with scheduling of new housing element updates and adoption of regional transportation plans.</p>	
AB 814 Krekorian	Firearm Surrender Process and Procedure	SEN Public Safety Com <u>ab 814</u> <u>krekorian</u>	Support concept	SUPPORT	<p>Amended 4/13, 6/1: This bill would establish a procedure for a defendant who owns, has possession, custody, or control of a firearm, to sell the firearm to a firearms dealer or relinquish the firearm to a law enforcement agency in order to comply with existing prohibitions. The procedure would in part require the defendant to disclose whether the defendant owns or has possession, custody, or control of any firearms and to list those firearms. The bill would provide procedures for persons in or out of custody to relinquish their firearms, including designating a law enforcement agency or a person as the defendant's designee, and would require the defendant or the defendant's designee to file a form showing, among other things, the date the firearm was relinquished. Failure to timely file the form would be an infraction punishable by a fine not exceeding \$500. This bill would urge local law enforcement agencies to obtain a secured mailbox from the Department of Justice in order to receive information from the Prohibited Armed Persons File, and would encourage review of the file in connection with the relinquishment of firearms by defendants subsequent to conviction, as specified. <i>Originally: Would establish a procedure for defendants to sell firearm to a firearms dealer or relinquish the firearm to a law enforcement agency. Require the defendant to disclose, under penalty of perjury, whether the defendant owns or has possession or custody or control of any firearms and to list those firearms. Would provide procedures for them to relinquish their firearms.</i></p>	
AB 881 Huffman	Sonoma County Regional Climate Protection Authority: Greenhouse Gas Emissions	SEN Appropriations <u>ab 881</u>	Support	SUPPORT	<p>Creates, until December 1, 2015, the Sonoma County Regional Climate Protection Authority (Authority) to implement programs and projects to comply with statewide or federal greenhouse gas emission standards. Provides that the Authority is a public instrumentality governed by the same</p>	

Bill Author	Subject	Status	Staff Recommendation	L&GO Position	Legislation Summary
AB 1084 Adams	Local Planning: Development Projects--Fees	huffman SEN Third Reading	Watch	Support	<p>board as that governing the Sonoma County Transportation Authority (SCTA). However, the authority is a separate entity from the Sonoma County Transportation Authority. The Authority, in cooperation with local agencies that elect to participate, may perform coordination and implementation activities, within the boundaries of Sonoma County, to assist those agencies in meeting their greenhouse gas emission reduction goals.</p> <p>Amended 4/13/, 4/27/ 4/28, 6/10, 6/26: This bill provides a time frame for notice relating to an increase or change in fee levied under the Mitigation Fee Act and establishes procedures for requesting an audit of those fees.</p> <p><i>(Existing Law: Authorizes a local agency to charge a variety of fees, dedications, reservations, or other exactions in connection with the approval of a development project, as defined. Provides, under the Mitigation Fee Act, that in any action establishing, increasing, or imposing a fee as a condition of approval of a development project by a local agency, the local agency is required to determine how there is reasonable relationship between the amount of the fee and the cost of public facility or portion of the public facility attributable to the development project on which the fee is imposed fees.)</i> Specifically, the bill would:</p> <ol style="list-style-type: none"> 1) Require a local agency that is a city, county, or city and county to mail notice of the time and place of the meeting that will be held regarding adoption of a new fee or increasing an existing fee under the mitigation fee act. 2) Require that the mailing, which must be sent 14 days prior to the hearing, include a general explanation of the matter to be considered and a statement of the proposed costs. 3) Provide that any written request for mailed notice is valid for one year and the legislative body of the city, county, or city and county may establish a reasonable annual charge for sending these notices. 4) State that at least 14 days prior to the meeting, a local agency that is a city, county, or city and county shall make available to the public the data indicating the amount of cost or estimated cost, required to provide the public facilities and the revenue sources anticipated to fund those public facilities. 5) Prohibit any new or increased fee adopted by a local agency that is a city, county, or city and county from going in to effect until 60 days after the final adoption, unless otherwise provided in law. 6) State that any person can request an audit in order to

Bill Author	Subject	Status	Staff Recommendation	L&GO Position	Legislation Summary	Page 7
AB 962 DE LEON	Ammunition	SEN Second Reading ab 962 sen comm.html	Support in Concept	SUPPORT (originally Support with amendments)	<p>determine whether any fee or charge levied by a local agency that is a city, county, or city and county exceeds the amount reasonably necessary to cover the cost of any product, public facility, or service provided. <u>Would also require the local agency to retain an independent auditor only if the person requesting the audit deposits with the local agency the amount of the agency's reasonable estimation of the cost of the audit.</u></p> <p>7) Specify that any costs incurred by a city, county, or city and county by having an independent audit conducted may be recovered from the person who requests the audit.</p> <p>8) Specify that the oversight of local agency fees is of statewide concern, and therefore, this measure shall apply to charter cities.</p> <p>Amended 6/1, 6/22: Would require the Department of Justice to maintain additional info relating licensed handgun ammunition vendors; require starting 7/1/10 not person shall sell or transfer more than 50 rounds of handgun ammunition in any month unless a handgun ammunition vendor; request background clearance of employees, store handgun ammunition safely and securely away from purchasers, maintain records, and require handgun ammunition be sold in face to face transactions so that the vendor can confirm identity of purchaser and record that information, obtain a thumbprint and other info from purchaser.</p> <p>--would provide that a person enjoined from engaging in activity associated with a criminal street gang, as specified, would be prohibited from having under his or her possession, custody, or control, any ammunition. Violation of these provisions would be a misdemeanor.</p> <p>-- would prohibit supplying or delivering, as specified, handgun ammunition to prohibited persons, as described, by persons or others who know, or by using reasonable care should know, that the recipient is a person prohibited from possessing ammunition or a minor prohibited from possessing ammunition, as specified. Violation of these provisions is a misdemeanor with specified penalties.</p>	
AB 1342 Evans	Local Taxation: Income Taxes--- Vehicle License Fees	ASM Revenue & Taxation Com Hearing cancelled at	Support CSAC Support	Support	<p>Authorizes counties, under specified circumstances, to adopt a local personal income tax (PIT), a local vehicle license fee (VLF), or both: 1) Contains legislative findings noting that:</p> <p>a) Proposition 13 has reduced local property taxes by approximately 50%;</p> <p>b) In response to the enactment of Proposition 13, the state has provided local governmental agencies with increased</p>	

Bill Author	Subject	Status	Staff Recommendation	L&GO Position	Legislation Summary	Page 8
		request of author			<p>amounts of state funds to maintain police, school, and other local services;</p> <p>c) Proposition 13 has resulted in increased state control and decreased local control with respect to the provision of local governmental services;</p> <p>d) The state is experiencing great difficulty in providing state funds to maintain local governmental services at historical levels; and,</p> <p>e) It is appropriate and necessary to shift some authority, control, and responsibility back to local governmental agencies to allow those agencies to determine the level of services appropriate for their citizens.</p> <p>--Provides that, notwithstanding existing law, the board of supervisors of any county may, by ordinance, place on the ballot either or both of the following for consideration by the voters in accordance with all constitutional and statutory requirements: A local PIT; and/or, a local license fee on any vehicle, registered within the county in which the local license fee is imposed, that is subject to registration under the Vehicle Code and on which a VLF is imposed under existing law.</p> <p>--Provides that a local VLF shall be subject to the following conditions: a) The aggregate license fee rate imposed by both the state and county on any vehicle shall not exceed 2% of the vehicle's market value;</p> <p>b) The local VLF shall be assessed and collected in the same manner as the fee imposed by state law;</p> <p>c) The local VLF shall be administered by the Department of Motor Vehicles (DMV); and the DMV shall transmit all revenues, less its costs of administration and any refunds, to the county in which the fee is imposed.</p>	
AB 1520 Evans	State Watershed Program	ASM Appropriations Com Held under Submission	Support concept CSAC Support	Support Concept but want to know about funding	<p>Establishes a Statewide Watershed Program as a voluntary program in the Department of Conservation to provide assistance and funding to local community-based efforts in the conservation, protection, and restoration of the state's watersheds.</p>	
ACA 9 Huffman	Local Government bonds: Special Taxes—voter approval	ASM Third Reading <u>aca 9 huffman</u>	Support CSAC Support LCC Support	Support	<p>Amended 6/26 to add "city and county, to those authorized to impose a special tax.</p> <p>Proposes a constitutional amendment to change the 2/3 voter-approval requirement for special taxes to, instead, authorize a city, county, or special district impose a special tax with the approval of 55% of its voters voting on the tax. Would lower to 55% the voter approval threshold for a city, county, city and county to incur bonded indebtedness.</p>	

Bill Author	Subject	Status	Staff Recommendation	L&GO Position	Legislation Summary	Page 9
<p>SB 7 Wiggins</p>	<p>SENATE BILLS</p> <p>Renewable Energy Sources— Net Metering <i>(Feed-in Tariff reference in title removed)</i></p>	<p>Placed on ASM inactive file by ASM Torrice</p> <p><u>sb 7</u> <u>wiggins</u></p>	<p>Support concept</p>	<p>Support (if amended to provide better rates/credits to individual generator)</p>	<p>Amended 5/5: This bill would require the electricity distribution utility or cooperative to allow the eligible customer-generator to apply net surplus electricity, as defined, as a credit for kilowatt hours consumed during one, or both, of the two following 12-month periods.</p> <p>This bill requires utilities to compensate customers that use net metering for any generation in excess of their load or, for customers on time of use rates any net dollar value, on an annual basis, or to roll that excess generation over, on a kilowatt hour basis, to the next 12-month cycle. The compensation rate would be set by the CPUC at a rate no less than the MPR.</p>	
<p>SB 12 Simitian</p>	<p>Sacramento-San Joaquin Delta Stewardship Council.</p> <p><i>(was: Sacramento-San Joaquin River Delta, Clean Drinking Water, Water Supply Security, and Environmental Improvement 2009)</i></p>	<p>SEN: in conference —Senate Bills</p> <p><u>sb 12</u> <u>simitian</u></p>	<p>Watch</p>	<p>Watch</p>	<p>Bill gutted/amended to say legislative intent: declare legislative intent to enact legislation to establish the Sacramento-San Joaquin Delta Stewardship Council.</p> <p>Amended 5/5, 6/18: Delta Ecosystem and Water Council is established to advance the coequal goals of restoring the Delta ecosystem and creating a more reliable water supply in California. Defines a seven member board of directors. California Delta Ecosystem and Water Plan exclusive authority to determine consistency of any project proposed or approved by a state agency or local government. Schedule due August 1, 2010, for preparing and adopting the plan per-acre-foot fee on water diversions within the Delta watershed, and a fee on any water conveyed through or around the Delta.</p> <p><i>Originally: Would authorize for funding the Act issuance of bonds in amount of \$6 million for voter approval. Would establish in state government the Delta Water and Land Use Authority, prescribe composition of its Board of Directors, and grant to the Authority a broad range of powers relating to preservation of the Delta ecosystem and the delivery of a reliable state water supply. Would authorize the Authority to contract to design, construct and own one or more facilities to move water from the Sacramento River to federal and state pumping facilities. The Authority would succeed to the powers and duties of the California Bay-Delta Authority. Would establish within the California Coastal Commission, the Delta Watershed Conservancy. Would subject any approval by a city or county in specified zones of the Delta, and certain lands adjacent to the Delta to review by the Delta Protection Commission, and require the Authority to adopt or reject these land use decisions of the Commission. Other fee provisions included.</i></p>	
<p>SB 27 Hancock</p>	<p>Local Agencies: Sales and Use Tax--Reallocation</p>	<p>Chapters 6/5/09</p> <p>Chapter 4,</p>	<p>Support Concept</p> <p>CSAC Support</p>	<p>Support</p>	<p>The bill would prohibit a city, county, or city and county, on or after the bill's effective date, from entering into any form of agreement or taking any action that would result, directly or indirectly, in the payment, transfer, diversion or rebate of any</p>	

Bill Author	Subject	Status	Staff Recommendation	L&GO Position	Legislation Summary	Page 10
SB 31 Pavley	California Global Warming Solutions Act of 2006: Revenue Allocations	Statutes of 2009 sb 27 <u>hancock</u>	LCC Support		<p>amount of Bradley-Burns local tax proceeds to any person for any purpose when:</p> <p>--The agreement results in a substantial reduction in the amount of Bradley-Burns tax proceeds received by another local agency from a retailer within that other local agency;</p> <p>--and the retailer continues to maintain a physical presence and location within that other local agency. This bill has a urgency clause that means it would be immediately enacted after passed, signed and chartered.</p> <p>Would require that revenues collected due to compliance mechanisms adopted by the State Air Resources Board also be deposited in the Air Pollution Control Fund. Specified uses of the revenues collected would fund renewable energy and energy efficiency programs to reduce greenhouse gas emissions (particularly programs focusing on low-income consumers); for investments in emission reduction technologies; and for green jobs development and training that will reduce greenhouse gas emissions.</p>	
SB 279 Hancock	Local Government: Community Facilities Districts	SEN Inactive file Placed on Inactive file at request of author sb 31 <u>pavley</u>	Watch	Watch	<p>Amended 7/6: Adds the acquisition, installation, and improvement of energy efficiency, water conservation, and renewable energy improvements that are affixed to the types of facilities that a community facilities district (CFD) may finance, or refinance, regardless of whether the buildings or property are privately or publicly owned.</p> <p>Amended 4/13, 4/21, 6/23: Adds <i>water conservation</i> to what can be financed: Would authorize a community facilities district to finance and refinance the acquisition, installation, and improvement of energy efficiency and renewable energy improvements to or on real property and in buildings. Includes some provisions for establishing a community facility district and procedure for incurring bonded indebtedness.</p>	
SB 406 DeSaulnier	Land Use: Environmental Quality	ASM: Third Reading sb 279 <u>hancock</u>	Support	Support	<p>Amended to include the following: --The bill would require the council to begin to perform the above functions and duties when sufficient funding, as determined by the council, exists from the revenue transmitted to it by metropolitan planning organizations, councils of governments, or county transportation commissions and subregional councils of governments jointly preparing subregional sustainable communities strategies. -- can impose a surcharge of \$1 or \$2 on motor vehicles registered to an owner with an address in the entity's or entities' jurisdiction, " only if the metropolitan planning organization or the council of governments adopts, or a county transportation commission and a subregional council of governments jointly</p>	
		ASM: Third Reading sb 406 <u>desaulnier</u>	Support	Support		

preparing a subregional sustainable communities strategy adopt, a resolution authorizing the surcharge.”
–The bill would state the intent of the Legislature to update the duties and composition of the Planning Advisory and Assistance Council to assist in the state’s land use planning processes by providing funding to support the development and implementation for regional blueprints and related planning and to work with state agencies providing funding for resource protection and local infrastructure to facilitate coordination between state planning and funding decisions and regional blueprints.

Amended 5/28, 6/23--highlights of amendments:
 Would change the designated membership of the Planning Advisory and assistance council and would require that the council work with the Strategic Growth Council, regional agencies, and cities and counties to facilitate the implementation or regional blueprint plans. Would require the council to develop and propose recommendations to specified state agencies to facilitate coordination between regional blueprint plans and state growth and infrastructure plans and programs that facilitate implementation of regional blueprint plans.

--Would add the air district to MPO, council of governments, county transportation commission, subregional council of governments to those jointly preparing SCS, and
 --Allows an MPO, a COG, or a county transportation commission and a subregional COG jointly preparing a subregional SCS, to impose a surcharge of \$1 or \$2 on a motor vehicle registered to an owner with an address in its jurisdiction.

--Provides that a resolution by the MTC or ABAG to impose the surcharge must be jointly adopted by resolution of both entities, and the revenue from the surcharge shall be divided in accordance with an agreement between these two entities.

--Provides that the surcharge shall be applied to an original vehicle registration occurring on or after six months following the adoption of the resolution by the MPO, COG, or a county transportation commission and a subregional COG jointly preparing an SCS, and to a renewal of registration with an expiration date on or after that six-month period.

--Provides that all revenue received by the imposition of a surcharge shall be used solely to develop and implement an SCS or a regional blueprint plan to identify land use strategies to reduce the use of motor vehicles in its jurisdiction and thereby reduce emissions into the environment from motor vehicles.
 --Provides that if the surcharge exceeds \$1, all amounts above \$1 in

<p>SB 457 Wolk</p>	<p>Creation of Delta Stewardship Council for Sacramento-San Joaquin Delta</p>	<p>ASM Water, Parks and Wildlife Com. Set, second hearing. Further hearing to be set. <u>sb 457 wolk</u></p>	<p>Watch</p>	<p>Watch</p>	<p>a jurisdiction with a population greater than 300,000 shall be used to provide grants to cities, counties, and cities and counties for planning and projects related to the implementation of a regional blueprint plan. <i>Original bill language:</i> <i>This bill authorizes regions to impose a surcharge on vehicle registrations to pay for regional land use planning activities. This bill also makes changes to the membership and duties of the Office of Planning and Research's Planning Advisory and Assistance Council. Allows an MPO, a COG, or a county transportation commission and a subregional COG jointly preparing an SCS to impose a surcharge of up to \$2 on vehicles registered in its jurisdiction to fund the development and implementation of an SCS or a regional blueprint plan to identify land use strategies to reduce the use of motor vehicles and thereby reduce emissions into the environment.</i></p>
				<p>Watch</p>	<p>Amended 4/13, 5/5, 6/1, 6/30: Amendments define the Commission membership to 15. Five members would be from the each of the five counties within the delta. One member is from the County of Contra Costa or the County of Solano, on a rotating basis. Provides that a comprehensive resources management plan will be completed by July 1, 2011. 180 days from that date, all local governments shall submit to the commission proposed general plan amendments and land use elements to make their general plans consistent with the resources management plan with respect to land use within the primary zone. Any amendments, changes, or updates to those plans or elements shall be submitted to the commission. No additional development shall occur in the primary zone of the delta unless the relevant proposed amendment to a local government's general plan is determined to be consistent with the resources management plan Establishes Delta Investment Fund. <i>Formerly. Creates a 9-member Delta Stewardship Council and deletes section on establishing the Delta Conservancy. The bill would require the Delta Protection commission to revise all of its plans and policies to be consistent with the Delta Stewardship Plan, to review and certify all city and county general plans for consistency with the resource management plan and the Delta Stewardship Plan, to exercise appeal authority over actions taken by a local government or other local agency in the primary zone, to review, hold public hearings and receive testimony, and provide recommendations to the council on all proposed projects subject to</i></p>

Bill Author	Subject	Status	Staff Recommendation	L&GO Position	Legislation Summary
SB 458 Wolk	(New title) Sacramento-San Joaquin Delta Conservancy: Delta Protection Commission (was: Conservancies: Sacramento-San Joaquin Delta Conservancy)	ASM –In Conference SEN—In Conference— Senate Bills <u>sb 458 wolk</u>	Watch	Watch	<p><i>approval by the council, and develop a regional economic development plan. The bill would require the council to determine appeals from the commission on water conveyance and storage project decisions.</i></p> <p>Amended/gutted: This bill would state the intent of the Legislature to enact legislation to establish a Sacramento-San Joaquin Delta Conservancy and to modify the Delta Protection Commission.</p> <p>Amended 4/2, 62/ 6/22: Sacramento-San Joaquin Delta Conservancy Act Undertake various activities related to the Delta, as defined, and Suisun Marsh, as defined, including supporting efforts that advance both environmental protection and the economic well-being of Delta residents, and undertaking efforts to enhance public use and enjoyment of lands owned by the public. The bill would prescribe the management, powers, and duties of the conservancy. Within two years of hiring an executive director, the board shall create and adopt a strategic plan to achieve the goals of the conservancy. The plan shall describe its interaction with local, regional, state, and federal land use, recreation, water and flood management, and habitat conservation and protection efforts within and adjacent to the Delta. The plan shall establish priorities. The board shall consist of 11 voting members and five nonvoting members, appointed or designated as follows: One member from CCC and one from Solano County This bill would establish the Sacramento-San Joaquin Delta Conservancy to undertake various activities related to the Delta, as defined. The bill would prescribe the management, powers, and duties of the conservancy. The bill would create the Sacramento-San Joaquin Delta Conservancy Fund in the State Treasury. Moneys in the fund would be available, upon appropriation, for the purposes of the conservancy.</p>
SB 488 Pavley	Energy: Energy Usage Information (was Energy: Energy Efficiency Financing)	ASM Second Reading <u>sb 488 pavley</u>	Support in Concept	Support	<p>Amended 7/15, 8/17, 8/31: This bill requires public and private utilities that provide individual residential electricity or gas customers with information comparing their energy use with similar residences to report to the state on the energy savings resulting from such programs.</p> <p>Amended 4/14, 5/5, 5/20, 5/28, 6/15: <i>Energy Usage Disclosure Pilot Program</i> : Create a pilot program by each electrical corporation and each gas corporation with more than 55,000 residential customer service connections that does not</p>

Bill Author	Subject	Status	Staff Recommendation	L&GO Position	Legislation Summary	Page 14
					<p><i>already have such a program, to adopt a pilot program to disclose information documenting the amount of energy used by the metered residence compared to similar residences in the subscriber's geographical area and provide information to those subscribers on energy saving strategies or programs available. Formerly, This bill would require the commission, on or before July 1, 2010, to require each electrical corporation and each gas corporation to adopt a pilot program to disclose, not less frequently than quarterly, on the billing statement of a residential subscriber, information documenting the amount of energy used by the metered residence compared to similar residences in the subscriber's geographical area. The bill would require the commission to require each electrical corporation and each gas corporation to identify those residences that used significantly more energy during the period than was used by similar residences with comparable household square footage in the subscriber's geographical area and to ensure that information is provided to those subscribers on energy saving strategies and programs available to assist in financing energy efficiency improvements. The bill would require each electrical corporation and each gas corporation, on or before July 1, 2011, and each July 1 thereafter, to submit to the commission a report on the energy savings resulting from the pilot program adopted by the utility.</i></p>	
SB 575 Steinberg	Local Planning: Housing Element	ASM Third Reading <u>sb. 575</u> <u>steinberg</u>	Watch	Support	<p>Amended: Revises timelines for the adoption of the fifth revision of the housing element by specified local governments, provides for timelines for subsequent housing element revisions, and makes other changes related to the clean-up of SB 375 (Steinberg), Chapter 728, Statutes of 2008, and Sustainable Communities Strategies.</p> <p>This bill is a clean-up bill for SB 375 and SB 732, cleaning-up three provisions: the exemption for transportation sales tax projects; the rezoning requirement under housing element law and housing element due dates generally.</p>	
SB 676 Wolk	Local Fees	ASM Third Reading <u>sb. 676</u> <u>wolk</u>	Support CSAC Support	Support	<p>Amended 8/27: This bill increases or eliminates the statutory limits on <u>12</u> fees still set by state law: such as federal lien certificates, environmental quality act filings, recorded documents, document indexing, court-appointed counsel, restitution, county probation department payments, change of plea/setting aside of a verdict, sealing of records, installment payments, fingerprinting, support of a minor sealing of juvenile records. Amended 6/25: Adds "would authorize the county clerk to charge a fee of \$75 per filing in addition to the charges filed by the department."</p>	

Bill Author	Subject	Status	Staff Recommendation	L&GO Position	Legislation Summary
SB 808 Wolk	San Francisco Bay/Sacramento-San Joaquin Delta Estuary: Strategic Work Plan	SEN Natural Resources and Water Com Set, first hearing. Hearing canceled at the request of author. No movement sb 808 wolk	Watch	Watch	This bill would require the State Water Resources Control Board to implement its resolution entitled the Strategic Workplan for Actions to Protect Beneficial Uses of the San Francisco Bay/Sacramento-San Joaquin Delta Estuary by commencing an investigation of the reasonableness of the methods of diversions from the Sacramento-San Joaquin Delta used by the State Water Project and the federal Central Valley Project, ensuring that the implementation is consistent with its duties to protect the public trust and prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water, and taking other action. The state board would be required to prepare related quarterly reports, which the state board would be required to make available to the public and to post on the state board's Internet Web site.
*S. 1619 Dodd	Federal Legislation The Livable Communities Act of 2009	Senate Committee on Banking, Housing and Urban Affairs	Support		Would establish the Office of Sustainable Housing and Communities; establish the Interagency Council on Sustainable Communities; establish a comprehensive planning grant program for towns and regions, establish a sustainability challenge grant program for towns and regions. Intent is to help towns and regions across the country plan and implement development projects that integrate their community's needs for transportation, housing, land use and economic development: to include MPOs, regional councils of governments, rural planning organizations, consortiums of local governments, city, county, and towns.
*H.R. 3525 Thompson	Tax Exempt Private Activity Bond (PAB) Use for Renewable Energy Generation and Energy and Water Efficiency Projects.	House Ways and Means Committee	Support		To amend the Internal Revenue Code of 1986 to add additional categories of tax-exempt private activity bonds to finance renewable energy resource facilities, conservation and efficiency facilities, and other specified greenhouse gas emission technologies which would include energy efficiency, demand side management, energy storage, electric transmission, smart grid, water conservation, zero-emission vehicle projects and manufacturing facilities.

ABAG FINANCE AND PERSONNEL COMMITTEE

Thursday, September 17, 2009, 5:00 p.m.
 ABAG Conference Room B
 MetroCenter—8th and Oak Streets
 Oakland, CA

<u>Est.</u> <u>Time in</u> <u>Minutes</u>		<u>Recommendation**</u>
2	1. Public Comments	Information
3	*2. Minutes of the July 16, 2009 Meeting	Action
5	*3. Financial Reports – ABAG <i>The June and July 2009 reports are enclosed with the agenda packet.</i>	Action
5	4. Membership Dues Not Yet Received <i>The list of members and the FY 2009-10 dues amount not yet received by ABAG will be distributed at the meeting for review and discussion.</i>	Information
10	*5. Report on Diversity and Business Opportunity—FY 08-09 <i>The Executive Director will present the annual Diversity and Business Opportunity Report.</i>	Action
10	*6. Authorization to Borrow up to \$700,000 for Office Renovation <i>Staff will report on the proposed renovation cost estimates and the amortization of the loan and request committee recommendation to Executive Board authorizing borrowing up to \$700,000.</i>	Action
	7. Adjournment	Action

* Attachments enclosed with packet.

** The committee may take action on any item on the agenda, which action may be the recommended action, any other action or no action.

ABAG FINANCE AND PERSONNEL COMMITTEE

Summary Minutes

July 16, 2009

Members Present

Supervisor Scott Haggerty, Chair
Supervisor David Cortese
Supervisor Rose Jacobs Gibson
Supervisor John Gioia
Mayor Mark Green
Supervisor Mike Kerns
Supervisor Barbara Kondylis

Jurisdiction

County of Alameda
County of Santa Clara
County of San Mateo
County of Contra Costa
City of Union City
County of Sonoma
County of Solano

Members Absent

Vice Mayor Peter McHugh
Mayor A. Sepi Richardson
City of Milpitas
City of Brisbane

Officers and Staff Present

Henry Gardner, Executive Director
Ezra Rapport, Deputy Executive Director
Patricia Jones, Assistant Executive Director
Kenneth Moy, Legal Counsel
Herbert Pike, Finance Director
Brian Kirking, Information Services Director
Susan Hsieh, Assistant Finance Director

Guests:

Austris Rungis, IEDA
Michael Costa

The meeting was called to order at 5:00 p.m.

- 1) There were no public comments.
- 2) Minutes of the May 21, 2009 meeting were approved as presented.
/M/Green/S/Kondylis/C/approved.
- 3) Pike summarized the ayl 2009 financial report for ABAG. Emphasis was on the slow recovery from the State creating high receivables and low cash balance. Committee members reviewed efforts to expedite payment of dues to boost the cash balance.
/M/Cortese/S/Rose-Gibson/C/ to accept reports.

AGENDA ITEM 2

- 4) Closed Session was held with Agency designated representatives Patricia Jones, Brian Kirking and Austris Rungis (IEDA) regarding a tentative agreement with ABAG's employee union—SEIU 1021.
Chair to report to the Executive Committee the results of their review of the proposed agreement.
- 5) Meeting was adjourned at 5:45 p.m.

TO: Finance and Personnel Committee

DT: August 24, 2009

FM: Herbert Pike, Finance Director

Re: Financial Reports
--June 2009

The following are highlights of the financial reports for June 2009.

Cash on Hand (Figure 1)

Cash on hand increased to \$896 thousand on June 30 from \$878 thousand on May 31. The June balance includes approximately \$372 thousand invested in the Local Agency Investment Fund (LAIF). Currently, ABAG does not hold any other investments. The June 30 cash balance is approximately \$785 thousand less than the prior year. This reduction in year-to-year balance is more dramatic when noting the current cash balance includes about \$565 thousand designated to cover the Annual Required Contribution (ARC) to amortize the Agency's unfunded liability for Other Post Employment Benefits (retiree health care) over the next 30 years. Thus, the "uncommitted" cash balance is actually down almost \$1.35 million from last year after accounting for the new OPEB liability. The downturn is attributed primarily to the higher receivables noted below.

Receivables (Figure 2)

Receivables from grant and service programs amounted to about \$4.19 million on June 30, an increase of \$190 thousand from the month prior. Compared to June 30 the year prior, the total reflects an increase of approximately \$1.68 million. It is anticipated that the continued reduction in State staffing and requested furloughs may slow reimbursements in the succeeding months. Some projects to be supported by State bond sales, although restarted, are awaiting reimbursement when certain bonds are sold; we have not yet received word when bonds supporting several of ABAG's projects will be sold. Staff is seeking to accelerate collections from other Federal and local funding sources.

Actual vs. Budgeted Expenses (Figure 9)

Total expenses on June 30 amounted to about \$18.66 million, or 103.1%, of May-revised projected expenses of \$18.1 million for FY 08-09.

Actual vs. Budgeted Revenues (Figure 10)

At June 30, total revenues amounted to about \$18.59 million, or 102.7%, of May-revised projected revenue of \$18.1 million for FY 08-09.

As of June 30, both revenues and expenses are below "approved" projections, but in excess of the May-revised projections. The reductions from "approved" projections to May-revised projections are largely due to the timing of consultant and sub-contractor expenses that are grant funded and span multiple years. The difference between the approved budget of \$26.7 million and the projections above reflect the typical multi-year programs and their budget balances at fiscal year-end that will be carried forward to the following year. The increase in June from May-revised figures is not atypical; for the closing month of the fiscal year, the books are kept open longer to post all expenditures committed and income earned in June, even if not paid until later.

Fund Equity (Figure 5)

As of June 30, general fund equity was approximately \$1.05 million, an increase of \$103 thousand from May 31. The agency's restricted fund equity, consisting of building bond interest, capital, self-insurance and building maintenance, remained unchanged at \$510 thousand.

Indirect Cost (Figure 6)

The agency's actual indirect cost (overhead) rate was 43.8% of direct labor cost as of June 30, or about 0.8% above the budgeted rate of 43.00% for FY 08-09. However, because the \$52,880 overage can be recovered as part of the FY 10-11 overhead, it is deducted from the overhead to reduce the year-end overhead to the budgeted 43.00%.

Overall (Figures 3, 4, 7 & 8)

At June 30, the agency's net financial position is reasonably close to forecast with a modest deficit of roughly \$64 thousand, or 0.34% of annual revenues. The small loss is nominal given the financial challenges ABAG had to confront during the course of the last fiscal year with projects being frozen, recoveries delayed, reduced proceeds from enterprise operations, and reduced interest earnings due to both lower interest rates and reduced fund balances. The prepayment of FY 09-10 membership dues alleviated year-end liquidity constraints. Recently, several suspended state grants have been restarted with the use of federal ARRA funding. However, to conserve cash as receivables remain high, the agency did defer its contribution toward retiree medical liabilities. Payment of the deferred \$565 thousand in contributions is expected within the first half of FY 09-10 if receivables are brought down to more normal rates.

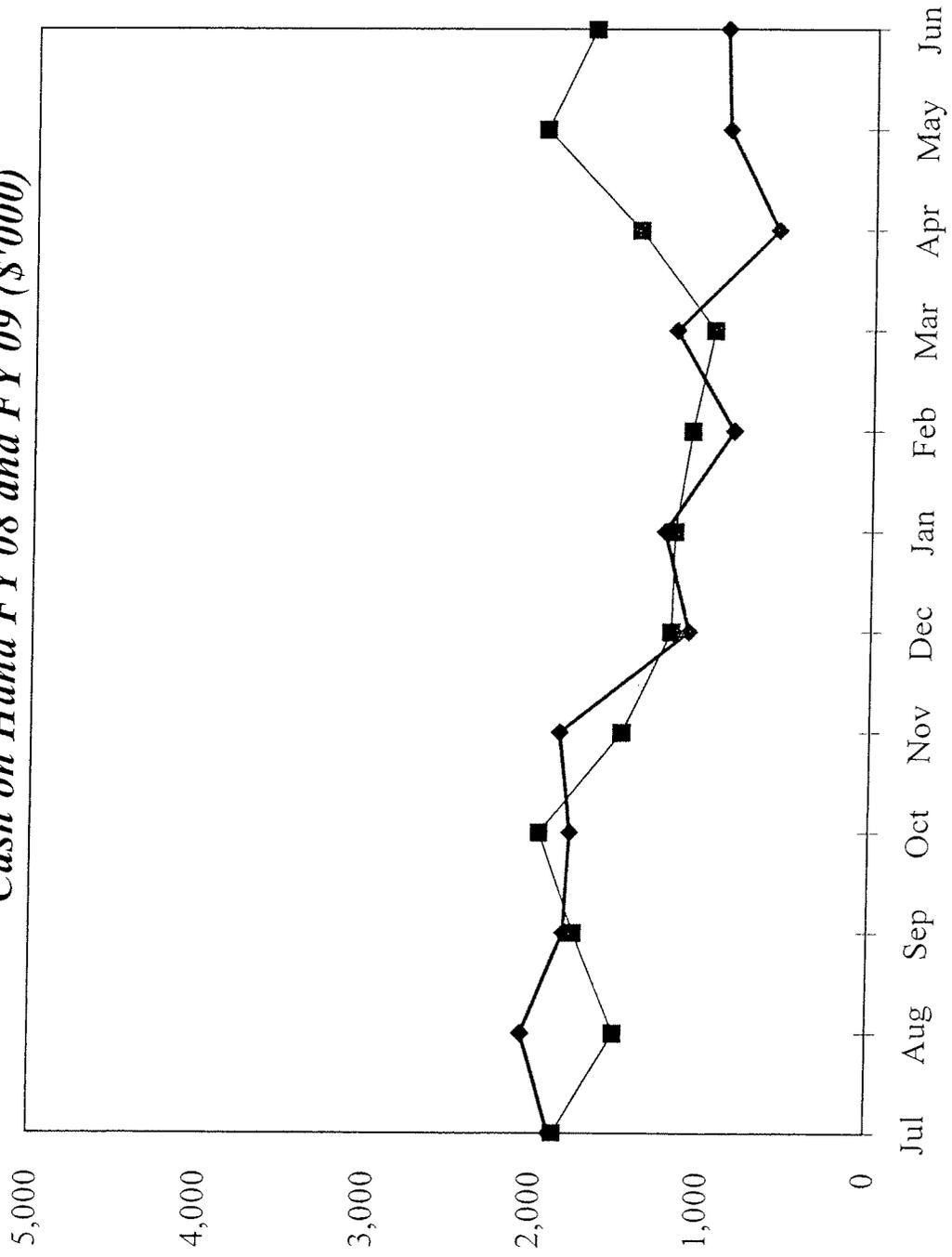
ABAG FINANCIAL REPORTS

Table of Contents

* Cash on Hand	Figure 1
* Accounts Receivable	Figure 2
* Current Month Revenues and Expenses	Figure 3
* Year-to-date Revenues and Expenses	Figure 4
* Fund Equity	Figure 5
* Indirect Cost Rate (% of Direct Labor Cost)	Figure 6
* Composition of Expenses	Figure 7
* Composition of Revenues	Figure 8
* Actual vs. Budgeted Expenses	Figure 9
* Actual vs. Budgeted Revenues	Figure 10
* Description of Charts	

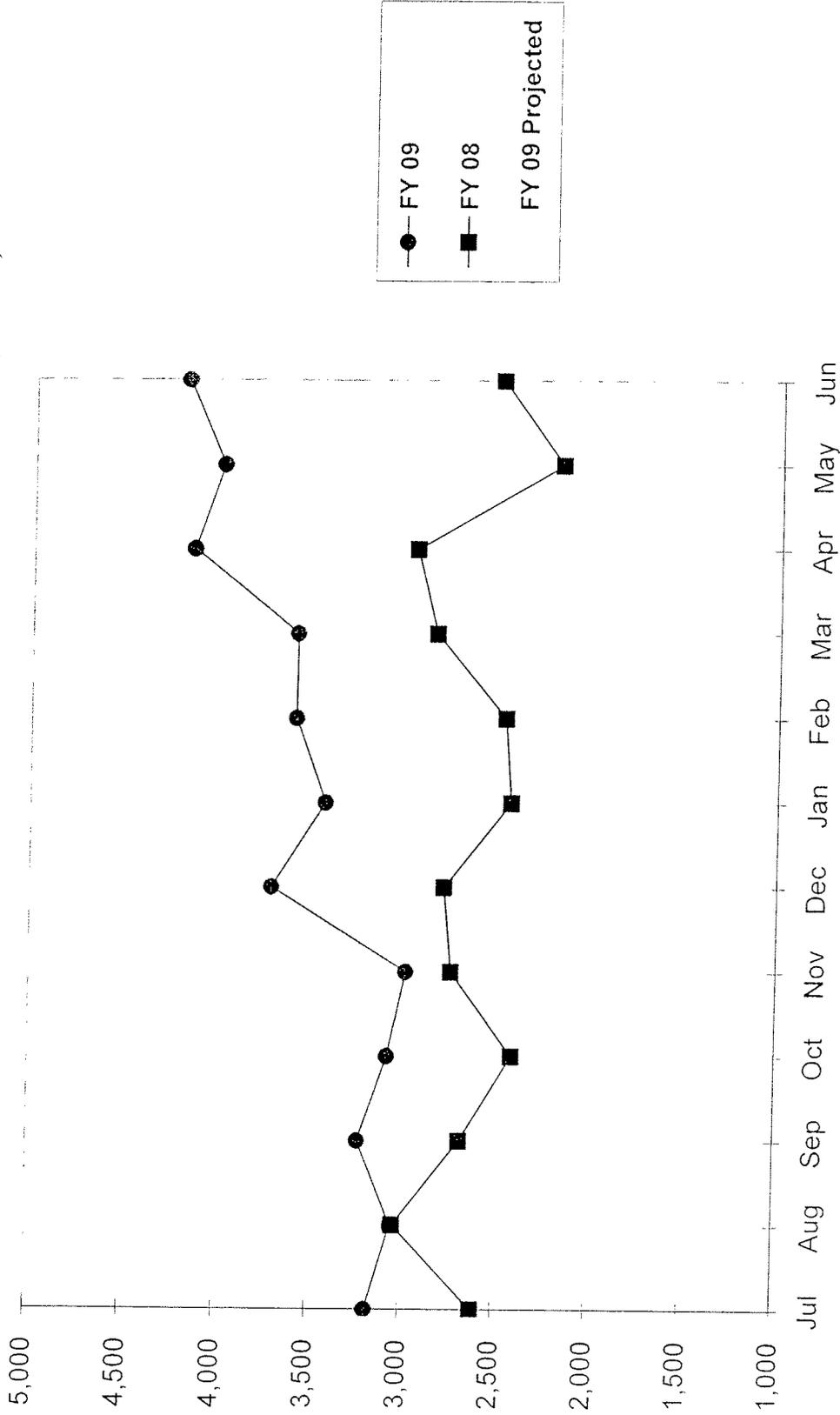
ABAG Financial Indices

Cash on Hand FY 08 and FY 09 (\$'000)



ABAG Financial Indices

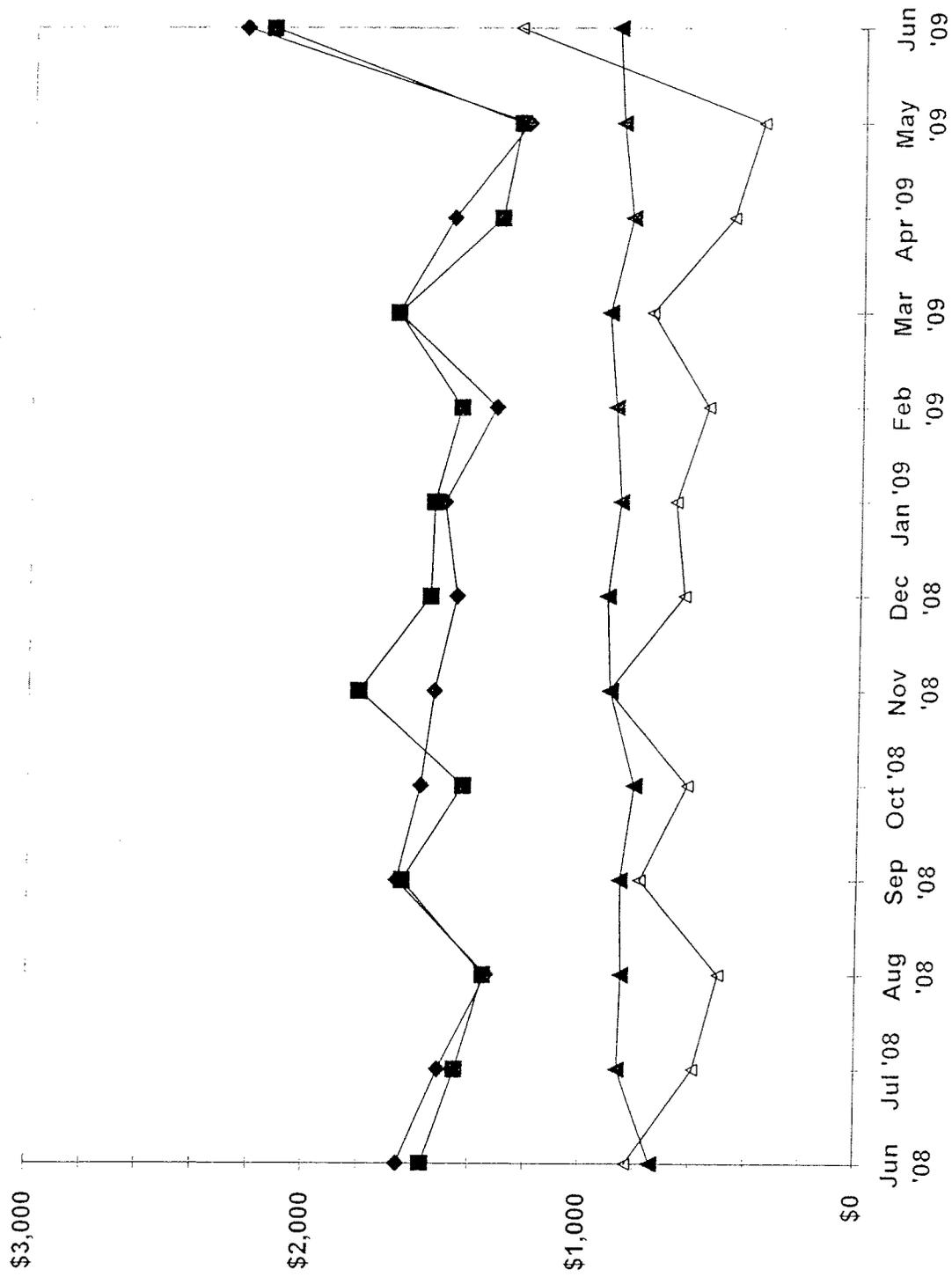
Accounts Receivable FY 08 and FY09 (\$'000)



ABAG Financial Indices

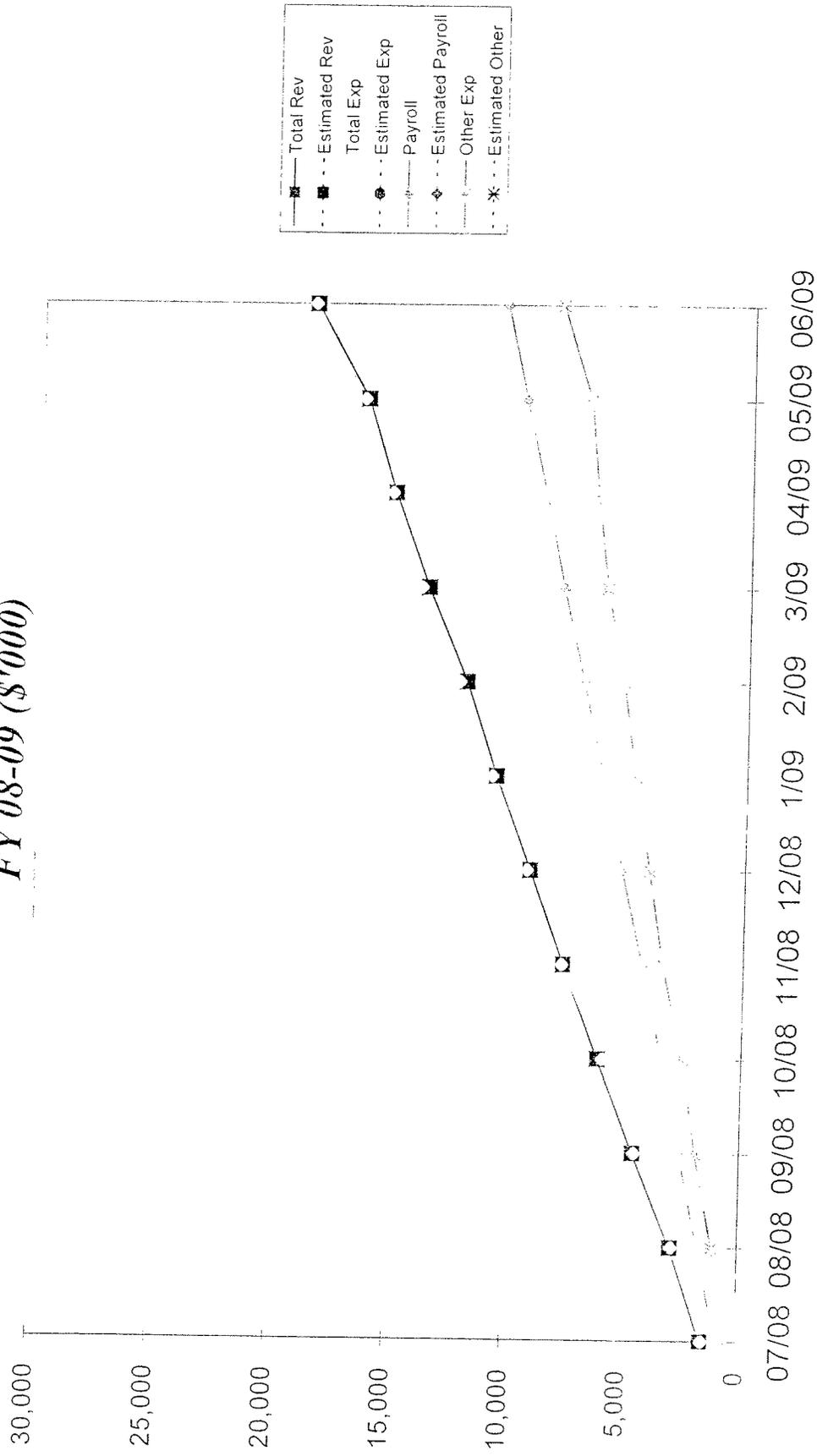
Current Month Revenues & Expenses

FY 08-09 (\$'000)



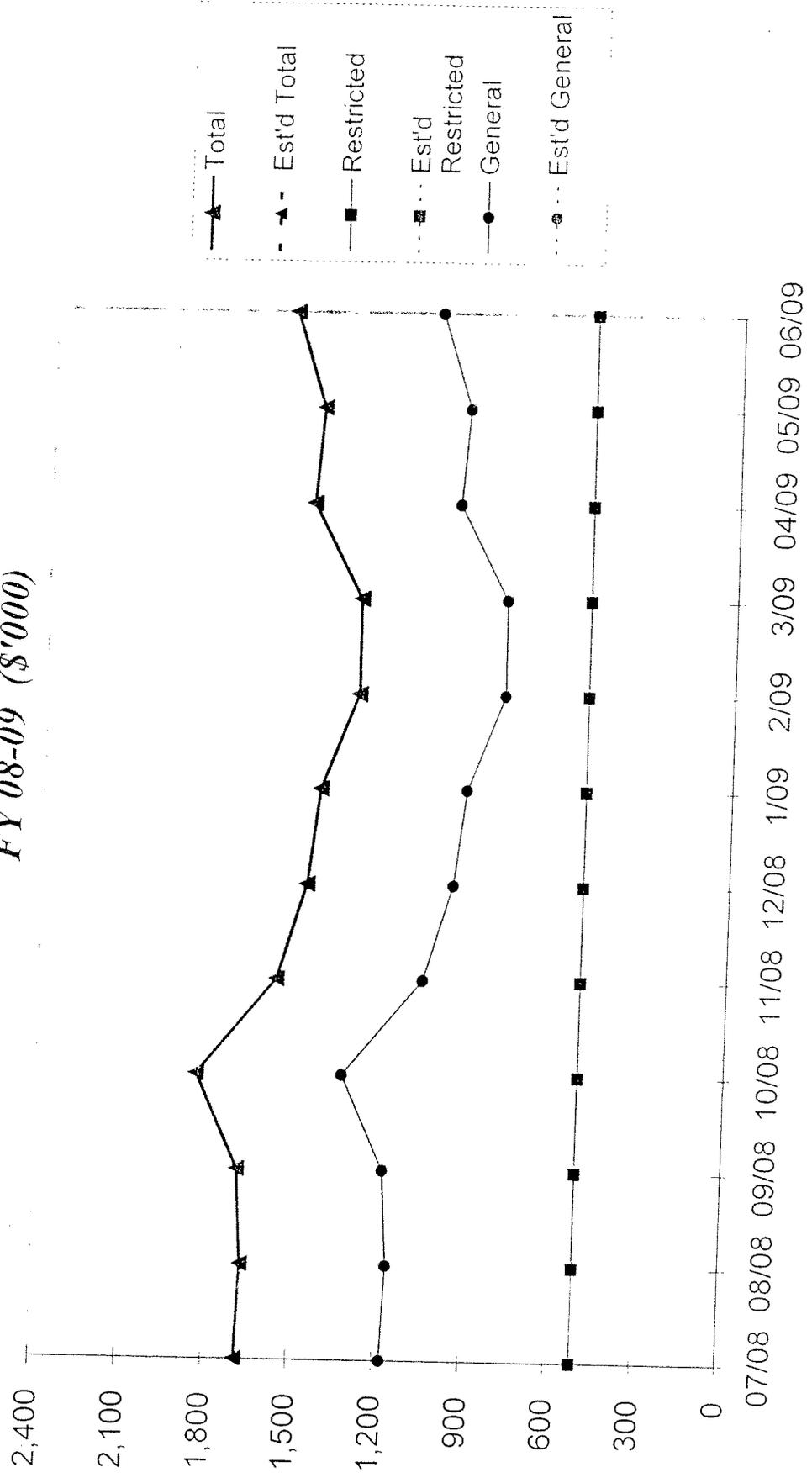
ABAG Financial Indices

Year-to-date Revenues & Expenses FY 08-09 (\$'000)



ABAG Financial Indices

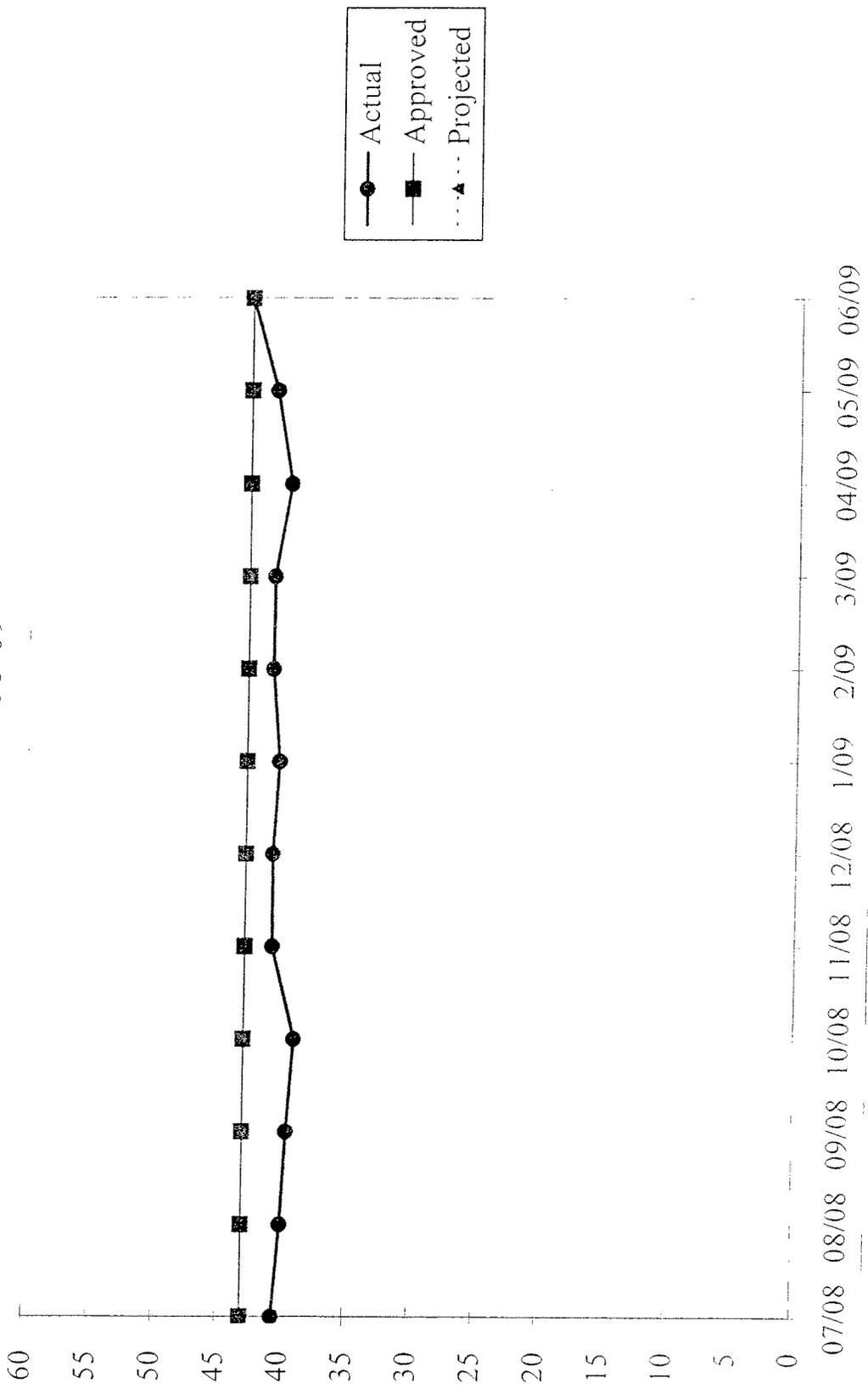
Fund Equity FY 08-09 (\$'000)



Source: ABAG - INDICES 2009-06.xls

FIGURE 5

ABAG Financial Indices
Indirect Cost Rate (% of Direct Labor Cost)
FY 08-09

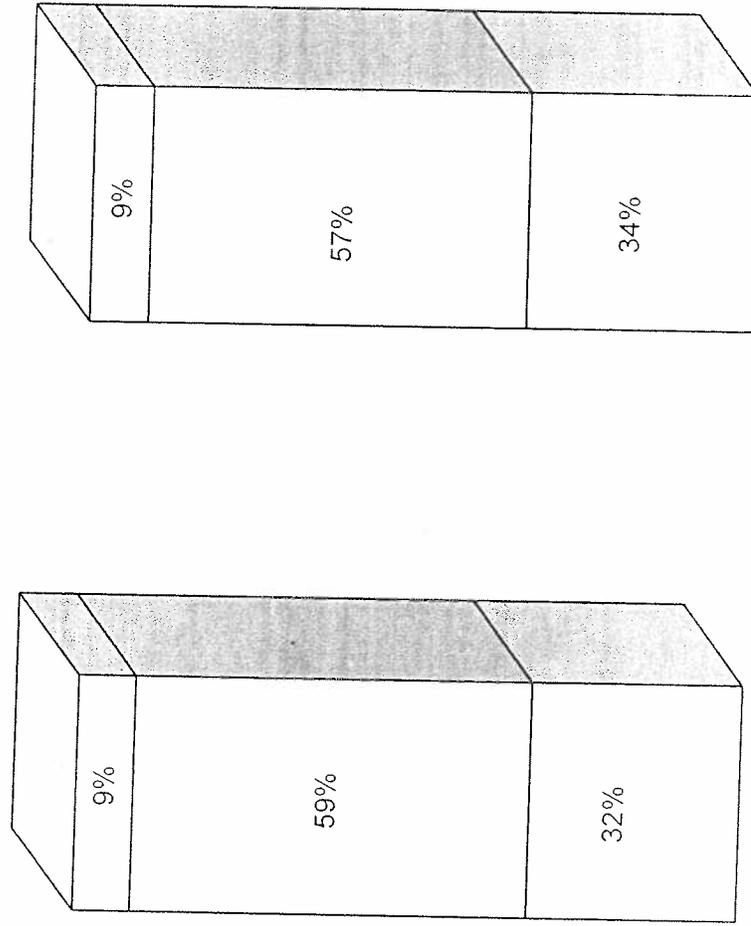


ABAG Financial Indices

Composition of Revenues FY 08-- FY 09

Year to Date

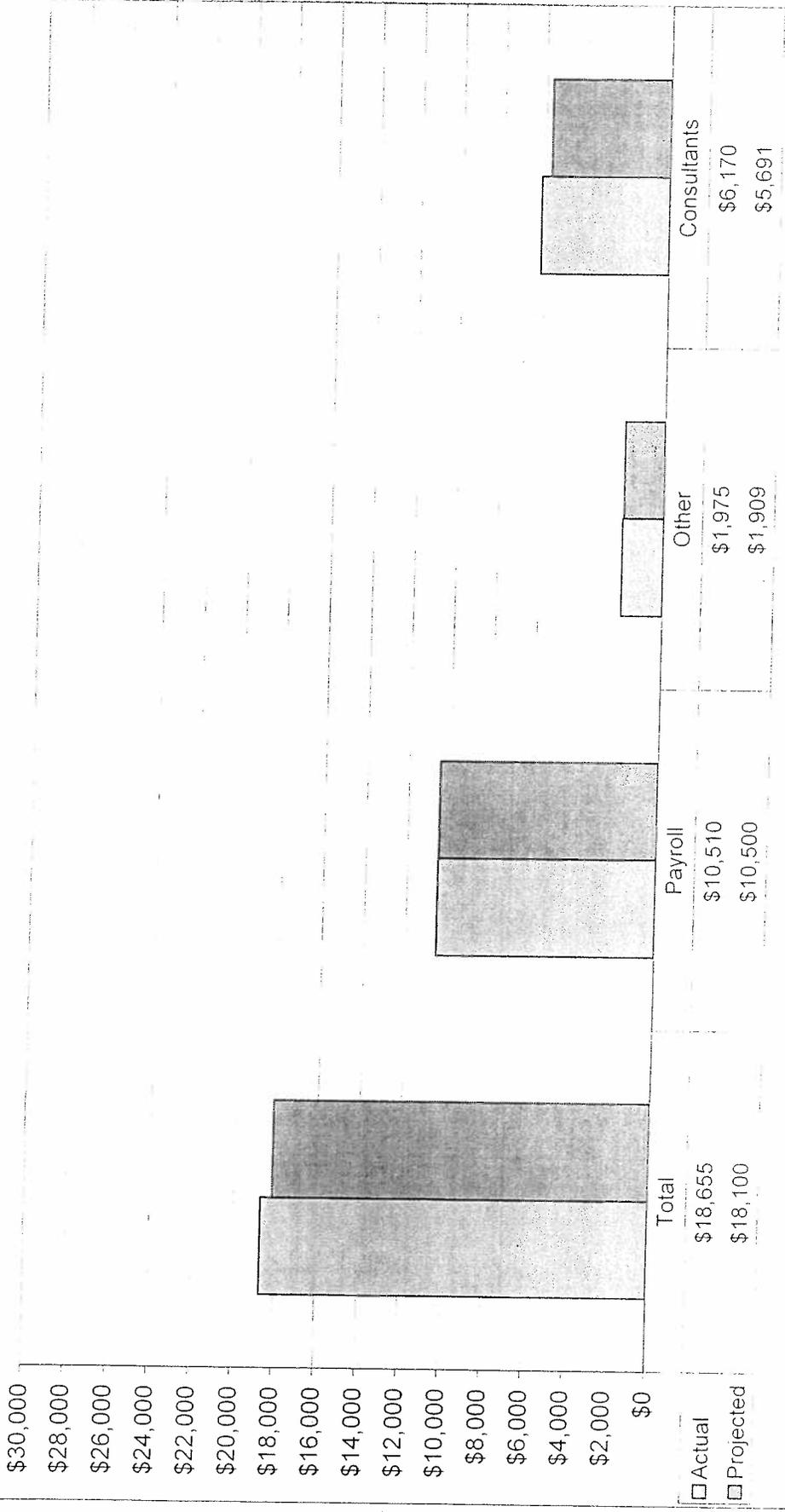
(\$'000)



	FY 08-09 Revenue (Total \$18,591)	FY 07-08 Revenue (Total \$17,416)
Membership	\$1,602	\$1,528
Grants	\$11,107	\$9,942
Services & Others	\$5,882	\$5,946

ABAG Financial Indices

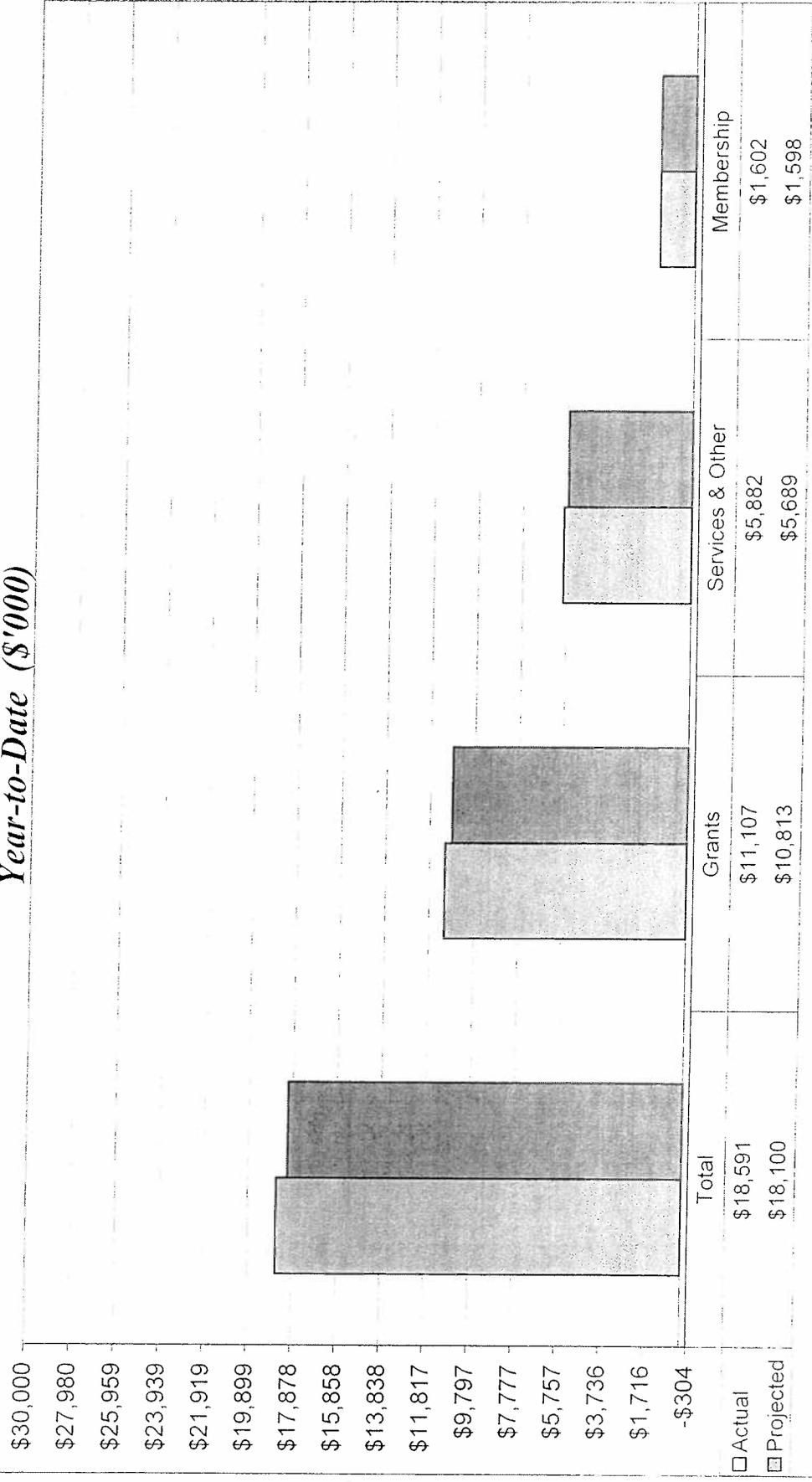
Actual vs Projected Expenses--FY 08-09
Year-to-Date (\$'000)



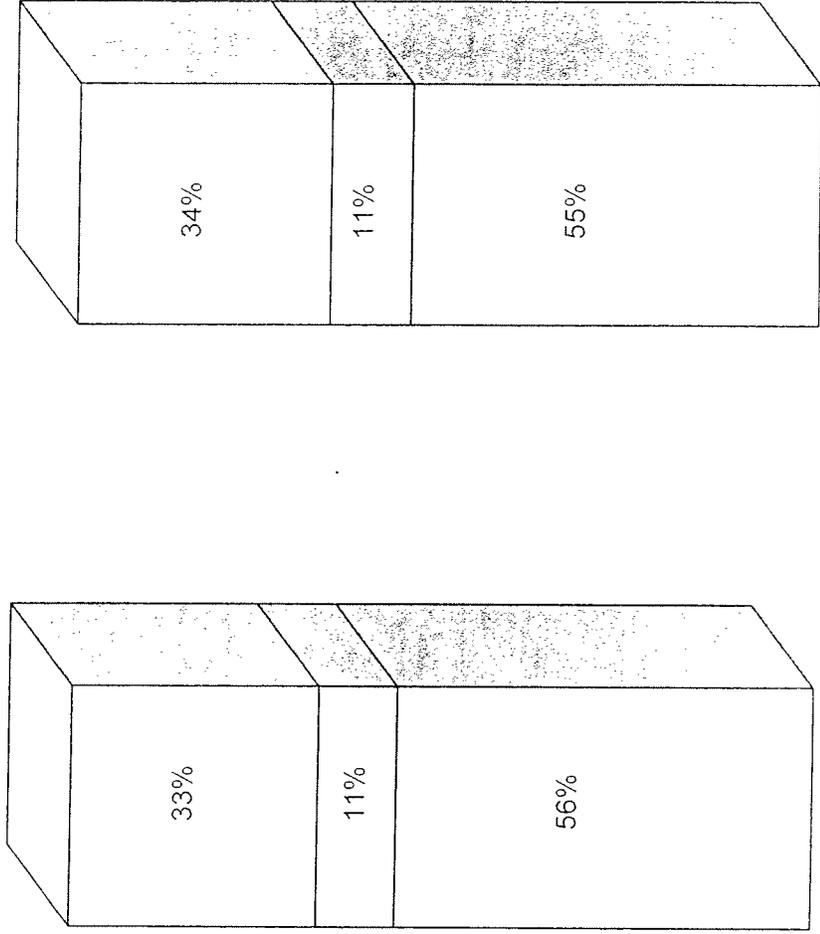
ABAG Financial Indices

Actual vs Projected Revenues--FY 08-09

Year-to-Date (\$'000)



ABAG Financial Indices
Composition of Expenses FY 08 -- FY 09
Year to Date
(\$'000)



	FY08-09 Expenses (Total \$18,655)	FY07-08 Expenses (Total \$17,098)
<input type="checkbox"/> Consultants	\$6,170	\$5,776
<input type="checkbox"/> Others	\$1,975	\$1,868
<input type="checkbox"/> Payroll	\$10,510	\$9,454

Description of Charts

Figure 1 -- Cash on Hand

Cash on hand represents the sum total of cash deposited at our bank and the Local Agency Investment Fund (LAIF). This chart shows fluctuation patterns of cash on hand for the current and last fiscal years.

Figure 2 -- Accounts Receivable

Accounts receivable tracked by this chart include receivables generated by grants and service programs over two fiscal years. This chart reflects the reasonableness of our receivable levels. We usually have about six weeks' worth of our annual revenues in receivables.

Figure 3 -- Current Month Revenues and Expenses

Presents month by month total revenues, total expenses, payroll and other expenses for the current fiscal year. The difference between total revenues and total expenses lines represents the overall current month net surplus (or deficit) for the agency.

Figure 4 -- Year-to-date Revenues and Expenses

Presents year-to-date total revenues, total expenses, payroll and other expenses for the current fiscal year. The difference between total revenues and total expenses lines represents the overall year-to-date net surplus (or Deficit) for the agency.

Figure 5 -- Fund Equity

Presents general, restricted and total fund equities for the current fiscal year. General fund equity represents unrestricted equity. Restricted equities include building bond interest, building maintenance, self-insurance and capital. These restricted equities represent the agency's equities set aside for specific purposes as approved by the Finance and Personnel Committee. Total equity is the sum total of general and restricted equities.

Figure 6 -- Indirect Cost Rate (% of Direct Labor Cost)

This chart shows a comparison between the actual indirect cost rate and the approved rate. The approved indirect cost rate is computed by dividing total estimated overhead expenses by total projected direct labor cost for a fiscal year. This rate is used as a standard overhead cost rate to allocate indirect costs to all projects. This process is performed in accordance with an indirect cost plan, which is prepared annually in accordance with OMB A-87.

Figure 7 – Composition of Expenses

This chart compares expenses for current and last fiscal years. It groups expenses into two broad categories -- payroll costs and other expenses.

Figure 8 -- Composition of Revenues

Presents a break down of total revenues into four main sources -- membership, grants, services and others. This chart compares revenue sources between current and last fiscal years.

Figure 9 -- Actual vs. Budgeted Expenses

Presents a comparison of actual and budgeted total expenses as well as component categories: payroll costs, consultants and other expenses.

Figure 10 -- Actual vs. Budgeted Revenues)

Presents a comparison of actual and budgeted total revenues as well as component categories: membership dues, grants, services and other.

TO: Finance and Personnel Committee

DT: August 31, 2009

FM: Herbert Pike, Finance Director

Re: Financial Reports
--July 2009

The following are highlights of the financial reports for July 2009.

Cash on Hand (Figure 1)

Cash on hand increased to \$1.53 million on July 31 from \$896 thousand on June 30. The July balance includes approximately \$573 thousand invested in the Local Agency Investment Fund (LAIF). Currently, ABAG does not hold any other investments. The July 31 cash balance is approximately \$254 thousand less than the prior year. This year-to-year balance is exacerbated when noting the current cash balance includes about \$615 thousand designated to cover the Annual Required Contribution (ARC) to amortize the Agency's unfunded liability for Other Post Employment Benefits (retiree health care) over the next 29 years. Thus, the "uncommitted" cash balance is actually down almost \$869 thousand from last year after accounting for the new OPEB liability. The downturn is attributed primarily to the higher receivables noted below.

Receivables (Figure 2)

Receivables from grant and service programs amounted to about \$3.46 million on July 31, a decrease of \$733 thousand from the month prior. Compared to July 31 the year prior, the total reflects an increase of approximately \$280 thousand. While substantially improved from the prior month, the total receivables are still over \$850 thousand higher than two years prior, before the budget crises commenced. It is anticipated that the continued reduction in State staffing and furloughs may slow reimbursements in the succeeding months.

Actual vs. Budgeted Expenses (Figure 9)

Total expenses on July 31 amounted to about \$1.23 million, or 4.3%, of approved expenses of \$28.9 million for FY 09-10.

Actual vs. Budgeted Revenues (Figure 10)

At July 31, total revenues amounted to about \$1.21 million, or 4.2%, of approved revenue of \$28.9 million for FY 09-10.

As of July 31, both revenues and expenses are below "approved" projections. While revenues and expenditures might be expected to be 8.17% after the first month of the new fiscal year, they are less than "approved" projections, largely due to the timing of consultant and sub-contractor expenses that are grant funded and span multiple years. Additionally, year-end accruals against the final month of the prior fiscal year (June) often creates a lag in the first month of the new fiscal year where billings for July (especially contracts) are often reflected in subsequent months.

Fund Equity (Figure 5)

As of July 31, general fund equity was approximately \$1.03 million, a decrease of \$20 thousand from June 30. The agency's restricted fund equity, consisting of building bond interest, capital, self-insurance and building maintenance, remained unchanged at \$510 thousand.

Indirect Cost (Figure 6)

The agency's actual indirect cost (overhead) rate was 51.8% of direct labor cost as of July 31, or about 8.86% above the budgeted rate of 42.95% for FY 09-10. Most of the excess charges are due to revised allocations of employees' time between Agency Administration/Communications and General Overhead. These issues have been identified and we expect a return to normal over the next several months.

Overall (Figures 3, 4, 7 & 8)

At July 31, the agency's net financial position is reasonably close to forecast with a modest deficit of roughly \$20 thousand, or 1.65% of July revenues. Both "cash on hand" and "receivables" have improved over the prior month. Several projects formerly frozen are being restarted with the infusion of federal ARRA funding. While there is further progress to be made to return to historical averages, the Agency looks forward to making its contributions for retiree medical benefits deferred from the prior fiscal year within the next couple of months.

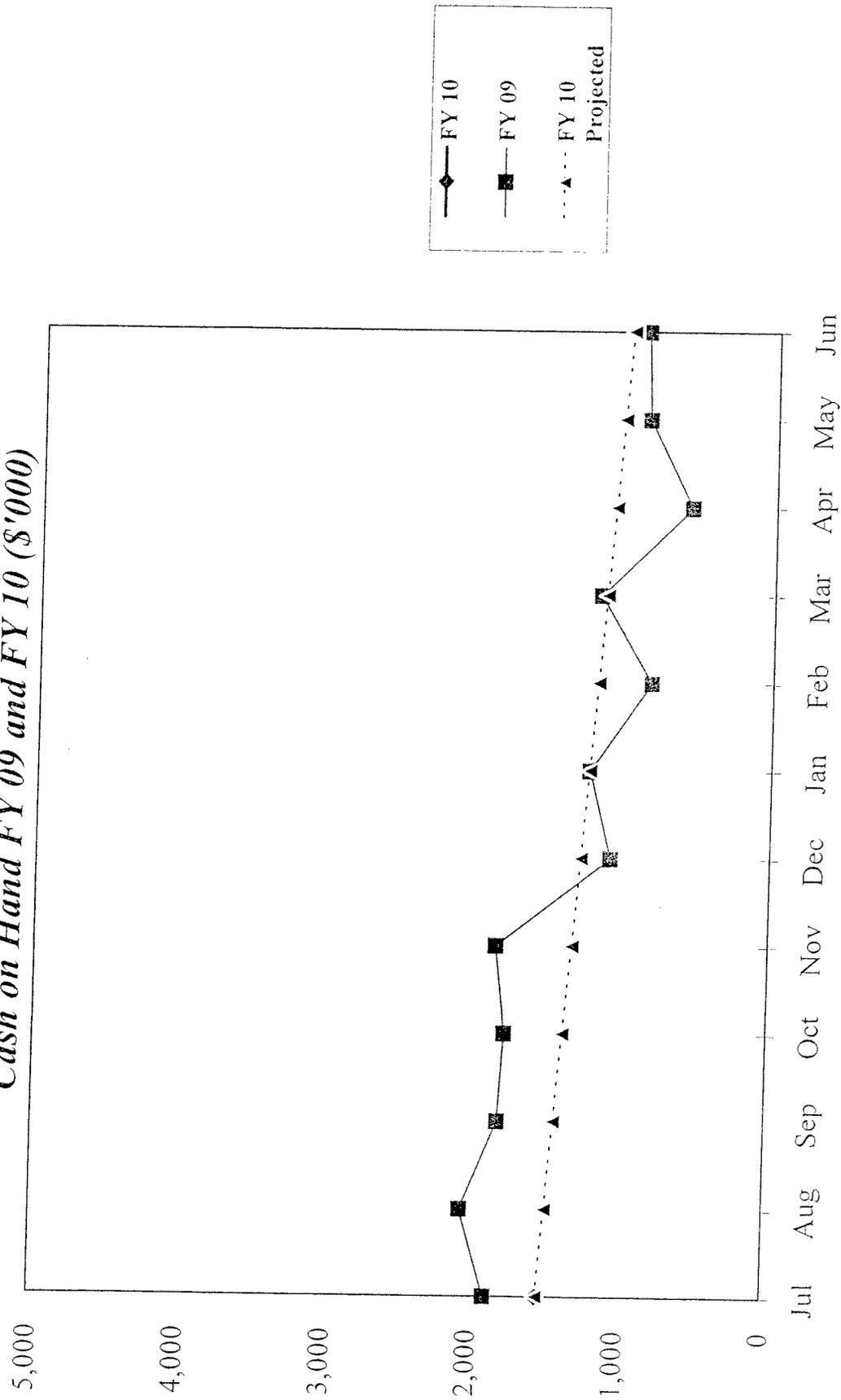
ABAG FINANCIAL REPORTS

Table of Contents

* Cash on Hand	Figure 1
* Accounts Receivable	Figure 2
* Current Month Revenues and Expenses	Figure 3
* Year-to-date Revenues and Expenses	Figure 4
* Fund Equity	Figure 5
* Indirect Cost Rate (% of Direct Labor Cost)	Figure 6
* Composition of Expenses	Figure 7
* Composition of Revenues	Figure 8
* Actual vs. Budgeted Expenses	Figure 9
* Actual vs. Budgeted Revenues	Figure 10
* Description of Charts	

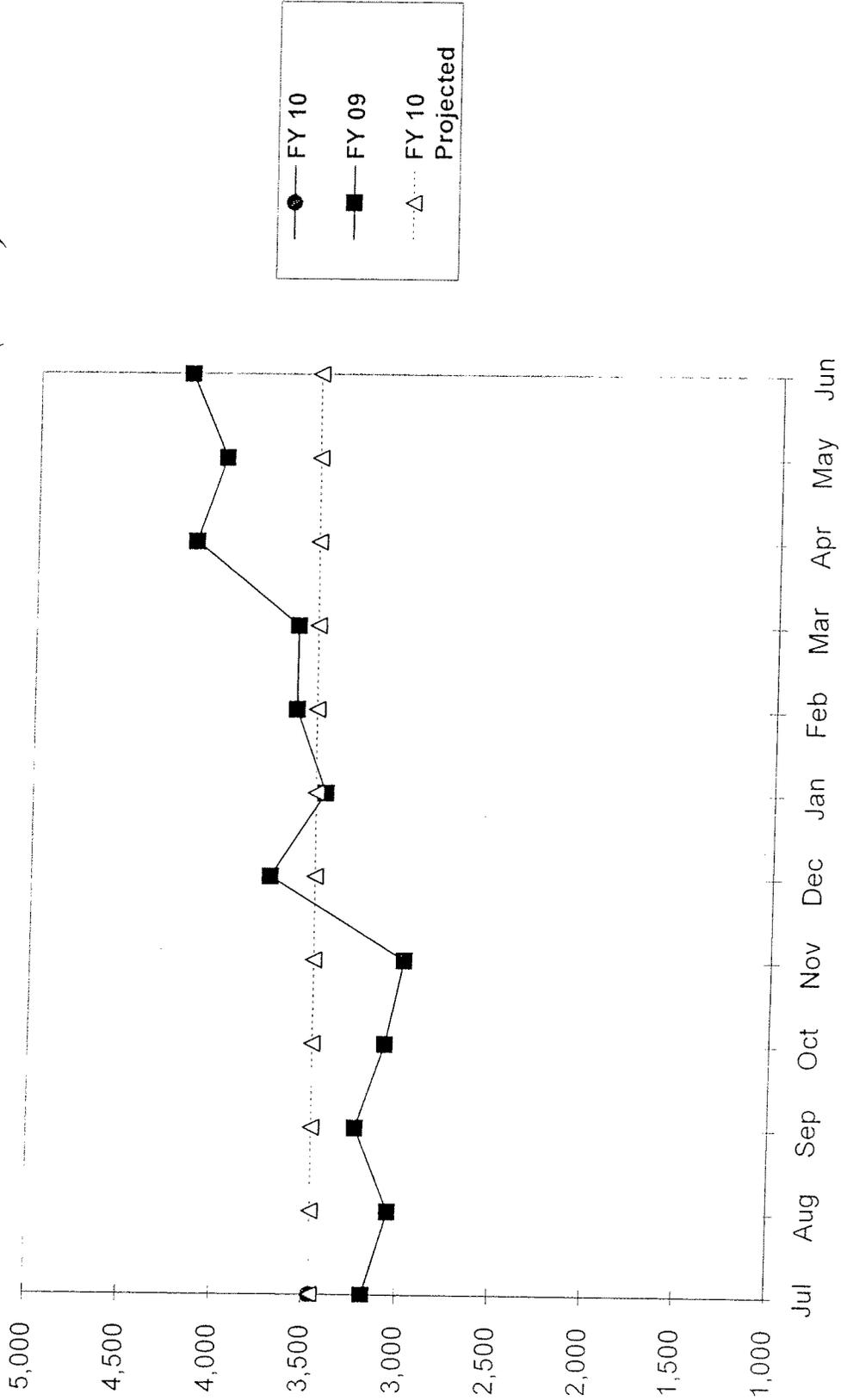
ABAG Financial Indices

Cash on Hand FY 09 and FY 10 (\$'000)



ABAG Financial Indices

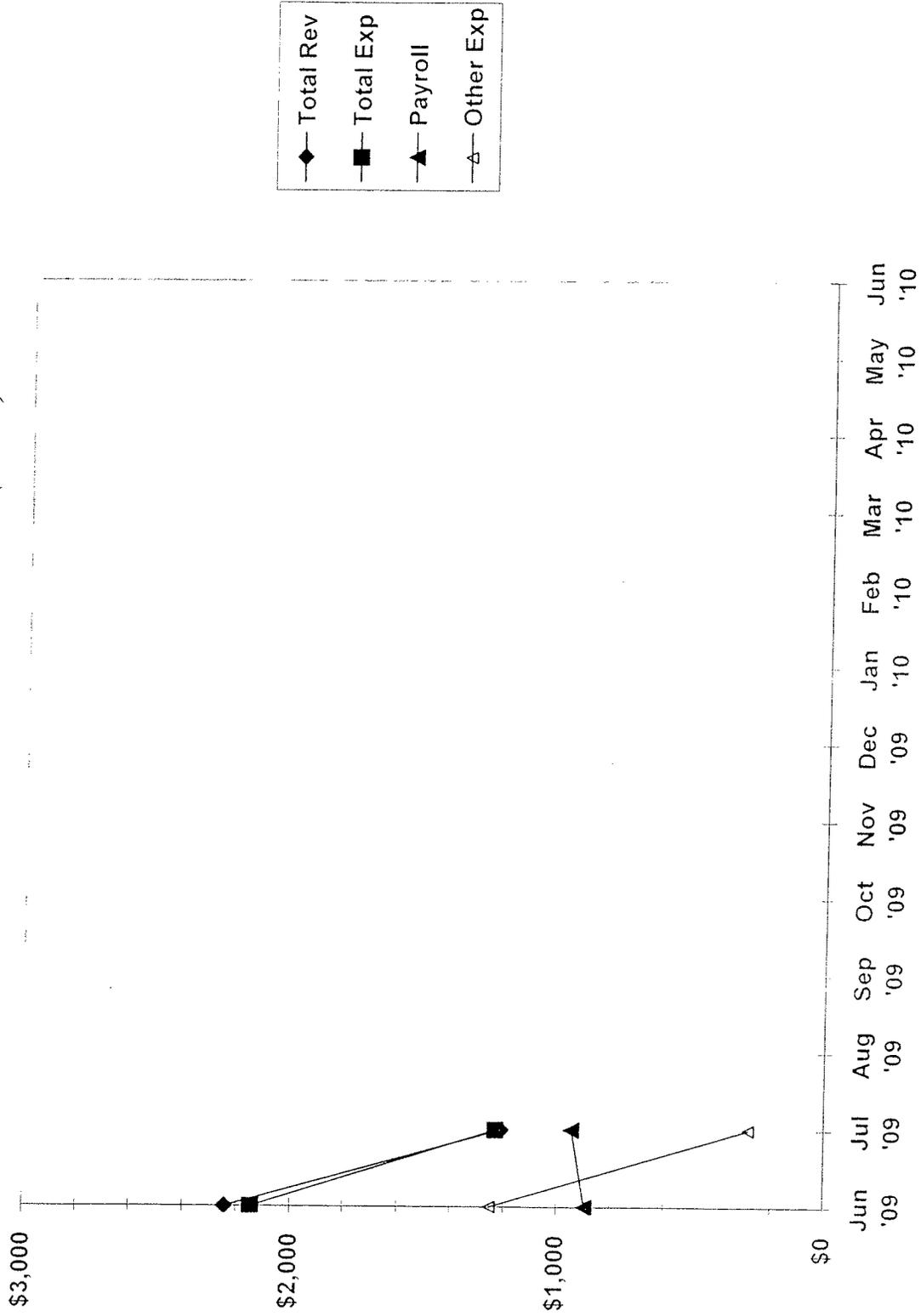
Accounts Receivable FY 09 and FY 10 (\$'000)



ABAG Financial Indices

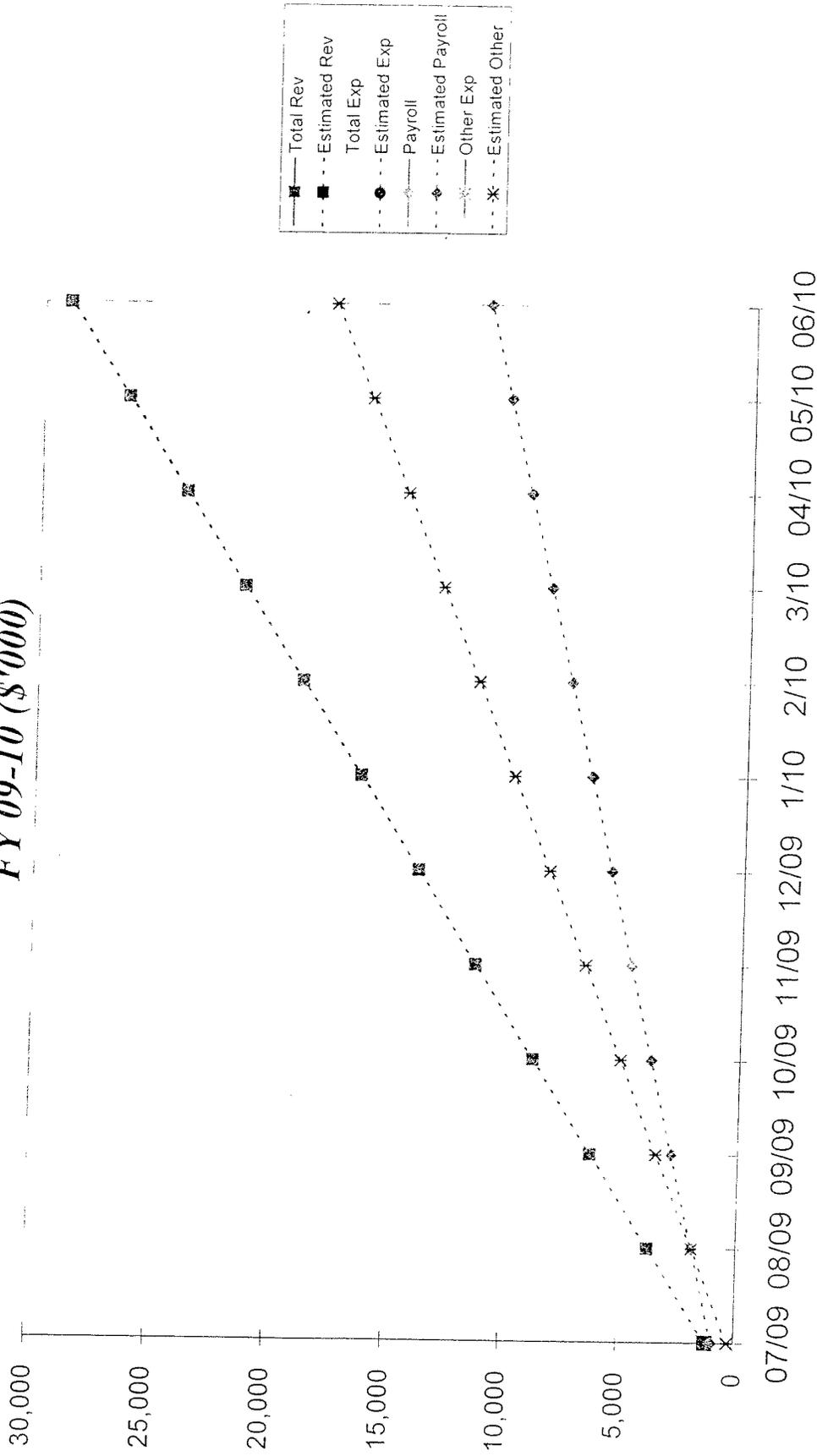
Current Month Revenues & Expenses

FY 09-10 (\$'000)



ABAG Financial Indices

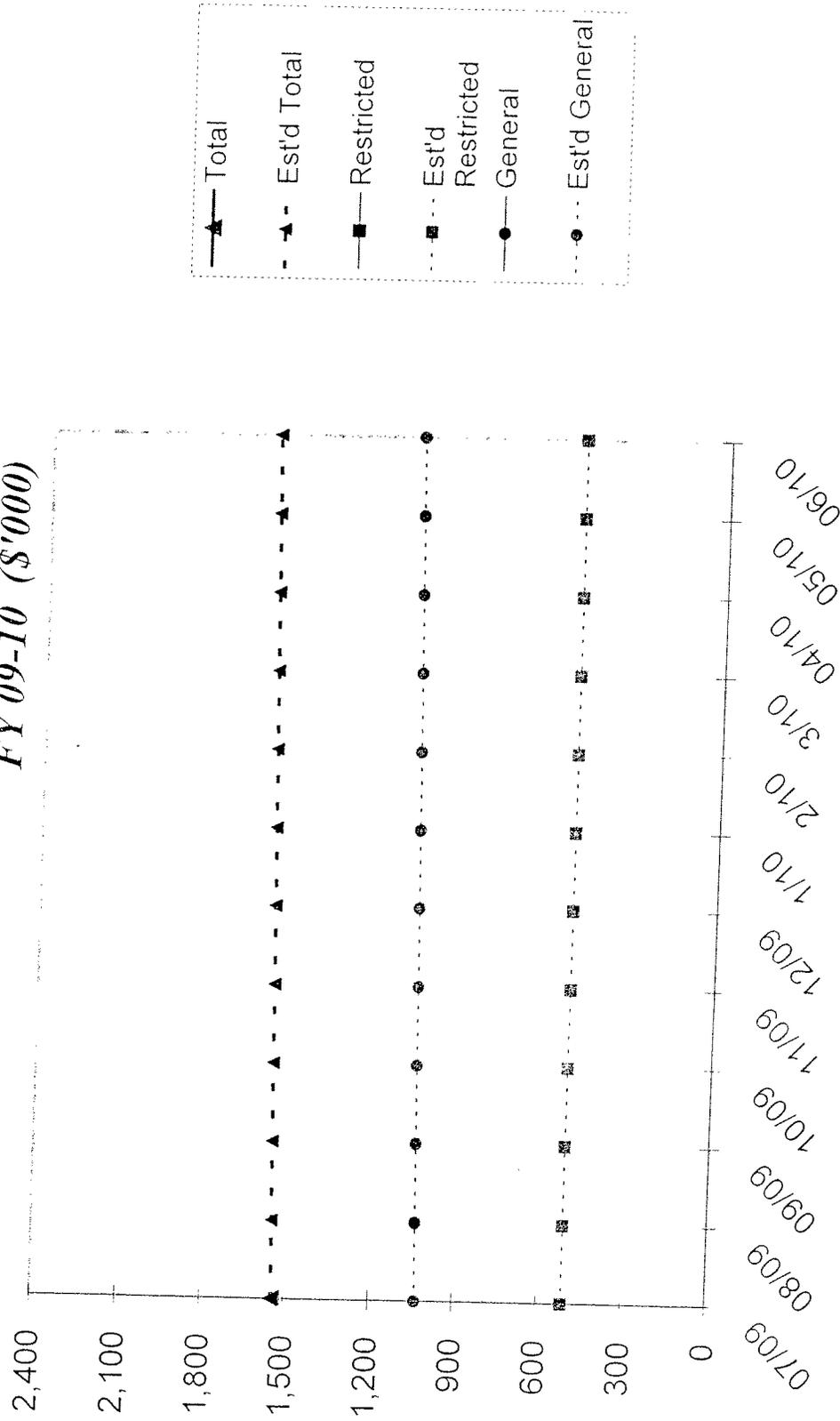
Year-to-date Revenues & Expenses FY 09-10 (\$'000)



ABAG Financial Indices

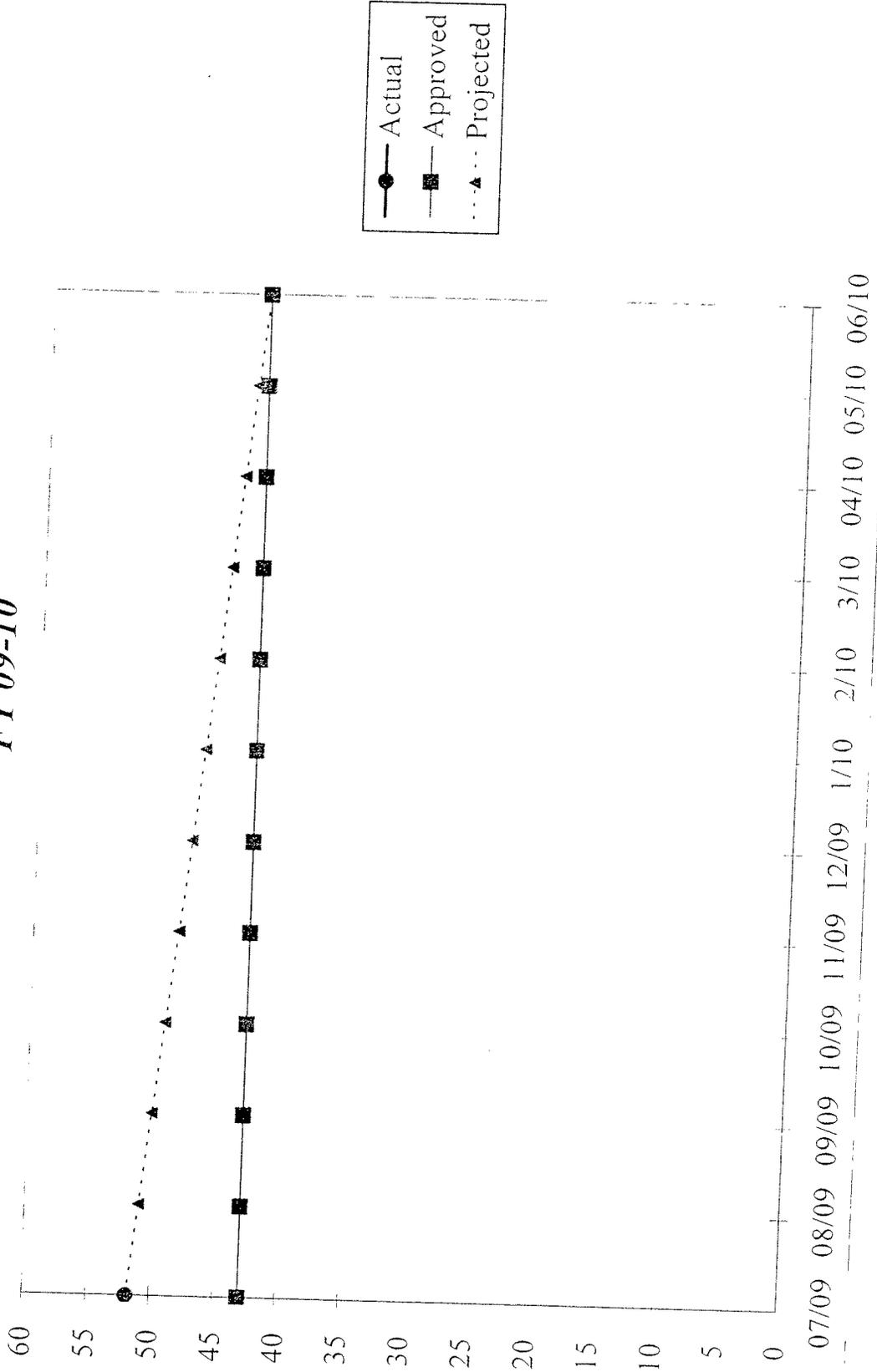
Fund Equity

FY 09-10 (\$'000)

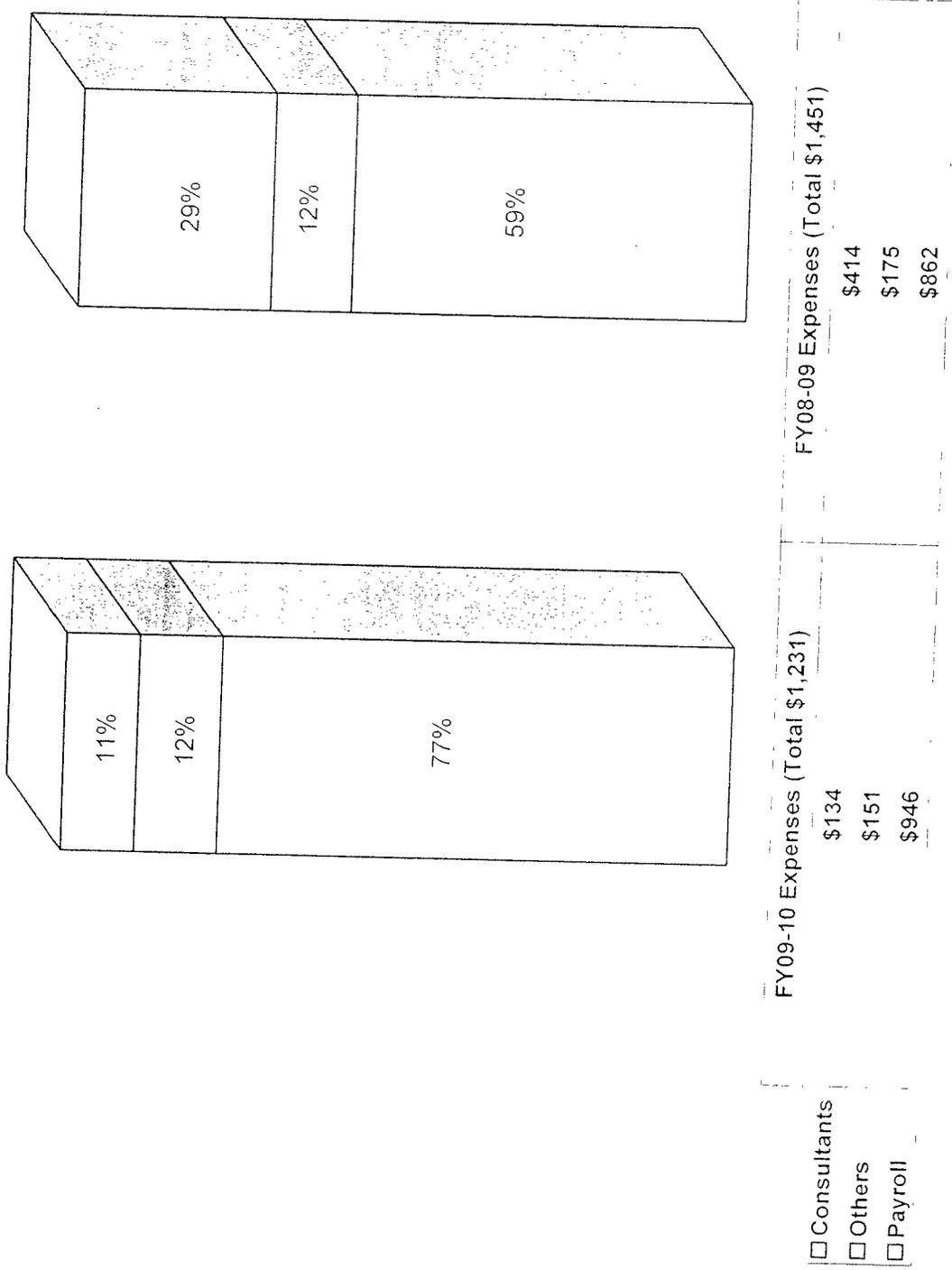


ABAG Financial Indices

Indirect Cost Rate (% of Direct Labor Cost) FY 09-10



ABAG Financial Indices
Composition of Expenses FY 09--FY 10
Year to Date
(\$'000)

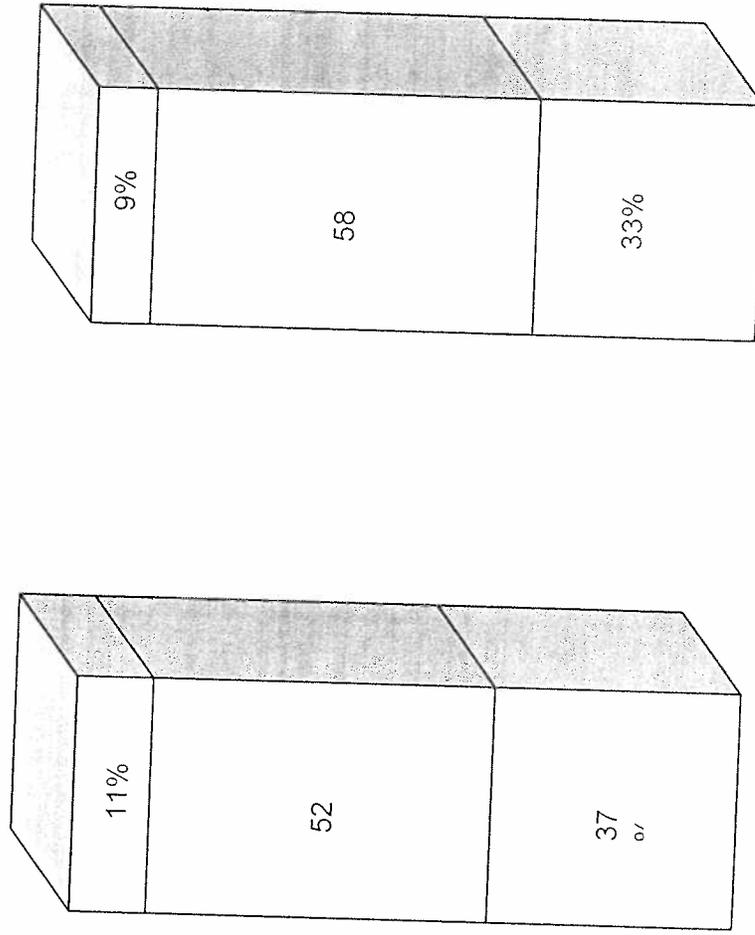


ABAG Financial Indices

Composition of Revenues FY 08--FY 09

Year to Date

(\$'000)

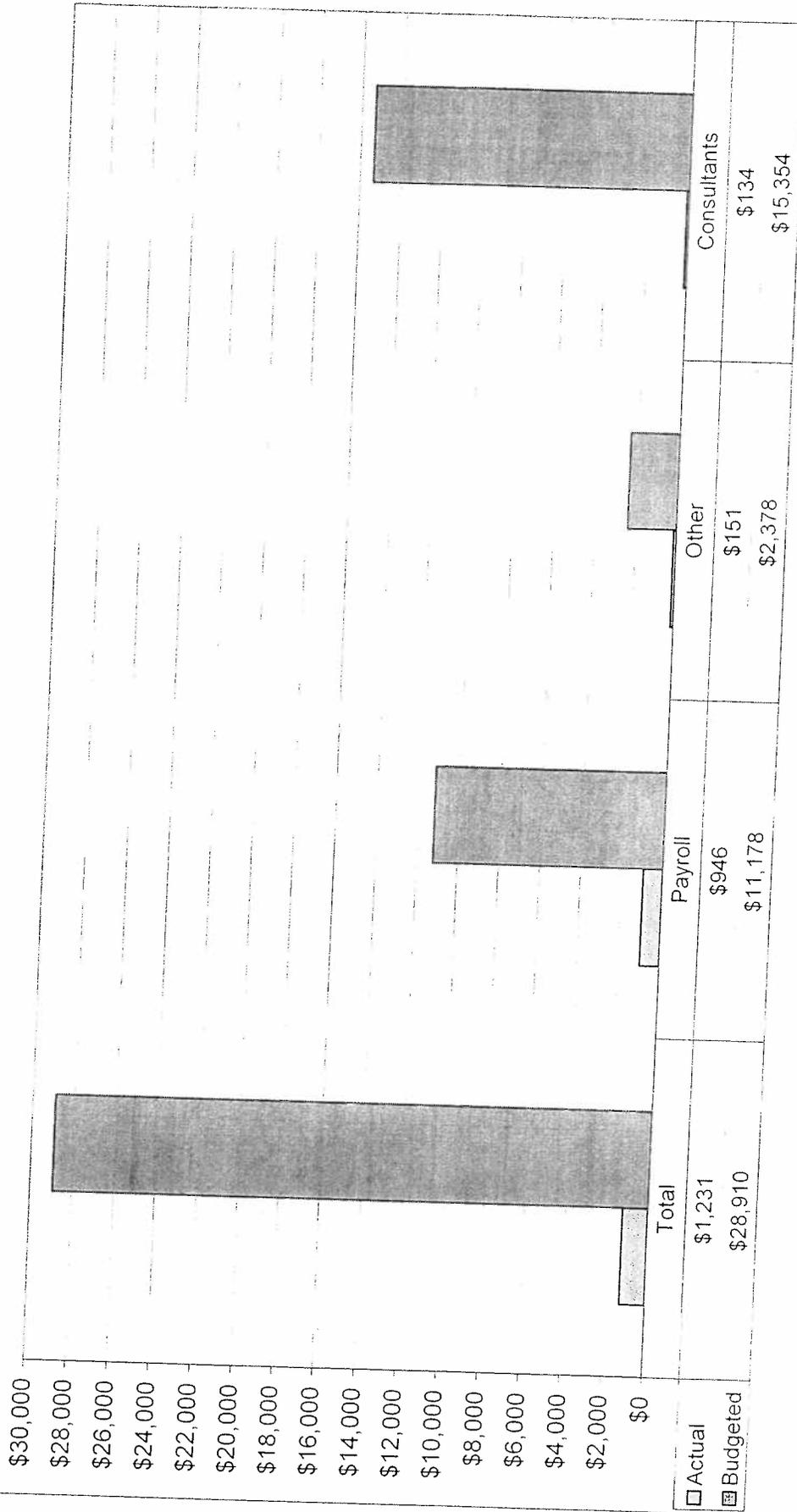


	FY 09-10 Revenue (Total \$1,211)	FY 08-09 Revenue (Total \$1,513)
<input type="checkbox"/> Membership	\$139	\$134
<input type="checkbox"/> Grants	\$624	\$874
<input type="checkbox"/> Services & Others	\$448	\$505

ABAG Financial Indices

Actual vs Budgeted Expenses--FY 09-10

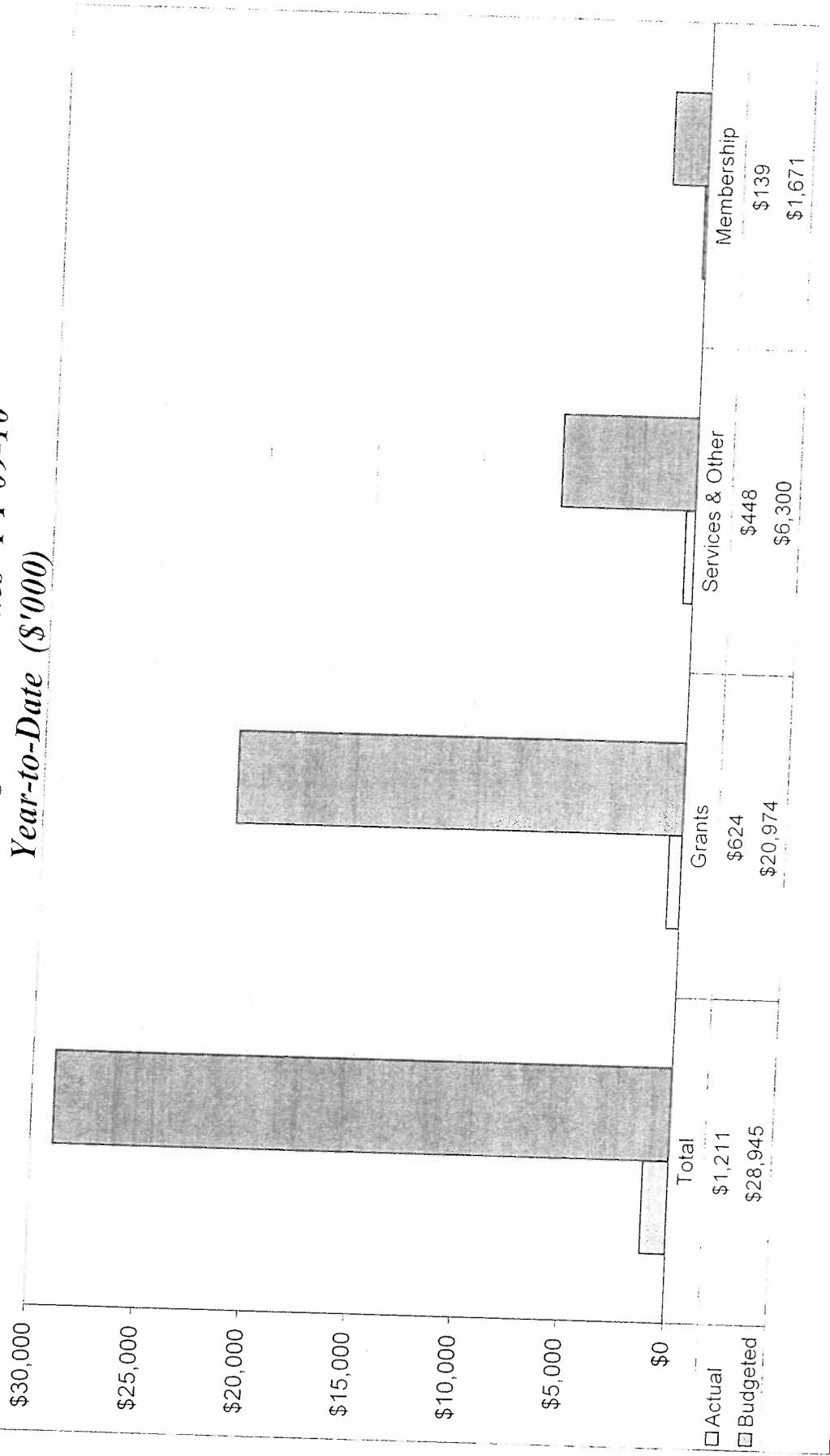
Year-to-Date (\$'000)



ABAG Financial Indices

Actual vs Budgeted Revenues--FY 09-10

Year-to-Date (\$'000)



Source: ABAG --INDICES 2009-07.xls

Description of Charts

Figure 1 -- Cash on Hand

Cash on hand represents the sum total of cash deposited at our bank and the Local Agency Investment Fund (LAIF). This chart shows fluctuation patterns of cash on hand for the current and last fiscal years.

Figure 2 -- Accounts Receivable

Accounts receivable tracked by this chart include receivables generated by grants and service programs over two fiscal years. This chart reflects the reasonableness of our receivable levels. We usually have about six weeks' worth of our annual revenues in receivables.

Figure 3 -- Current Month Revenues and Expenses

Presents month by month total revenues, total expenses, payroll and other expenses for the current fiscal year. The difference between total revenues and total expenses lines represents the overall current month net surplus (or deficit) for the agency.

Figure 4 -- Year-to-date Revenues and Expenses

Presents year-to-date total revenues, total expenses, payroll and other expenses for the current fiscal year. The difference between total revenues and total expenses lines represents the overall year-to-date net surplus (or Deficit) for the agency.

Figure 5 --Fund Equity

Presents general, restricted and total fund equities for the current fiscal year. General fund equity represents unrestricted equity. Restricted equities include building bond interest, building maintenance, self-insurance and capital. These restricted equities represent the agency's equities set aside for specific purposes as approved by the Finance and Personnel Committee. Total equity is the sum total of general and restricted equities.

Figure 6 -- Indirect Cost Rate (% of Direct Labor Cost)

This chart shows a comparison between the actual indirect cost rate and the approved rate. The approved indirect cost rate is computed by dividing total estimated overhead expenses by total projected direct labor cost for a fiscal year. This rate is used as a standard overhead cost rate to allocate indirect costs to all projects. This process is performed in accordance with an indirect cost plan, which is prepared annually in accordance with OMB A-87.

Figure 7 -- Composition of Expenses

This chart compares expenses for current and last fiscal years. It groups expenses into two broad categories -- payroll costs and other expenses.

Figure 8 -- Composition of Revenues

Presents a break down of total revenues into four main sources -- membership, grants, services and others. This chart compares revenue sources between current and last fiscal years.

Figure 9 -- Actual vs. Budgeted Expenses

Presents a comparison of actual and budgeted total expenses as well as component categories: payroll costs, consultants and other expenses.

Figure 10 -- Actual vs. Budgeted Revenues)

Presents a comparison of actual and budgeted total revenues as well as component categories: membership dues, grants, services and other.

Date: August 17, 2009

To: Henry L. Gardner, Executive Director

From: Patricia M. Jones, Assistant Executive Director
Herbert L. Pike, Finance Director

Subject: **Report on Diversity and Business Opportunities - FY 2008/09**

This status report summarizes ABAG's business opportunities, recruitment, promotion and training activities during FY 2008-2009 (ending June 30, 2009) and recommends programs that will continue our record toward improving the Agency's diversity.

Executive Summary

In a small agency such as ABAG (80 employees) there are limited opportunities for employment and promotion. However, during this past fiscal year, ABAG was able to add thirteen females and four males to our professional staff. We promoted one Hispanic female, one Asian female, four White females, one Asian male, and two White males all within the professional level.

ABAG's Diversity Program has three goals:

- To achieve in major job classifications (Management, Professional, Support) the same proportion of under-represented group members as exists in the nine-county San Francisco Bay Area labor force;
- To provide opportunities for all under-represented group members employed by ABAG to participate in training and education programs that will improve their personal advancement and contributions to the work of the Agency; and
- To ensure that the promotion of under-represented group members employed by ABAG be consistent with relevant skills, experience and background of the employees, performance requirements of higher job classifications and the needs for particular skills and positions in the Agency's work program.

This policy is consistent with the requirements and objectives set forth in Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e); the Age Discrimination in Employment Act of 1967 (29 U.S.C. § 621 et seq); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 793); the Americans With Disabilities Act (ADA) of 1990 (42 U.S.C. § 12101 et seq); and California Government Code Sections 12940 et seq.

The following table shows the racial make-up of the total population and the labor force in the nine Bay Area counties. This reflects 2000 census information.

BAY AREA NINE COUNTIES	TOTAL POPULATION	18 & Older (Labor Force)
RACIAL MAKE-UP	6,783,760	5,181,902
Amer. Indian, Eskimo & Aleut	0.6%	0.6%
Asian & Pacific Islander	19.5%	19.8%
Black	7.5%	7.1%
Hispanic*	19.4%	16.9%
Others	9.2%	8.1%
White	58.1%	60.6%
Two or More Races	4.9%	3.8%

The racial make-up of the three counties (Alameda, Contra Costa and San Francisco) from which ABAG staff is primarily drawn differs from the nine-county Bay Area as shown below.

ALAMEDA, CONTRA COSTA AND SAN FRANCISCO COUNTIES	TOTAL POPULATION	18 & OLDER (Labor Force)
RACIAL MAKE-UP	3,169,290	2,450,122
Amer. Indian, Eskimo & Aleut	0.6%	0.6%
Asian & Pacific Islander	20.7%	20.9%
Black	11.5%	10.7%
Hispanic*	17.4%	15.2%
Others	8.1%	7.1%
White	54.0%	56.6%
Two or More Races	5.1%	4.0%

*Persons of Hispanic origin may be of any race. Percents of White, Black, Asian and Pacific Islander, American Indian, Eskimo and Aleut, Others and Two or More Races may not total 100 percent due to rounding of decimals. Persons who identified themselves in the 2000 census as of Hispanic origin are also included in the racial categories.

Current Composition of Staff

The table below shows the composition of the ABAG staff as of June 30, 2009. Of 80 employees, 50 are White (62.5 percent); 13 are Asian (16 percent); 10 are Black (12.5 percent); 5 are Hispanic (6 percent); and 2 are Other (3 percent). On June 30, 2008, ABAG had 73 employees; the composition was 65 percent White, 16.5 percent Asian, 12 percent Black, 5.5 percent Hispanic and 1 percent Other. Because of the relatively small size of the staff, the addition or loss of one or two employees appears significant in percentages.

Progress towards diversity shows some variations for different under-represented members when examined by classification. Hispanics are not currently represented in the management and support classifications. As opportunities become available additional effort will be made to recruit this group.

ETHNIC BREAKDOWN BY CLASSIFICATION							
Race	Management		Professional		Support		Total
Amer. Indian	--		--		--		--
Asian	1	9%	10	17%	2	20%	13 16%
Black	1	9%	4	7%	5	50%	10 12.5%
Hispanic	--		5	8%	--		5 6%
Others	1	9%	1	2%	--		2 3%
White	8	73%	39	66%	3	30%	50 62.5%
Total	11	100%	59	100%	10	100%	80 100%

An examination of the composition of staff by classification and sex in the following table shows a need for more females in management and more males in professional and support classifications.

STAFF COMPOSITION BY CLASSIFICATION & GENDER			
Management (11)	Professional (59)	Support (10)	Total (80)
Male (9) 82%	Male (20) 34%	Male (3) 30%	Total (32) 40%
Female (2) 18%	Female (39) 66%	Female (7) 70%	Total (48) 60%

During FY 2008-2009, eleven staff members left the Agency. Two resigned, seven retired, and two were terminated. Nine of the eleven members were women or minorities.

	White*	Black	Asian	Hispanic	Male	Female
Management	1	--	1	--	2	--
Professional	6	--	1	--	2	5
Support	--	2	--	--	--	2
Totals	7	2	2	--	4	7

*White includes American Indian and Other

Recruitment

During FY 2008-2009, the Agency added seventeen staff members. Thirteen of whom were female.

	White*	Black	Asian	Hispanic	Male	Female
Management	2	--	--	--	2	--
Professional	8	1	2	1	2	10
Support	1	2	--	--	--	3
Totals	11	3	2	1	4	13

*White includes American Indian and Other

Job openings were advertised in the Sunday issue of the San Francisco Chronicle, Oakland Tribune/Alameda Newspaper Group, Contra Costa Times, San Jose Mercury News, Western City Magazine, and other specialized publications. Agency job openings were posted on the Internet and the application was available online.

Interview Panels have, whenever possible, included under-represented group members as well as both genders. This policy will continue. The Human Resources Manager and hiring manager select applicants for interview without knowledge of their ethnic status. If, however, this process does not produce representatives of under-represented groups, they are asked to re-examine the credentials of under-represented candidates. Whenever possible, qualified under-represented applicants are invited to interview.

The following table presents the salary breakdown for classified staff by race and sex as of June 30, 2009.

ASSOCIATION OF BAY AREA GOVERNMENTS
COMPOSITION OF CLASSIFIED STAFF BY SEX, RACE AND SALARY RANGE
 (As of June 30, 2009)

SALARY RANGE	WHITE*		BLACK		ASIAN		HISPANIC		SUB-TOTAL		TOTAL
	M	F	M	F	M	F	M	F	M	F	
MANAGEMENT											
\$115,008-\$151,704	8	1	--	1	1	--	--	--	9	2	
SUBTOTAL	8	1	--	1	1	--	--	--	9	2	11
PROFESSIONAL											
\$94,740-\$114,816	1	3	--	--	--	1	--	2	1	6	
\$74,880-\$99,348	1	5	1	--	1	--	--	1	3	6	
\$68,148-\$82,212	8	9	--	1	4	--	--	1	12	11	
\$56,712-\$68,148	3	6	--	1	--	2	1	--	4	9	
\$49,416-\$59,304	--	4	--	1	--	2	--	--	--	7	
SUBTOTAL	13	27	1	3	5	5	1	4	20	39	59
SUPPORT											
\$44,748-\$54,036	--	2	--	1	--	--	--	--	--	3	
\$38,880-\$47,124	--	--	--	4	2	--	--	--	2	4	
\$35,232-\$42,828	--	--	--	--	--	--	--	--	--	--	
\$30,300-\$37,008	1	--	--	--	--	--	--	--	1	--	
SUBTOTAL	1	2	--	5	2	--	--	--	3	7	10
TOTAL											
	WHITE*		BLACK		ASIAN		HISPANIC		SUB-TOTAL		TOTAL
	M	F	M	F	M	F	M	F	M	F	
TOTAL	22	30	1	9	8	5	1	4	32	48	80

*White includes American Indian and Other

Internship Program

In addition to our traditional summer intern program, the Tranter-Leong Graduate Student Intern Program allows students to receive experience in their field of study and provides valuable practical experience for those planning a career in public administration. The Internship Program consistently attracts a high caliber of applicants. The Agency received a total of 129 applications and hired 8 interns who were continuing or had just completed their education. Of the 8 interns, 4 were White (50 percent), 1 was Asian (12.5 percent), 1 was Black (12.5 percent), 1 was Hispanic (12.5 percent), and 1 was Other (12.5 percent).

Training

It is the Agency's policy to encourage staff to participate in training to enhance their performance and develop skills for future growth. Forty-three employees participated in 86 classes with the assistance of our training and development program. The Agency's expenditure was \$33,727.19 which compares to \$29,797 invested in FY 07/08 and \$25,176 invested in FY 06/07. The participants were from every classification and represented all races and genders. Although not represented in these numbers, the Agency encourages and supports managers and professionals to participate in workshops and associations related to their field. The expenditures for these on-going professional development programs are included in individual program and project budgets.

All program managers will be encouraged to promote the professional growth of their staff. Since funds are limited, they should be allocated to assist those efforts that enhance the position-related qualifications of regular staff members. A special effort will be made to identify under-represented group members who need guidance and encouragement, as well as financial help, to further their careers. This is especially true for those interested in completing their college education.

Promotions

There were eight promotions during this fiscal year. Five of those promoted were women. Six of the eight promotions were for women or for a member from an underrepresented group. All eight members were promoted within the professional level.

Business Opportunities - FY 08/09

Our adopted diversity policy states in part that:

“ABAG will, in its contracts with third parties for technical, consulting or other professional and non-professional services, comply with Federal rules regarding third-party relationships. ABAG will solicit proposals: from consultants with the required expertise who have protected group representatives among their employees, and from protected group consultants with the required expertise.”

In this spirit during FY 2008-09, ABAG used – and in most cases continues to use – the MBE/WBE firms, organizations or companies presented on Tables I and II.

In the past year, the agency consulting/service contracts with MBE/WBE organizations totaled \$1.37 million representing an increase of 4.2 percent from FY 2007-08. Our MBE/WBE contracts as a percentage of total business decreased from 22.9 percent in FY 2007-08 to 22.1 percent in FY 2008-09.

Conclusion

Progress toward achieving and maintaining a diverse workforce continues to be a challenge. As in previous years, we continue to seek Hispanic applicants to round out ABAG's diverse workforce. We will also continue to reach out and provide contracting opportunities to as many under-represented groups as possible, while maintaining our requirements of excellence.

TABLE 1: LIST OF FIRMS/CONTRACTS BY NAME

COMPANY	NATURE OF WORK	TYPE	FY2008/09 (\$'000)	FY2007/08 (\$'000)	Change FY2007/08 to FY2008/09
Accent Service Company Inc	Custodial Services	Asian			
Alonzo Printers	SFEP Printers	Hispanic	30	28	
Ankrum, Kathryn A	SFEP Consultant	Woman	28	26	
Bon Appetit Catering	Catering Services	African American	0	10	
Brockbank, Marcia	SFEP Consultant	Woman	0	46	
Calflora Database	SFEP Consultant	Woman	5	4	
Career Alliance	Temporary Personnel Agency	Woman	0	4	
Chigbu, Paulinus	SFEP Consultant	African American	206	174	
Chops Steakhouse	Catering Services	African American	0	2	
Coale, Kristi	SFEP Consultant	Woman	4	0	
Collins, Laurel	SFEP Consultant	Woman	0	5	
Digital Hive	Haz Waste/Green Business	Woman	0	3	
Drlik, Tanya	Consultant	Woman	3	0	
Easy Copy Center	Copying	Asian	1	0	
Ely, Eleanor	CALFED Consultant	Woman	1	0	
Fastsigns	SFEP Signs	Asian	0	8	
Finger Design Assoc	Graphic Designer	Asian	1	0	
Goodwin Consulting Group Inc	Consultant	Woman	45	0	
Goza Gear	Bay Trail Supplier - Promo Items	Woman	26	26	
Hall Enterprises Inc	PLAN Dept Legal Counsel	Hispanic	1	1	
Hood, Walter	General Assembly Speaker	Woman	45	18	
Innes, Judith e	SFEP Consultant	African American	0	1	
Jameson, Anand	SFEP Consultant	Woman	3	7	
Jeanne Perkins Consulting	Consultant	Asian	0	2	
JM Design	Printing	Woman	106	96	
JP Graphics Inc	SFEP Printer	Woman	6	0	
JT Litho	Printing	Woman	12	5	
Keating, Marisela	Consultant	Asian	78	62	
Keynote Speakers, Inc		African American	1	0	
Krieshok, Lisa	SFEP Consultant	Woman	2	0	
Lewis, Karen	Consultant	Woman	0	1	
Lisowski, Nina	Estuary Project Consultant	Woman	4	0	
LunchStop Café Metro	Food Service	Woman	2	4	
Marshall, Jill	SFEP Consultant	Asian	22	14	
Meyer, Judith L	SFEP Consultant	Woman	1	0	
Microgear, Inc.	Computer Supplies/Maintenance	Woman	0	4	
Mission Economic Dev		Asian	0	28	
Morrison O'Hara	Engraving/Awards	African American	30	0	
National Forum for Black Public Admin	Professional Organization	Woman	0	1	
Oakland Marriott City Center	Conference/Workshop	African American	1	0	
On A Roll	Catering Services	Asian	13	0	
Orenstien, Suzanne		Asian	1	1	
Pastor, Manuel	Genreal Assembly Speaker	Woman	8	0	
PDQ Print Copy	Printing	Hispanic	0	2	
Pestec	SFEP Consultant	Asian	2	0	
Policylink		Hispanic	0	2	
Reed, Denise j	Consultant	African American	10	0	
Sight & Sound Corp		Calfed woman	2	0	
Software House Inter	Agency Computer Supply	African American	20	0	
SSP Data Products	Consultant Agency Computer Supply	Asian	0	5	
Patton, Joan	Estuary Project Consultant	Asian	50	36	
Pristia, Elizabeth	Consultan/PLAN Corp.	Woman	6	24	
Real Facts	Info/Analysis Supplies	Woman	1	3	
Safety Compliance Management	Training	Woman	0	2	
Sloan, Roberta	SFEP Consultant	Woman	294	336	
Sullivan, Veronica	SFEP Consultant	Woman	15	25	
TDC Environmental LLC	SFEP Consultant	Woman	0	2	
Thornton, Carol	SFEP Consultant	Woman	62	79	
Wildwood Crafts		Woman	18	36	
Variable Path Inc	Computer Supplies/Maintenance	Woman	1	0	
V-Soft, Inc	Database Consultant	Asian	0	2	
Watercourse Engineer		Asian	190	174	
		African American	10	0	
	TOTAL		1,366	1,311	4.2%

TABLE II: LIST OF FIRMS/CONTRACTS BY TYPE

COMPANY	NATURE OF WORK	TYPE	FY2008/09 (\$'000)	FY2007/08 (\$'000)	CHANGE FY2007/08 to FY2008/09
African American					
Bon Apetit Catering	Catering Services	African American	0	46	
Career Alliance	Temporary Personnel Agency	African American	206	174	
Chigbu, Paulinus	SFEP Consultant	African American	0	2	
Hood, Walter	General Assembly Speaker	African American	0	1	
Keating, Marisela	Consultant	African American	1	0	
Mission Economic Dev	Consultant	African American	30	0	
National Forum for Black Public Adm	Professional Organization	African American	1	0	
Policylink	Consultant	African American	10	0	
Sight & Sound Corp	Audio/Video work	African American	20	0	
Watercourse Engineer	Consultant	African American	10	0	
Total African American			277	223	23.9%
Asian					
Accent Service Company Inc	Custodial Services	Asian	30	28	
Easy Copy Center	Copying	Asian	1	0	
Fastsigns	SFEP Signs	Asian	1	0	
Jameson, Anand	SFEP Consultant	Asian	0	2	
JT Litho	Printing	Asian	78	62	
LunchStop Café Metro	Food Service	Asian	22	14	
Microgear, Inc.	Computer Supplies/Maintenance	Asian	0	28	
Oakland Marriott City Center	Conference/Workshop	Asian	13	0	
On A Roll	Catering Services	Asian	1	1	
PDQ Print Copy	Printing	Asian	2	0	
Software House Inter	Agency Computer Supply	Asian	0	5	
SSP Data Products	Consultant Agency Computer Si	Asian	50	36	
Variable Path Inc	Computer Supplies/Maintenance	Asian	0	2	
V-Soft, Inc	Database Consultant	Asian	190	174	
Total Asian			388	354	9.7%
Hispanic					
Alonzo Printers	SFEP Printers	Hispanic	28	26	
Goza Gear	Bay Trail Supplier - Promo Itc	Hispanic	1	1	
Pastor, Manuel	Genreal Assembly Speaker	Hispanic	0	2	
Pestec	SFEP Consultant	Hispanic	0	2	
Total Hispanic			29	30	-2.4%
Woman					
Ankrum, Kathryn A	SFEP Consultant	Woman	0	10	
Brockbank, Marcia	SFEP Consultant	Woman	5	4	
Calflora Database	SFEP Consultant	Woman	0	4	
Chops Steakhouse	Catering Services	Woman	4	0	
Coale, Kristi	SFEP Consultant	Woman	0	5	
Collins, Laurel	SFEP Consultant	Woman	0	3	
Digital Hive	Haz Waste/Green Business	Woman	3	0	
Drlik, Tanya	Consultant	Woman	1	0	
Ely, Eleanor	CALFED Consultant	Woman	0	8	
Finger Design Assoc	Graphic Designer	Woman	45	0	
Goodwin Consulting Group Inc	Consultant	Woman	26	26	
Hall Enterprises Inc	PLAN Dept Legal Counsel	Woman	45	18	
Innes, Judith e	SFEP Consultant	Woman	3	7	
Jeanne Perkins Consulting	Consultant	Woman	106	96	
JM Design	Printing	Woman	6	0	
JP Graphics Inc	SFEP Printer	Woman	12	5	
Keynote Speakers, Inc	Speaker Fees/Consultant	Woman	2	0	
Krieshok, Lisa	SFEP Consultant	Woman	0	1	
Lewis, Karen	Consultant	Woman	4	0	
Lisowski, Nina	Estuary Project Consultant	Woman	2	4	
Marshall, Jill	SFEP Consultant	Woman	1	0	
Meyer, Judith L	SFEP Consultant	Woman	0	4	
Morrison O'Hara	Engraving/Awards	Woman	0	1	
Orenstien, Suzanne	SFEP Consultant	Woman	8	0	
Patton, Joan	Estuary Project Consultant	Woman	6	24	
Pristia, Elizabeth	Consultant/PLAN Corp.	Woman	1	3	
Real Facts	Info/Analysis Supplies	Woman	0	2	
Reed, Denise j	Consultant	Calfed woman	2	0	
Safety Compliance Management	Training	Woman	294	336	
Sloan, Roberta	SFEP Consultant	Woman	15	25	
Sullivan, Veronica	SFEP Consultant	Woman	0	2	
TDC Environmental LLC	SFEP Consultant	Woman	62	79	
Thornton, Carol	SFEP Consultant	Woman	18	36	
Wildwood Crafts	Engraving/Awards	Woman	1	0	
Total Woman			671	704	-4.6%
Total MBE/WBE			1,366	1,311	4.2%
Total ABAG Consulting/Service Contracts			6,193	5,719	
Percent MBE/WBE of Total Consulting/Service Contracts			22.1%	22.9%	

Submitted by: Herbert Pike and Brian Kirking
Subject: Authorization to Borrow up to \$700,000 for Office Renovation
Date: September 17, 2009

Background

For the following reasons, ABAG is requesting approval to renovate its workspace at the MetroCenter which has not been significantly updated since ABAG moved in back in 1984. Because of the age of the furnishings, partition walls are not fully secured to prevent leaning/falling; loose wires have been used in place of wiring integrated into partition walls; modular furniture is not utilized uniformly, much of the cubicle furniture represents recycled desks and file cabinets, partition walls reflect 25 years of wear and tear; employee chairs are broken and worn; ceiling tiles are discolored, broken, discolored and not uniform; and walls are dull and full of nail holes, outlet holes, exterior wiring that was not integrated into the walls, chips, and scrapes. We also have a phone system that has not been updated for over 12 years. These deficiencies were pointed out when an internal scan of employees was conducted and assessed to contribute to less than optimal employee morale. Much of the current furniture also does not conform to current ergonomic standards.

Estimated Scope of Renovation and Costs

1. Cubicles and Modular Furniture (includes project design, project management, installation and electrical)	\$350,000
2. Chairs	30,000
Other Furniture (Moveable, e.g. File Cabinets)	15,000
3. Painting	30,000
4. Remodeling of Corridor	15,000
5. Ceiling Tile Replacement	30,000
6. Built-in Cabinets	15,000
7. Phone System (including consultant)	
8. 80,000 Cabling & Related Hardware (for phones & computers)	80,000
9. Contingency(9%)	<u>55,000</u>
Total	<u>\$700,000</u>

Projected Funding

A capital loan is proposed of up to \$700,000 that would be amortized over 10 years. Interest payments would not exceed \$100,000 per year. The purchased furniture would be depreciated over the same period and would be included in the overhead calculations. The impact should be nominal since the last loan payment on the

building is being made in December 2009. Essentially, the office renovations would supplant the funds previously allocated for building pay-off.

Staff Recommendation

Staff seeks authorization to borrow up to \$700,000 to fund office renovations.

Association of Bay Area Governments
Executive Board

Meeting No. 369, September 17, 2009

PRESIDENT Supervisor Rose Jacobs Gibson, County of San Mateo
 VICE PRESIDENT Mayor Mark Green, City of Union City
 IMMEDIATE PAST PRESIDENT Supervisor David D. Cortese, County of Santa Clara
 SECRETARY-TREASURER Henry L. Gardner
 LEGAL COUNSEL Kenneth K. Moy

County of	Representative	Alternate
ALAMEDA	** Supervisor Gail Steele	Supervisor Alice Lai-Bitker
ALAMEDA	** Supervisor Scott Haggerty	Supervisor Nathan Miley
CONTRA COSTA	* Supervisor Gayle B. Uilkema	Supervisor Susan Bonilla
CONTRA COSTA	* Supervisor John Gioia	Supervisor Mary Piepho
MARIN	** Supervisor Susan Adams	Supervisor Judy Arnold
NAPA	** Supervisor Mark Luce	Supervisor Bill Dodd
SAN FRANCISCO	** Supervisor John Avalos	To Be Appointed
SAN FRANCISCO	** Supervisor Ross Mirkarimi	To Be Appointed
SAN MATEO	* Supervisor Rose Jacobs Gibson	Supervisor Mark Church
SAN MATEO	* Supervisor Carole Groom	Supervisor Rich Gordon
SANTA CLARA	** Supervisor Ken Yeager	Supervisor Donald Gage
SANTA CLARA	** Supervisor Dave Cortese	Supervisor George Shirakawa
SOLANO	* Supervisor Barbara Kondylis	Supervisor James Spering
SONOMA	* Supervisor Mike Kerns	Supervisor Shirlee Zane

Cities in the County of	Representative	Alternate
ALAMEDA	* Mayor Beverly Johnson (Alameda)	Mayor Tony Santos (San Leandro)
ALAMEDA	* Mayor Mark Green (Union City)	Mayor Michael Sweeney (Hayward)
CONTRA COSTA	** Mayor Julie Pierce (Clayton)	Vice Mayor Dave Hudson (San Ramon)
CONTRA COSTA	** Councilmember Joanne Ward (Hercules)	Councilmember Ben Johnson (Pittsburg)
MARIN	* Councilmember Carole Dillon-Knutson (Novato)	Councilmember Shawn Marshall (Mill Valley)
NAPA	* Mayor Jack Gingles (Calistoga)	Mayor Leon Garcia (American Canyon)
CITY OF SAN FRANCISCO	* Mayor Gavin Newsom	Mike Farrah, Senior Advisor to the Mayor
CITY OF SAN FRANCISCO	* Nancy Kirshner Rodriguez, Government Affairs Dir.	Christine DeBerry, Board Liaison
CITY OF SAN FRANCISCO	* Hydra Mendoza, Education Advisor	To Be Appointed
SAN MATEO	** Mayor A. Sepi Richardson (Brisbane)	Councilmember Pedro Gonzalez (S San Francisco)
SAN MATEO	** Councilmember Richard Garbarino (S San Francisco)	Councilmember John Boyle (Menlo Park)
SANTA CLARA	* Councilmember Dan Furtado (Campbell)	Mayor Pro Tem David Casas (Los Altos)
SANTA CLARA	* Councilmember Joe Pirzynski (Los Gatos)	Vice Mayor Ronit Bryant (Mountain View)
SOLANO	** Mayor Len Augustine (Vacaville)	Mayor Harry Price (Fairfield)
SONOMA	** Mayor Pamela Torlatti (Petaluma)	Mayor Susan Gorin (Santa Rosa)
CITY OF OAKLAND	* Vice Mayor Jean Quan	To Be Appointed
CITY OF OAKLAND	* Councilmember Jane Brunner	To Be Appointed
CITY OF OAKLAND	* Councilmember Nancy Nadel	To Be Appointed
CITY OF SAN JOSE	* Councilmember Sam Liccardo	Councilmember Rose Herrera
CITY OF SAN JOSE	* Councilmember Kansen Chu	Councilmember Nancy Pyle
CITY OF SAN JOSE	* Councilmember Ash Kaira	Mayor Chuck Reed

Advisory Members	Representative	Alternate
RWQCB	Terry Young	Bill Peacock

* Term of Appointment: July 1, 2008 - June 30, 2010

** Term of Appointment: July 1, 2009 - June 30, 2011



ABAG

Meeting Schedule **2009**

Executive Board Meetings

January 15
March 19
May 21
July 16
September 17
November 19

START TIME
7:00 PM

LOCATION
Joseph P. Bort MetroCenter Auditorium
101 Eighth Street
Oakland, California 94607
Across from the Lake Merritt BART Station

Spring General Assembly

April 23
Palace Hotel
San Francisco

Fall General Assembly

October 22
Westin St. Francis Hotel
San Francisco