AGENDA

Meeting of the Board of Directors

Location:  City of Rancho Cordova City Hall
           2729 Prospect Park Drive
           Rancho Cordova, CA

Date:  Friday, August 22, 2014, 8:30 a.m. to 10:30 a.m.

Members of the public may comment on any item on the agenda at the time that it is taken up by the Board. We ask that members of the public complete a Speaker Card, submit it to the Clerk of the Board, and keep their remarks brief. If several persons wish to address the Board on a single item, the Chair may impose a time limit on individual remarks at the beginning of the discussion.

Call to Order / Roll Call

Directors Hume, Mikulaco, Nottoli, Sander, Starsky

Pledge of Allegiance

Public Comments on Non-Agenda Items

Any person wishing to address the Board on any item not on the agenda may do so at this time. After ten minutes of testimony, any additional testimony may be heard following the New Business Items. Note, under the provisions of the California Government Code, the Board is prohibited from discussing or taking action on any item not on the agenda.

1. Executive Director's Report

Consent Agenda

2. Minutes of July 11, 2014, Board Meeting

New Business Items

3. Project Segmentation Strategy
   a. Staff Report
   b. Draft Delivery Schedule for Phase 1

4. Introduction of the Annual Updates to the Plan of Finance (POF) and Project Design Guidelines (PDG)
   a. Attachment – Staff Report
   a. Attachment – Staff Report
   b. Attachment – Presentation
   c. Attachment – Utilities Framework

6. Update on Governmental Relations
   a. Attachment: Staff Report

7. Update on the South Sacramento Habitat Conservation Plan (SSHCP)
   a. Attachment – Staff Report
   b. Attachment – Presentation

8. Adjournment

The Board may take action on any matter, however listed on this agenda, and whether or not listed on this agenda, to the extent permitted by applicable law. Staff Reports are subject to change without prior notice.

If requested, this agenda can be made available in appropriate alternative formats to persons with disabilities, as required by Section 202 of the Americans with Disabilities Act of 1990 and the Federal Rules and Regulations adopted in implementation thereof. Persons seeking an alternative format should contact the Board Secretary for further information.

A person with a disability, who requires a modification or accommodation, including auxiliary aids or services, in order to participate in a public meeting, should telephone or otherwise contact the Board Secretary as soon as possible. The Board Secretary may be reached at 10640 Mather Blvd., Suite 120, Mather, CA 95655 or by telephone at 916-876-9094.
Executive Director’s Report

Issue: An Executive Director’s report is filed every month on current JPA activities

Recommendation: Receive and File

Discussion: The following is a brief status report on some of the more significant issues and activities currently being pursued by the Connector JPA staff.

Administrative

- It is anticipated that Director Nottoli will need to leave today’s meeting early.
- As reported at the last JPA Board meeting, the September Board meeting will be canceled. The next regularly scheduled Board meeting is October 10th.
- As reported at the last JPA Board meeting, there is no alternate currently appointed to the JPA Board for El Dorado County due to the Board of Supervisor vacancy in District 2. Since the JPA charter requires both primary and alternative representation from all member jurisdictions, staff will be requesting that an alternate be appointed once the vacancy has been filled.
- The Executive Director will be on vacation from September 10th through September 24th.

Fiscal

- Invoices for the FY 2014-15 local contribution of $10K each have been mailed to the member jurisdictions. To date, payment has been received from the County of Sacramento and the Cities of Folsom and Rancho Cordova. The JPA appreciates the promptness of their response.
- The final JPA adjusted year-end budget for FY 2013-14 came in at 76% of the total budget. This is a direct result of the measures taken by staff to reduce expenditures where possible.

Project

- Work is progressing on the development of a Request for Proposal (RFP) for the D3/E1 section of the project in support of the project segmentation strategy included in today’s agenda. It is anticipated that an RFP will be released in October and a proposed consultant will be recommended to the Board in December.
- A draft of the 2016 MTP/SCS updated project list has been circulated by SACOG to its member agencies and each member jurisdiction has concurred with the JPA request for sponsorship/joint sponsorship status on their Connector alignment projects.
• On August 26th the City of Folsom City Council is scheduled to hear an item to make minor modifications to the Folsom Plan Area Specific Plan to better reflect the Connector Project along White Rock Road, consistent with the recent Sacramento County General Plan Amendment.

• As discussed at the July Board meeting, a letter and questionnaire was mailed, to the agricultural property owners who did not attend the first round of Ag outreach meetings. The letter requested that property owners complete and return the questionnaire stating their agricultural uses and needs. Staff will continue with the development of proposed access options and report back to the Board with recommendations at a later meeting.

• Staff continues to meet with staff in the City of Rancho Cordova in an effort to schedule a General Plan Amendment hearing for their portion of the project. Staff is working toward resolution of several detailed areas of interest before scheduling the hearing.

Media

• Sacramento Bee - Viewpoints
  o July 8, 2014
    ▪ Sacramento County Needs SouthEast Connector
    ▪ Connector also benefits El Dorado Hills
    ▪ Inner/outer loop for Sacramento
  
  o July 10, 2014
    ▪ Support for Capital SouthEast Connector

Miscellaneous

• On August 14th, CTC Commissioner Jim Earp, Mayor Howell from Folsom, and Supervisor MacGlashan from Sacramento, were the JPA’s guests on a driving tour of the Connector Project. The Executive Director of the Sacramento Transportation Authority (STA), Brian Williams, was also in attendance to provide more information on the project and its benefits to the region.

• An informational brochure is in final development supporting the Folsom/El Dorado D3/E1 segment as well as the Rancho Cordova D2 segment. Copies of both brochures will be available at the next Board meeting as well as on the JPA website.

Respectfully Submitted,

Tom Zlotkowski
Executive Director
Capital SouthEast Connector Board of Directors

Item #2
Receive and File

August 22, 2014

Action Minutes of the July 11, 2014, Meeting

The Capital SouthEast Connector Authority's Board of Directors met in regular session on July 11, 2014, in the Rancho Cordova Council Chambers, located at 2729 Prospect Park Drive, Rancho Cordova, CA.

Call to Order: Director Nottoli called the meeting to order at 8:35 a.m.

Roll Call: Present: Directors Nottoli, Starsky, Budge,* and Mikulaco**
Absent: Director Hume

*Director Budge attended as the alternate for Director Sander
**Director Mikulaco excused himself from the meeting after the vote on Item 6, as noted below.

Executive Director's Report: Mr. Zlotkowski, the Executive Director of the Authority, summarized the highlights from his Executive Director's Report, including the status of the following items: welcoming the newest member of the JPA, Kimberlee Marlan; the next Board meeting will take place on August 22nd; the lease renewal; the agricultural outreach process; processing of the requested JPA charter amendment; the General Plan amendment process; the Request for Proposals for Project Management Services; and STA's public awareness campaign to promote completed projects constructed and operated by the current Measure A program.

Consent Agenda

The consent agenda included: (1) minutes of the June 13, 2014, meeting; (2) Amendment No. 1, Joint Exercise of Powers Agreement; (3) Master Agreement and DBE Implementation Agreement with the State of California Department of Transportation; (4) Update on Ag Outreach. It was moved by Director Nottoli, seconded by Director Budge, and passed by unanimous vote that:

THE CAPITAL SOUTHEAST CONNECTOR AUTHORITY BOARD OF DIRECTORS APPROVES THE FOLLOWING ITEMS FROM THE CONSENT AGENDA: (1) MINUTES OF THE JUNE 13, 2014, MEETING; (2) AMENDMENT NO. 1, JOINT EXERCISE OF POWERS AGREEMENT, (3) MASTER AGREEMENT AND DBE IMPLEMENTATION AGREEMENT WITH THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION, (4) UPDATE ON AG OUTREACH.

New Business Items

Project Segmentation Strategy
Mr. Zlotkowski presented the Project Segmentation Strategy. After much discussion and input, Director Starsky made a motion to adopt the Project Segmentation Strategy as presented in the staff report and recommended by JPA staff. An alternative motion was made by Director Mikulaco to continue this item for discussion at the next Board meeting. Director Budge seconded the motion to continue the item. Public comment on the
proposed construction schedule was provided by Bill Meyer, a Sheldon resident. The motion to continue the item was adopted by the following vote:

Ayes: Directors Budge, Mikulaco, and Nottoli
Noes: Director Starsky

*Director Mikulaco excused himself at the end of this item.

Right of Way Manual – Procedure Framework: Mr. Zlotkowski introduced the JPA’s consultant, Theron Roschen of Quincy Engineering, who presented this item. This was an informational item only.

Design-Build Consultation Update: Mr. Zlotkowski introduced the JPA’s consultant, Brian Dowd of Granite Construction Inc., who presented the item. This was an informational item only.

Adjournment: The meeting adjourned at 10:02 a.m.

Approved By: Attest:

________________________________ ______________________________
Director Nottoli Tom Zlotkowski
Chair of the Board Board Secretary
Project Segmentation Strategy

**Issue:** To present the Board with a proposed strategy on delivering the individual segments of the Connector Project.

**Recommendation:** Staff recommends the Board adopt the segmentation strategy as presented and direct staff to proceed with project development work in support of the strategy.

**Background:** At the July Board meeting staff presented a draft of the Segmentation Strategy for discussion. The staff report summarized the prior discussions on phasing/segmentation that the Board has had, summarized the current segmentation designation, and discussed the complicating factors that affect the schedule including total revenue, ‘color of money’, Metropolitan Transportation Improvement Plan (MTIP) requirements, environmental considerations and technical complexity, amongst others. At your meeting, the Board continued this item to allow for full discussion/deliberation by all five Board members.

Since the July Board meeting, staff has revised the delivery schedule, taking into account input received from the Board and from the Project Development Team (PDT). As the project delivery schedule is affected by many variables and requirements out of staff's control, the PDT agreed that routine updates to the schedule will be required, as necessary.

**Discussion:** The attached Project Delivery Schedule for Phase 1 provides a representation of the segmentation strategy with approximate timeframes to get each segment “Shovel Ready”, i.e. in a condition to advertise for a construction contract. The following is a more detailed explanation on the timing shown:

**Segments A1/A2 (I-5/Hood-Franklin Interchange to SR 99/Grant Line Road Interchange)**

The County of Sacramento and City of Elk Grove continue to work on completing California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) clearance for the Kammerer Road Project under local project status with JPA staff support.

At the June JPA Board Meeting, City staff presented a current schedule of the project which shows the completion of Environmental/Preliminary Engineering phase in March 2016. Staff has continued to use this date for the development of this segment. The City continues to pursue the project as a local project and the JPA continues work cooperatively with them. The City would consider delivery of the project by the JPA if the JPA can provide for a more rapid delivery than the City. The JPA supports the City’s pursuit of the most rapid delivery of this project. Staff anticipates nearly a 2-year long process to obtain right-of-way due to the numerous properties and residences along the alignment. This process requires prior certification of the environmental documents.
Segments A1 and A2 are shown as a combined effort. The City and County have been informed that these segments, together, have independent utility and logical termini, and thus can be developed as a stand-alone project.

**Segment B1 (SR 99/Grant Line Road Interchange to Waterman Road)**

This segment has been initiated by the City of Elk Grove as a local agency project and is currently under construction today. The current construction schedule shows completion by October 2015.

**Segment B2 (Waterman Road to Bradshaw Road) and Segment B3 (Bradshaw Road to Bond Road)**

In 2011, the City of Elk Grove applied for and later received a SACOG Flexible Funds Grant for the Environmental/Preliminary Engineering phase through Final Design for Grant Line Road between Waterman Road and Bradshaw Road. In addition, SACOG provided funds to move the project through construction, but only for a smaller sub-segment between Waterman Road and Mosher Road (approximately 1/3 mile).

The grant request occurred prior to adoption of the JPA EIR and before the development of the Plan of Finance. While JPA staff is appreciative for the SACOG grant funding, the JPA and the County of Sacramento/City of Elk Grove should work toward maintaining consistency and continuity along the Connector alignment with regard to scope, environmental review and clearance, project timing, and conformity to the Connector Plan of Finance (POF) and Project Design Guidelines (PDGs). Any significant changes to the plan for delivery should be identified and addressed to maintain transparency. Some of the areas staff recommends specific attention be given include:

- **Project Limits:** The project limits introduce inconsistencies with the POF and Program EIR (PEIR). The PEIR does not break apart this segment; instead a larger, continuous segment to Bond Road is identified as the logical termini for Segment B.

- Environmental Consistency: The JPA Board certified a Program EIR and entered into a subsequent settlement agreement with the Environmental Council of Sacramento (ECOS) based on that document. The City of Elk Grove completed CEQA for this section in 2005 as part of their segment B1 project. The City has initiated an update to that document and started NEPA clearance under local project status. The City has expressed that it does not plan to tier off of the SouthEast Connector PEIR. This could introduce potential new exposure to the process approval and potentially restrict the JPA’s ability to construct the project. In addition, it is unclear how pursuing a project level NEPA document for this segment that differs from the project identified in the Connector PEIR may affect the JPA’s future environmental position with stakeholders of interest.

- Delivery Consistency: The City intends to deliver the construction phase as a local agency project which could put the project sponsor in a competitive position with the JPA for this small segment of the alignment. The City would pursue construction through the Connector JPA should the JPA be able to fund this work, however if the City does not tier off the JPA PEIR, this option would likely be very difficult. The segment would need to be folded into the larger segment B delivery strategy currently shown in the Connector PEIR and POF.

Staff requests the Board provide direction regarding the project limits, environmental consistency and delivery of Segment B in consultation with City Staff.
As shown on the schedule today, Segment B2 and B3 are separate. A current project schedule developed by the City shows the completion of the Environmental/Preliminary Engineering phase in October 2015. At this time a direct source of revenue has not been identified for segment B3. Staff is showing this segment beginning the Environmental/Preliminary Engineering phase in 2016 as a way to capture other funding opportunities should they arise despite it deviating from the currently approved planning documents.

**Segment C (Bond Road to Calvine Road)**

At this time, a direct source of revenue has not been identified for this segment. This segment is also shown to be pursued as a CEQA-only environmental analysis per the Federal Funding and Environmental Review Strategy Report which was presented in April. Staff is showing this segment beginning in 2019 as a way to capture other funding opportunities should they arise.

**Segment D1 (Calvine Road to SR 16 Jackson Hwy)**

At this time a direct source of revenue has not been identified for this segment. Staff is showing this segment beginning the Environmental/Preliminary Engineering phase in 2018 as a way to capture other funding opportunities should they arise.

**Segment D2 (SR 16 Jackson Hwy to White Rock Road)**

At the May Board meeting, staff presented the PDT’s recommendations to apply the $2 Million in SACOG Flexible Funds Grant to Segment D2 to initiate the Environmental/Preliminary Engineering phase. The Board approved this recommendation. The Board also approved the execution of a Master Agreement with Caltrans, and staff is currently awaiting authorization from the Federal Highway Administration (FHWA) to begin work on this segment.

This segment connects to the recently completed County of Sacramento State Bond Proposition 1A project on the north (White Rock Road to Prairie City) and has the highest concentration of habitat constraints, including extensive occurrences of wetland, stream, vernal pools, swales, and other habitat and would affect more floodplain and natural waterways that support a rich aquatic ecosystem and habitat for numerous protected species. Given this complexity, its prudent to begin the Federal process early, recognizing a lengthy review process is inevitable. Staff anticipates an approximately 2-year long process to complete the Environmental/Preliminary Engineering phase.

**Segments D3/E1 (Prairie City Road to Latrobe Road)**

As discussed at the May Board meeting, Segments D3 and E1 must be combined to obtain logical termini. In addition, the recent completion of Sacramento County’s White Rock Road Widening Project provided certified CEQA clearance for the widening of White Rock Road from two to four lanes from Sunrise Boulevard east to the El Dorado County line, which includes Segment D3. Thus, these segments are shown as combined and delivered through a “CEQA only” process. As directed by the Board in June, staff has been working to develop a Request for Proposal for the Environmental/Preliminary Engineering phase.

**Segment E2 (Latrobe Road to US 50/Silva Valley Parkway Interchange)**
Segment E2 is part of El Dorado County’s Traffic Impact Mitigation Fee Program and is currently shown to begin the Environmental/Preliminary Engineering phase in 2025. Staff is showing this segment beginning the Environmental/Preliminary Engineering phase in 2016 as a way to capture other funding opportunities should they arise.

Segment E3 (US 50/Silva Valley Parkway Interchange)

This segment has been initiated by the County of El Dorado as a local agency project and is currently under construction today. The current construction schedule shows completion by September 2015.

Recommended Segmentation Strategy

The PDT has consistently reiterated the desire to provide parallel capacity to US 50, provide improved access to the El Dorado Business Park, provide improved access to the City of Rancho Cordova, and utilize the recently completed Sacramento County White Rock Road Widening Project and U.S. 50/Silva Valley Parkway Interchange Project currently under construction. There is also a need to provide additional local capacity between I-5 and SR 99 for local traffic to the Elk Grove community area as well as improved regional goods movement from Federal and State facilities. These two independent corridor objectives compliment the Connector’s goals of connecting the communities along the alignment and, as such, should be given priority.

Pursuing the project from the ends to the middle, also establishes two distinctive areas of planned construction that will not expose local area traffic/residents to prolonged disruption due to their geographic separation. Initial feedback from our design-build consultation work indicate that project lengths of these sizes will provide opportunities for cost savings if they can be pursued without further division into smaller sub-segments.

To support the desired outcomes above, staff recommends the following strategic actions be approved:

- Working with Folsom, Sacramento County and El Dorado staff, initiate project-level Environmental Clearance and Preliminary Engineering for Segment D3/E1. This will provide a continuous 4-lane roadway between the White Rock Rd/Grant Line Road intersection and Latrobe Road.
- Working with Rancho Cordova and Sacramento County staff, initiate project-level Environmental Clearance and Preliminary Engineering for Segment D2. This will provide a continuous 4-lane roadway between the Jackson Hwy and White Rock Rd.
- Continue to support the County of Sacramento/City of Elk Grove on their local project pursuit of Segment A1/A2 with the intent of pursuing project delivery through the Connector JPA once the Environmental/Preliminary Engineering phase has been completed.
- Continue to support the City of Elk Grove on their local project pursuit of Segment B2 with the intent of pursuing project delivery through the Connector JPA once the Environmental/Preliminary Engineering phase has been completed.
- Working with City of Elk Grove and County of Sacramento staff, resolve project scope, environmental and delivery inconsistencies within Segment B3.
- Continue working with stakeholders and adjacent property owners on the remaining segments of the project not mentioned above to prepare them for the initiation of environmental clearance and preliminary engineering, as resources become available and needs dictate.
Based on the information provided in this report, it is recommended that the Board adopt this segmentation strategy and direct staff to pursue this in general conformance with the timeframes indicated on the attached schedule. It is also requested that the staff introduce this schedule into the annual revision to the POF to be brought back to the Board for adoption in October, 2014. Once this initial segmentation strategy is adopted and introduced to the POF, staff will present the cash flow elements within the POF that will be required to support its implementation.

Respectfully Submitted,

[Signature]

Tom Zlotkowski
Executive Director

Attachment: Segmentation Schedule
### Item E3 (b) Draft delivery Schedule for Phase 1

**Legend**

- This Enr / Prelim Eng effort will likely be delivered with non-federal funds (CEQA Only)
- This Enr / Prelim Eng effort is being pursued as a local project
- This subsegment is waiting for FHWA approval to proceed

**Notes**

A) All timeframes are approximate
B) All design to be alternative delivery method (Design-Build or CM/GC) unless noted
C) Silva Valley Parkway Interchange Phase 2 will be delivered at the same time as other Phase 2 improvements

### Phase 1 Delivery Schedule (Shovel Ready)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Kammerer Rd</td>
<td>A1 &amp; A2</td>
<td></td>
<td>Q1</td>
<td>Q1</td>
<td>Q2</td>
<td>Q3</td>
<td>Q4</td>
<td>Q5</td>
<td>Q6</td>
<td>Q7</td>
<td>Q8</td>
<td>Q9</td>
<td>Q10</td>
<td>Q11</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B</td>
<td>East 6th Grn</td>
<td>B1</td>
<td></td>
<td>Construction</td>
<td>Final Design &amp; R/W</td>
<td>Shovel Ready</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B</td>
<td></td>
<td>B2</td>
<td></td>
<td>Final Design &amp; R/W</td>
<td>Shovel Ready</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C</td>
<td></td>
<td>B3</td>
<td></td>
<td>Final Design &amp; R/W</td>
<td>Shovel Ready</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C</td>
<td>Sheldon/</td>
<td>C</td>
<td></td>
<td>Enr / Prelim Eng</td>
<td>Final Design &amp; R/W</td>
<td>Shovel Ready</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Wilton</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>D</td>
<td>Vineyard/</td>
<td>D1</td>
<td></td>
<td>Enr / Prelim Eng</td>
<td>Final Design &amp; R/W</td>
<td>Shovel Ready</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>S. Cnty</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>D</td>
<td>Rancho</td>
<td>D2</td>
<td></td>
<td>Enr / Prelim Eng</td>
<td>Final Design &amp; R/W</td>
<td>Shovel Ready</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Cordova</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>D/E</td>
<td>Felton/</td>
<td>D3 &amp; E1</td>
<td></td>
<td>Enr / Prelim Eng</td>
<td>Final Design &amp; R/W</td>
<td>Shovel Ready</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>El Dorado</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>E</td>
<td>El Dorado</td>
<td>E2</td>
<td></td>
<td>Enr / Prelim Eng</td>
<td>Final Design &amp; R/W</td>
<td>Shovel Ready</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>E3</td>
<td></td>
<td>Enr / Prelim Eng</td>
<td>Final Design &amp; R/W</td>
<td>Shovel Ready</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

These Segments have an independent objective: Providing improved access between I-5 & Hwy 99.
August 22, 2014

Introduction of the Annual Updates to the Plan of Finance and Project Design Guidelines

**Issue:** To initiate Plan of Finance and Project Design Guidelines revisions as part of an annual update.

**Recommendation:** Staff recommends the Board receive this report and provide input and direction to staff to work with member jurisdiction staff, and interested parties, on updating the Plan of Finance and Project Design Guidelines for adoption in October, 2014.

**Background:** The Plan of Finance (POF) is a living document that requires updating and refinement in order to reflect inherent changes in design, scope, timing, revenue, and administration for the project.

The Project Design Guidelines (PDGs) is also a living document which is a technical tool used for development of a facility to provide clarity in scope, shape, and appurtenant features. The level of detail included is commensurate with the phase of project development. The guidelines are intended to be updated periodically as additional clarification is made and future phases of the project(s) begin.

As part of the adoption of the original POF and PDGs in March, 2013, staff indicated that annual updates would be provided to both documents in order to reflect changes/additions of relevant fiscal, technical, and policy elements.

The annual update to the POF and PDGs is also identified in the FY 2014-15 Work Program adopted by the Board in May, 2014.

**Plan of Finance**

In March 2013, the Board adopted the Initial POF with the understanding that it was developed to provide an initial overview of how JPA staff felt it could deliver the project as previously directed by the Board. In August, 2013 staff provided an update on the anticipated revisions to the Initial Plan of Finance, which included:

1. A reduced growth alternative
2. Project development budget
3. Environmental considerations related to federal funding. This first revision to the POF was approved in January, 2014

**Project Design Guidelines**

In March 2013, the Board adopted the initial Project Design Guidelines with the understanding that there was not a consensus among the member jurisdictions on the proposed Design Exception Policy at that time. In
October 2013, the Board approved an update to the PDGs that included the Revised Design Exception Policy and other additional changes requested by the member jurisdictions.

**Discussion:** As identified in the annual Work Program, it is the intention of staff to update the Plan of Finance and Project Design Guidelines on an annual basis as the project becomes better defined and new information comes to light. Both documents require refinement requiring consultant input and modification. Staff will begin this process pending Board input and direction.

**Plan of Finance Discussion**

This year, staff anticipates the following steps required for the POF update:

a. Verify and update project cost estimates including the project development budget – Using the latest information available, the construction budget and project delivery estimates will be updated.

b. Refine primary revenue estimates – Due to uncertainties over the availability of several categorical funds, a major update of the revenue side of the plan is in order at this time. Staff has engaged Economic Planning Systems (EPS) who will analyze the latest development projections, estimated funding sources, amounts, and timing. In addition, in the current POF, the estimated Connector fee per equivalent dwelling unit (EDU) for each jurisdiction is based on the fees from each jurisdiction’s current fee program. EPS will evaluate several other Connector development impact fee alternatives and analyze the effect of each alternative on the cash flow analysis. The anticipated Connector fee alternatives are:

- Uniform Fee
- Uniform Fee with Cordova Hills Surcharge
- Uniform Fee with Infill Reduction and Cordova Hills Surcharge
- Fair Share Cost Allocation

c. Update POF segmentation schedule – Based on input from the Board on the segmentation schedule and information from the design-build team, the POF's schedule of delivery will be adjusted accordingly.

d. Refine POF cash flow model – Using updated project costs, refined revenue estimates and the schedule of delivery, an updated cash flow projection will be created. The cash flow model and delivery schedule updates will likely be an iterative process as the two are inherently linked together.

e. Finalize POF and present for Board Approval – A presentation of the revised document will be made to the Board for approval and adoption.

**Project Design Guidelines Discussion**

To date, the PDGs have provided sufficient criteria to allow for the planning and development of the Connector corridor at a preliminary engineering level with detail necessary for the general plan amendment process. Since the October 2013 update, staff has continued to receive input from member jurisdictions and interested parties on refining the PDGs. These refinement comments include new materials and standards developed during the course of the year as well as items that will assist the next phase of project development such as project-level environmental documentation activities. Refinements to the guidelines will be vetted through the Project Development Team and several of the comments received to date necessitate further discussion in
order to come to consensus. Several updates of note that have already been requested as part of this update include:

- Clarification to the access table brought to the JPAs attention by adjacent property owners
- Re-wording of several references to external processes requested by the Agriculture community
- Revised technical information to comply with the POF revisions
- Refinement of segment designations and termini to reflect the adopted segmentation schedule
- References to the upcoming Right of Way and Utilities Manual in development
- Other minor grammatical clarifications

Consistent with the joint powers agreement, the JPA will maintain ownership of the Project Design Guidelines and the revision will require review and approval by the JPA Board of Directors before being used on the project.

Respectfully Submitted,

[Signature]

Tom Zlotkowski
Executive Director
Issue: To inform the Board on the Utility Framework of the Real Property and Utility Manual that will be created for the JPA.

Recommendation: To hear a presentation on the Utility Framework of the Real Property and Utility Manual, and provide input as desired.

Background: There are three major elements of the Real Property and Utility Manual that will ultimately be adopted by the JPA Board. These elements include: Policy, Procedures, and Utilities.

With each element, a draft is presented to the Project Development Team (PDT), which is comprised of representatives from each member jurisdiction, and then presented to the JPA Board. The Board provided input to the Policy Framework at its May 16, 2014, meeting, and input Procedures Framework on July 11, 2014. Today’s presentation will address the Framework for the Utilities section of the Real Property and Utility Manual.

The attached Real Property and Utility Procedures Framework was developed through the review of existing procedures from various resources and other Joint Powers Authority projects that are similar to the Connector Project. These include:

- Riverside County Transportation Commission
- Orange County Transportation Commission
- Ada County Highway District
- Caltrans Right-of-Way Manual
- Federal Highway Administration Right-of-Way and Utility Manuals

JPA staff used elements of the aforementioned resources to identify the “best fit” procedural elements that match the particular needs of the Connector and its member agencies. In addition, the JPA staff has also solicited input from a design-build engineering firm (Moffatt and Nichol), and an attorney (the Ballard Law Group), all of whom have direct experience and lessons learned in the implementation of right-of-way (ROW) as well as utility polices from prior projects that are similar to the Connector.

In addition, a draft of the Utility Framework has been circulated to the PDT and comments were received from the member agencies, most of which have been incorporated into today's presentation.

Discussion: Attached to this staff report is the Utility Framework that will be used to develop the Real Property and Utility Procedures Manual. Where the JPA is the lead agency developing and constructing a portion of the project along the corridor, some of the key Utility elements are as follows:
Utility Relocations

Utility-related problems are a leading cause of delays that occur during the construction phase of roadway projects. Uncoordinated utility relocation activities often cause expensive delays and disruptions. This is particularly a concern in a design-build delivery method, where risk allocation between the JPA and a construction contractor can be shared. The proper conditioning of subsurface and aerial utilities engineering can help avoid the need to relocate utility lines. In addition, early and frequent coordination, cooperation, and communication result in more timely and efficient relocation activities.

Most of the utility relocations will involve franchise utilities within the public ROW that require relocation per the Streets and Highway Code regulations. Costs for such relocations are a utility obligation while requested schedule is intermittent. Other utilities may have exclusive easements and/or superior rights where relocation costs would be the obligation of the JPA. A utility may be compelled to pay for one relocation, but may resist the cost of a temporary relocation followed by a permanent relocation where it is necessary for construction staging. Therefore, where practicable, new encroachment permits into the Connector alignment shall be conditioned to be placed in their ultimate location into the Public Utility Easement (PUE) defined in the Connector Design Guidelines. When the JPA is the lead for a portion of the Connector alignment, the JPA shall fund, environmentally clear and obtained the PUE for this relocation. With the agreement of the Utility, some utilities may be placed/relocated outside the traditional PUE, if so requested by the JPA.

When the JPA has available funding and environmental clearance to acquire ROW and/or construct a segment of the Connector Project, the JPA will acquire ROW needed for project segments which has not been acquired by the applicable member jurisdiction through dedication, irrevocable offers of dedication, or easement. During the design process, utilities affected by the proposed construction will be identified. Typically, the affected utilities may need to be relocated, protected in place, or possibly abandoned. As timely design and completion of all utility relocations will affect the JPA’s ability to commence project construction, the JPA will undertake early identification of affected utilities and early coordination with the affected utility company. In addition, the JPA understands that Utility Owners require lead-time to develop budgets, plan work, and order materials required for relocations. Furthermore, scheduling of work during non-peak demand periods and to comply with PUC General Orders must be considered.

The JPA recognizes the utility rate payers are also the tax payers funding the Connector. As such, establishing a Utility Relocation Plan early in the project development process that includes goals, strategies, and expected milestones, facilitates appropriate and timely utility conflict resolution throughout the process. Moreover, the JPA intends to design the project to avoid conflicts where possible, and provide a PUE in the ROW footprint for the project. This PUE will be defined in the Connector Design Guidelines. All future utility facility encroachments shall be relocated into the acquired PUE. This allows the utilities the land right to operate and maintain their facilities, but also consolidates the utilities in a controlled location, and will facilitate timely cooperation between land owners, development needs, Local Agencies and Utilities.

Member Agency Coordination

The member jurisdictions will condition ROW for the ultimate build-out of the Connector Project when they consider applications for development adjacent to the Connector Project, consistent with the member agency’s General Plans and JPA adopted Design Guidelines. Each of the JPAs member agencies have agreed to notify the JPA of encroachment permit applications, and to allow the JPA to review and comment on such applications. JPA staff, in coordination with staff from the member jurisdictions, will review and assess the
potential impacts that a proposed encroachment will have on the Connector Project and the overall transportation system, and will analyze and evaluate the encroachment for conformance with the JPAs Design Guidelines.

These evaluations will be based upon several factors and a series of conditions that have been developed for encroachments:

- Construction staging
- Interim and ultimate roadway alignments
- Future interchange locations and vertical/horizontal clearance to pole lines and buried facilities
- Existing topography
- Future and existing alignments of connecting streets
- Adjacent land owner impacts
- Development needs
- Design criteria and safety concerns adopted by the JPA Board
- Visual impacts to future urban land uses
- Potential environmental impacts identified in the JPAs Final Program Environmental Impact Report

On occasion in an area of development, utility owners may plan extensions or additions to their utility facilities within the project area. These new utility facility installations may be affected by planned Connector construction. The member agencies will condition development to obtain a PUE for utility placement and/or relocations, provide environmental clearance, and permits. The JPA may financially assist the member agencies/developers in obtaining off-site PUEs, for utility placement and/or relocations.

**Timely Utility Relocations**

Timely relocations of utilities are critical in a design-build delivery method. Specifically, the failure of local utilities to timely relocate their facilities will have adverse effects on the execution of construction due to delays which will ultimately lead to increased project costs. Therefore, it is the intention of the JPA for the Executive Director to be empowered to execute “cause to be removed” provisions to utilities that have not been removed after proper notice was given.

If a utility fails, neglects, or refuses to comply with the requirements set forth in the notice, the Director shall cause the removal or adjustment and any expenses incurred to be chargeable to the owner or operator, and may be recovered in an action at law brought in the name of the JPA against such owner or operator. It is the further intention of the JPA for the Director to be empowered to levee a fine of up to $500 per calendar day for a utility's failure to remove facilities in a timely fashion.

Having stated this, the JPA will look for opportunities to “share” the work required for a utility relocation and incorporate the work into a design-build contract. In the event an establishment of prior rights is not clear or a relocation schedule does not meet the project goals, the JPA may negotiate a cost sharing settlement or agreement to advance payment in return for schedule compliance, with a reservation of rights to determine who was responsible for the cost at a later date.
Based upon the Board’s policy direction today, the JPA staff will continue to work with staff from each jurisdiction to refine this Utilities Framework and develop the Real Property and Utility Procedures Manual. The following processes are proposed in order to fully develop the Real Property and Utility Procedures Manual:

- Incorporate JPA Board comments today and prepare Draft Utility section of the manual
- Present Real Property and Utility Manual to JPA Board for Policy consideration (October, 2014)
- Incorporate Real Property and Utility Manual into the Project Design Guidelines (TBD)

It should be noted that many of the elements that will ultimately be defined in the Real Property and Utility Manual and the updated Project Design Guidelines, may have applicability to the subsequent Reciprocal Use and Funding Agreements that will be executed amongst the JPA and the member agencies.

Respectfully submitted,

Tom Zlotkowski
Executive Director
DRAFT Real Property and Utility Manual - Utility Framework
RP & U Manual - Approval Schedule

PDT Input
- Policy Framework - Complete (May 15, 2014)
- Procedures Framework - Complete (June 18, 2014)
- Utility Framework - (July 16, 2014)
- Draft ROW Manual - (Sept. 17, 2014)

JPA Board Input
- Policy Framework - Completed (May 15, 2014)
- Procedures Framework - Completed (July 11, 2014)
- Utility Framework - Today
- Draft ROW Manual - (October 10, 2014)
- Incorporate into Design Guide - (TBD)
- Inform RUFA - (TBD)
Principals

- Utility rate payers are also the tax payers funding the Connector
- Design to avoid conflict
- Design-Build delivery has shared risk
- Frequent coordination, cooperation, and communication = timely and efficient relocation
Utility Elements

- Public Utility Easement acquired in right-of-way for project
- One move to ultimate location
- Minimize encroachments
Utility Elements

- Consultation with Member Agency Encroachments
- Establishes Standards for Encroachments
- Consistent with General Plans and JPA Design Guidelines
- Undergrounding where possible
Utility Elements

Evaluations based upon:
- Construction staging
- Adjacent land owner impacts
- Future interchange vertical/horizontal clearance
- Topography
- Development needs
- Design criteria and safety concerns
- Visual impacts
- Potential environmental impacts
Utility Elements

- If Prior rights unclear or relocation schedule impacts project, JPA may negotiate cost sharing settlement in return for schedule compliance

- Executive Director empowered to levee fines ($500 per calendar day) for failure to relocate in a timely manner

- "Share" utility relocation in construction contract
Utility-related problems are the leading cause of delays that occur during construction...

“A pessimist sees difficulty in every opportunity; an optimist sees opportunity in every difficulty”

~ Winston Churchill
The Capital SouthEast Connector Right of Way, Permitting, and Development Procedures Framework

INTRODUCTION

Utility-related problems are a leading cause of delays that occur during the construction phase of roadway projects. Uncoordinated utility relocation activities often cause expensive delays and disruptions. This is particularly a concern in a design-build delivery method, where risk allocation between the JPA and a construction contractor can be shared. The proper conditioning of subsurface and aerial utilities engineering can help avoid the need to relocate utility lines. In addition, early and frequent coordination, cooperation, and communication result in more timely and efficient relocation activities.

The Capital SouthEast Connector Project (Connector Project or Project) will be built in phases (interim and ultimate), and in geographic sequences along the project alignment. The first phase (interim) will construct the 4-lane backbone for the Connector Project in a series of projects to provide an acceptable level of service throughout the entire length of the Connector Project.

The JPA recognizes that the utility rate payers are also the tax payers funding the Connector. As such, establishing a Utility Relocation Plan early in the project development process that includes goals, strategies, and expected milestones facilitates appropriate and timely utility conflict resolution throughout the process. Moreover, the JPA intends to design the project to avoid conflicts where possible, and to provide a public utility easement (PUE) in the Right of Way (ROW) footprint for the project. The PUE is defined in the Connector Design Guidelines. All future utility facility encroachments shall be relocated into the acquired PUE. This allows the utilities the land rights to operate and maintain their facilities, but also consolidates the utilities in a controlled location, and will facilitate timely cooperation between land owners, development needs, Local Agencies and Utilities. In cases where a frontage road adjacent to the Connector alignment is proposed, the PUE will be incorporated into the frontage road ROW. Maintenance access to and from the PUE shall be from the Connector (or frontage road), as defined in the Connector Design Guidelines.

The member jurisdictions will condition ROW for the ultimate build-out of the Connector Project when they consider applications for development in an area adjacent to the Connector Project, consistent with the member agency’s General Plans and JPA adopted Design Guidelines. When the Connector JPA has funding available and environmental clearance to acquire ROW and/or construct a segment of the Connector Project, the JPA, in coordination with its member jurisdictions, will acquire the ROW and the PUE needed for project segments which has not been acquired by the applicable member jurisdiction.

Each of the JPA’s member agencies has agreed to notify the JPA of encroachment permit applications, and to allow the JPA to review and comment on such applications. JPA staff, in coordination with staff from the member jurisdictions, will review and assess the potential impacts that a proposed encroachment will have on the Connector Project and the overall transportation system, and will analyze and evaluate the encroachment for conformance with the JPA’s Design Guidelines.
These evaluations will be based upon several factors:

- Construction staging
- Interim and ultimate roadway alignments
- Future interchange locations and vertical/horizontal clearance to pole lines and buried facilities
- Existing topography
- Future and existing alignments of connecting streets
- Adjacent land owner impacts
- Development needs
- Design criteria and safety concerns adopted by the JPA Board
- Visual impacts to future urban land uses
- Potential environmental impacts identified in the JPA's Final Program Environmental Impact Report

I. Utilities Encroachments

The Connector Project intends on providing a PUE in the ROW for the project or in an adjacent frontage road. This PUE is defined in the Connector Design Guidelines. All future utility facility encroachments shall be relocated into the acquired PUE at the time and manner as determined by the Executive Director of the Connector JPA or designee. This will likely be when a JPA project phase has been funded and environmentally cleared.

In developed urban sections of the Connector corridor, where existing utilities exists, the relocation of the utility into the proposed PUE may not be practical. The Executive Director will collaborate with the member agencies to determine the potential impacts of these utility facilities remaining in the ROW and resolve their final alignment.

A utility may be compelled to pay for one relocation, but may resist the cost of a temporary relocation followed by a permanent relocation where that is necessary for construction staging. Therefore, new encroachment permits into the Connector alignment shall be conditioned to require placement in their ultimate location in the PUE defined in the Connector Design Guidelines, where practicable. When the JPA is the lead for a portion of the Connector alignment, the JPA in coordination with the member agencies, shall fund, environmentally clear and obtain the PUE for this relocation. In some instances this may be accomplished by conditions on private development adjacent to the Connector alignment through the member agencies adoption of the Connector into their General Plan.

Encroachment Conditions

1) Utility facilities shall be located to minimize need for later adjustments to accommodate future Connector improvements and to permit servicing such lines with minimum interference to Connector traffic.
2) Underground installations will be designed so that the facility can be located without disturbing the roadway structure. If the installation includes the use of “non-toneable” piping, conduit, or direct bury lines, locator lines will be placed in conjunction with the utility line installation.

3) Longitudinal installations shall be located in the PUE on a uniform alignment as near as practicable between the ditch line and the ROW line so as to provide a safe environment for traffic operation and preserve space for future Connector improvements or other utility installations.

4) If the installation is between the ditch-line and ROW, the utilities facilities must have a minimum cover depth of thirty-six (36) inches. If the installation is between the ditch line and the edge of pavement, the utilities facilities must have a cover depth of forty-two (42) inches below the top of pavement. If the minimum bury as set forth cannot be obtained, the facility shall be re-routed. When not practicable to re-route, it shall be protected by other approved methods. The top of the pipe must not project into the sub-base.

5) Conditions which are generally unsuitable or undesirable for utility crossings must be avoided. These include locations such as deep cuts; near footings of bridges and retaining walls; across at grade intersections or ramp terminals; at cross drains where flow of water, drift, or stream bed load may be obstructed; within basins of an underpass drained by a pump if the pipeline carries a liquid or liquefied gas; and in wet or rocky terrain where it will be difficult to attain minimum bury.

6) To the extent feasible and practicable, utility line crossings of the Connector shall cross on a line generally normal (90 degrees) to the Connector alignment but in no case shall the angle of crossing be less than 75 degrees. Permanent markers which are readily identifiable and suitable shall be placed by the utility at the Connector ROW line where it is crossed by a utility facility and over longitudinal encroachments in the Connector ROW at appropriate intervals, as determined by the Director of the Connector JPA or designee.

7) The horizontal and vertical location of utility lines within the Connector ROW limits shall conform to the clear roadside policies applicable and consistent with the clear zones as stated in the AASHTO-Roadside Design Guide, latest edition, and the Access and Roadside Management Standards, latest edition. For State ROW, the latest edition of the Highway Design Manual shall apply. The minimum vertical clearance for overhead power and communication lines above the Connector and the minimum lateral and vertical clearance from bridges shall be as required by the determination of the Director of the Connector JPA or designee and/or applicable Public Utility Commission Rules and Regulations.

8) Manholes shall not be located in the pavement or shoulders of the Connector. Exception may be made on streets at those locations where manholes are essential parts of existing lines that are permitted to remain in place under existing and proposed roadways as determined by the Director of the Connector JPA or designee.

9) In some cases, attachment of utility facilities to roadway structures, such as bridges, is a practical and necessary arrangement and may be permitted by Permit. However, attaching utility lines to a roadway structure can materially affect the structure, the safe
operation of traffic, the efficiency of maintenance and inspection, and the appearance. Therefore, where it is feasible and reasonable to locate utility lines elsewhere, attachments to bridge structures should be avoided.

10) All costs of installing and maintaining any utilities within the JPA ROW shall be at the expense and effort of the utility company. Failure to maintain such utility in an acceptable manner shall be grounds for revoking the encroachment permit and removal of the utility at the utility company’s expense. Any damages or adverse impacts to the structural integrity of the structure resulting from installation or maintenance of the utility will be corrected at the expense and effort of the utility company.

11) Upon completion of the permitted work, the utility must supply accurate as built drawing within 60 days to the Director of the Connector JPA or designee. Records shall be maintained by the utility owner that describe the utility, usage, size, configuration, material, location, height or depth, and any special features such as encasement. This information should be in a reproducible form available to other utilities and highway agencies.

II. Utilities Relocations

The timely relocation of utility facilities will be a major issue for the Connector Project utilizing design-build procurement. Specifically, the failure on behalf of local utilities to timely relocate their facilities will have deleterious effects on timely prosecution of construction due to delays that ultimately will lead to increased project costs. Therefore, it is the intention of the JPA for the Executive Director to be empowered to “cause to be removed” utilities that have not been removed after proper notice was given. The Executive Director shall notify in writing any owner or operator having utility facilities of any nature upon, in, over or under the Connector to remove or adjust as much of their facilities as will allow the prosecution of the public work. The Notice shall be accompanied by a copy of the plans and specifications for the authorized public work showing the location of the work in the streets and describing the same. The Notice shall specify a time within which all affected utility facilities must be removed or adjusted.

If any owner or operator shall fail, neglect, or refuse to comply with the requirements set forth in the Notice issued then, the Director shall cause to be removed or adjusted as much of the utility facilities as may be required for the prosecution of the said authorized public work according to the plans and specifications; and any incidental expenses incurred in the removal or adjustment shall be chargeable to the owner or operator failing, neglecting, or refusing to comply with the requirements of the Notice, and may be recovered in an action at law brought in the name of the JPA against such owner or operator. It is the further intention of the JPA for the Director to be empowered to levee a fine of up to $500 per calendar day for a utility’s failure to remove facilities in a timely fashion.

Most of the utility relocations will involve franchise utilities within the public ROW that require relocation and/or protection with the understanding that CPUC regulations will address costs and schedule conformance requirements. Therefore, it is contemplated that the member agency will make the relocation demand of the utilities per the Connector Design Guidelines and state that the JPA staff is acting as their agent.
In the event that an establishment of prior rights is not clear or a relocation schedule does not meet the project goals, these situations may be resolved by the JPA negotiating a cost sharing settlement or agreement to advance payment by the JPA in return for schedule compliance, with a reservation of rights to determine who was responsible for the cost at a later date. Alternatively, it may be desired to “share” the work required for a utility relocation and incorporate the work into design-build contract. In order to address this, the JPA may enter into Master Utility Relocation Agreements with the utility company that address cost allocation, work allocation, schedule compliance, payment requirements, betterments and other matters.

During the design and engineering process, utilities affected by the proposed construction will be identified. Typically, the affected utilities may need to be relocated, protected in place, or possibly abandoned. The JPA will undertake early identification of affected utilities and early coordination with the affected utility company, as timely design and completion of all utility adjustments will affect the JPA’s ability to commence project construction. In addition, it is recognized that Utility Owners require lead-time to develop budgets and plan work required for ordered relocations. Additional lead time may be required to order long lead time materials, to schedule work during non-peak demand periods when utility facilities may be removed from service, and to comply with PUC General Orders. The JPA staff will identify all necessary utility relocations and provide a public utility easement for relocation.

Public or private utility easements may or may not have a facility located (overhead, surface or underground) in the property. Clearance and elimination of private easements from the ROW being acquired may be required. This is usually done by Quitclaim Deed with an obligation in the Purchase contract to secure a replacement easement, if necessary. If the easement is public (easement in gross) and no facility exists, it must be determined whether to take title subject to the easement. The utility company may have plans for a future facility and it is incumbent upon the JPA to negotiate an agreement with the utility company recognizing such future use.

The JPA staff will coordinate with the utilities for relocation of all facilities into a public utility easement that will be acquired by the JPA. This replacement area is subject to the same controls and clearances that apply to regular ROW, including hazardous waste clearances. The JPA will obtain and analyze data to allocate cost between Owner, JPA, State and/or Local (when applicable) for all required utility adjustment work and to clearly document, support, and set forth the basis of the finding in a Report of Investigation. The JPA will coordinate positive location requirements for all High Risk utility facilities within the project limits and prepare and issue Notices to Owner and Utility Agreements for relocations.

On occasion and in an area of development, utility owners may plan extensions or additions to their utility facilities within JPA ROW and/or project area. These new utility facility installations may be affected by planned Connector construction. The Executive Director, and member agencies, are responsible for notifying the utility owner of all planned Connector improvement projects to enable the utility owner to make an informed decision about placement of utility facilities within the project ROW. The member agencies will condition development to obtain a PUE for utility placement and/or relocations, provide environmental clearance, and permits. The JPA may financially assist the member agencies/developers in obtaining off-site PUEs, for utility placement and/or relocations.
The facility owner shall be responsible for design of all utility facility relocations. The only exception is when the utility owner has requested the JPA to perform the design and construction to be done as part of the Connector Project. The design and construction of the relocation shall be included in a special Utility Agreement that may be entered into with the utility owner. If the utility owner's new facilities are planned for installation in a local street or road underlying JPA's project, any additional cost is the utility owner's. Where the utility owner has a superior right to JPA's interest, the additional utility construction features required to satisfy the future project needs is at JPA's expense. The utility owner is responsible to prepare, document, and submit a claim for their declared right of occupancy. If the JPA's investigation confirms the owner has rights prior and superior to those of JPA, and JPA concurs, the owner is paid for all or a portion of the relocation work.

The JPA will follow the Caltrans Right-of-Way Manual on all On-System projects and adhere to the Caltrans Master Agreement with the JPA and any project specific Cooperative Agreement entered into between the agencies. The JPA will also follow the Caltrans Local Assistance Manual for all federally funded off-system projects.
III. Legal Background

The California Public Utilities Code ("CPUC") outlines the conditions under which public utilities may operate franchises throughout the state and states in pertinent part:

“Every franchise or privilege to erect or lay telegraph or telephone wires, to construct or operate street or interurban railroads upon any public street or highway, to lay gas pipes for the purpose of carrying gas for light, heat, or power, to erect poles or wires for transmitting electricity for light, heat, or power, along or upon any public street or highway, or to exercise any other privilege whatever proposed to be granted by the governing or legislative body of any county, city and county, or city shall be granted upon the conditions in this article.”


State law requires utilities to relocate their facilities at their own expense for the purposes of certain street improvements. The CPUC states, in pertinent part, that “the grantee shall remove or relocate without expense to the municipality any facilities installed, used, and maintained under the franchise if and when made necessary by any lawful change of grade, alignment, or width of any public street, alley, or place; see also Cal. Pub. Util. Code § 6297.1

In addition to the efforts to articulate the franchise rights of utilities throughout California, the State nevertheless allows for the imposition of additional terms and conditions on franchise agreements that do not conflict with state law. § 6002 provides that local governments “impose such other and additional terms and conditions” that do not conflict with state law, “whether governmental or contractual in character, as in the judgment of the legislative body thereof are to the public interest.” Cal. Pub. Util. Code § 6002.

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.” Thus, in the absence of state preemption, every municipality is authorized by the California Constitution to exercise its police power to deal with local situations. Hernandez v. City of Sacramento, 54 Cal. Rptr. 3d 698 (2007). The power to fine utilities by ordinance arises by implication where penalty provisions are necessary for purposes of enforcement. The general rule is that a grant of the police power to a local government or political subdivision necessarily includes the right to carry it into effect and empowers the governing body to use proper means to enforce its ordinances. See generally 5 McQuillin Mun. Corp., Section 17.04 (3rd ed.). Pursuant to this rule, it has been held that even in the absence of an express grant of authority, the power to punish by a pecuniary fine or other penalty is implied from the delegation by the legislature of the right to enforce a particular police power through ordinances or regulations. Id.

1 § 6001 et seq. does not apply to telephone and telegraph lines that affect interstate communications. § 7901 essentially grants a state franchise by authorizing telegraph or telephone corporations to construct lines along public roads throughout the state. Pacific Tel. & Tel. Co. v. City and County of San Francisco, 17 Cal. Rptr. 687 (1961).
Update on Governmental Relations

Issue: To update the Board on current trends in legislation involving transportation policy and revenue.

Recommendation: Staff recommends the Board hear a presentation on our current governmental relations efforts and provide input as desired.

Background: The JPA has contracted with Smith, Watts & Martinez, LLC (SWM) for governmental relations services since 2009. During that period, SWM has provided valuable assistance in a number of key areas that have aided in the development of the project including:

- Strategic advice and assistance in legislative approval of design-build procurement.
- Expertise in analyzing and pursuing specific local and state funding opportunities, known as “potential funding” in the Plan of Finance.
- Advice and assistance in evaluating all avenues of future funding which include the state infrastructure bank, private equity markets, and local measure “bridge” financing strategies.
- Evaluation of trends in State legislation involving general transportation revenues.
- General intelligence on transportation related activities and accomplishments with similar projects to the Connector at both the National and State levels.

Discussion: At today's meeting, staff has requested DJ Smith of SWM prepare and provide information regarding state legislation on transportation revenues and an outlook on other potential funding sources and their viability. Staff will continue to work with SWM on finance and policy considerations that could improve the project's opportunities for obtaining discretionary funding.

Respectfully Submitted,

Tom Zlotkowski
Executive Director
Capital SouthEast Connector Board of Directors

August 22, 2014

Update on the South Sacramento Habitat Conservation Plan

**Issue:** To update the Board on the process and schedule for the South Sacramento Habitat Conservation Plan (SSHCP) as required in the executed Memorandum of Agreement (MOA).

**Recommendation:** To hear an update on the progress of the South Sacramento Habitat Conservation Plan and provide any input as desired.

**Background:** The South Sacramento Habitat Conservation Plan (SSHCP) is a regional effort that will provide development and infrastructure components with streamlined, predictable federal and state permitting processes while creating a preserve system to protect sizeable habitat preserves, open space, and agricultural lands. The SSHCP is the most efficient means of complying with this regulatory requirement and will greatly assist the Connector in obtaining many of the federal permits required for construction. The SSHCP is a regional project. In addition to the JPA, joint applicants include the County of Sacramento, the Cities of Galt, and Rancho Cordova, the Sacramento County Regional Sanitation District, and the Sacramento County Water Agency.

In July 2010, the Board approved an MOA with the SSHCP Partners for the continued development and funding of the SSHCP. The MOA established a formal cost-sharing mechanism to allocate the cost of completing the SSHCP in an equitable manner. The MOA identified the Connector JPA’s fiscal contribution at $500,000 paid on the basis of significant milestones to be achieved during the SSHCP development process.

Presentations have been made by the SSHCP team throughout 2013 and most recently in February, 2014.

**Discussion:** Since February, significant progress towards the completion of the required SSHCP documents has been made. At today’s meeting, staff has requested representatives of the SSHCP be prepared to provide additional information regarding this progress and how it will support the current schedule of the Connector Project and its environmental permit needs. Staff has also requested that the presentation provide the Board any notable deviation from the proposed schedule of deliverables developed originally in May, 2013.

Staff will continue to work with the SSHCP team to further examine the coverage that the Connector will receive from the completion of the plan and how any additionally required environmental documentation will be developed outside of it.

Respectfully Submitted,

Tom Zlotkowski
Executive Director
DRAFT Real Property and Utility Manual - Utility Framework
RP & U Manual - Approval Schedule

PDT Input
- Policy Framework - Complete (May 15, 2014)
- Procedures Framework - Complete (June 18, 2014)
- Utility Framework - (July 16, 2014)
  - Draft ROW Manual - (Sept. 17, 2014)

JPA Board Input
- Policy Framework - Completed (May 15, 2014)
- Procedures Framework - Completed (July 11, 2014)
  - Utility Framework - Today
  - Draft ROW Manual - (October 10, 2014)
  - Incorporate into Design Guide - (TBD)
  - Inform RUFA - (TBD)
Principals

- Utility rate payers are also the tax payers funding the Connector
- Design to avoid conflict
- Design-Build delivery has shared risk
- Frequent coordination, cooperation, and communication = timely and efficient relocation
Utility Elements

- Public Utility Easement acquired in right-of-way for project
- One move to ultimate location
- Minimize encroachments
Utility Elements

- Consultation with Member Agency Encroachments
- Establishes Standards for Encroachments
- Consistent with General Plans and JPA Design Guidelines
- Undergrounding where possible
Utility Elements

Evaluations based upon:

- Construction staging
- Adjacent land owner impacts
- Future interchange vertical/horizontal clearance
- Topography
- Development needs
- Design criteria and safety concerns
- Visual impacts
- Potential environmental impacts
Utility Elements

- If Prior rights unclear or relocation schedule impacts project, JPA may negotiate cost sharing settlement in return for schedule compliance.
- Executive Director empowered to levee fines ($500 per calendar day) for failure to relocate in a timely manner.
- “Share” utility relocation in construction contract.
Utility-related problems are the leading cause of delays that occur during construction...

“A pessimist sees difficulty in every opportunity; an optimist sees opportunity in every difficulty”

~ Winston Churchill
The South Sacramento Habitat Conservation Plan (SSHCP)

Capital Southeast Connector JPA
Aug. 22, 2014
Product Schedule

- Draft HCP and ARP: Nov. 24, 2014
- Federal Register/State Clearinghouse Notice: Jan., 2015
Outreach/Public Review

- Early Stakeholder/Ag Community Outreach: Fall, 2014
- Federal Register Notice: January, 2015
- 90 Day Public Review/Public Workshops: Feb.- April, 2015
- Respond to Comments/Complete Final Documents: May-Sept, 2015
- Public Hearings/Plan Adoption: Oct.-Dec., 2015
Issues Resolution

- Permit Term
- Direct/Indirect Effects
- Conservation Strategy
- Monitoring/Adaptive Management
- ARP Integration
- Economics
- Implementation
Management

- Frequent and Clear Communication
- Agency and Partner Commitment to Complete Plan
- 2013/2014 MOA Milestones being Achieved
- 2014/2015 MOA Amendment in Process