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ASSOCIATION OF GOVERNMENTS

EXEMPT FROM FILING FEES
GOV'T CODE § 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

CITY OF CORONADO, a municipal corporation; CITY OF IMPERIAL BEACH, a municipal corporation; CITY OF LEMON GROVE, a municipal corporation; CITY OF SOLANA BEACH, a municipal corporation,

Petitioners,

v.

SAN DIEGO ASSOCIATION OF GOVERNMENTS, a joint powers authority; BOARD OF DIRECTORS OF THE SAN DIEGO ASSOCIATION OF GOVERNMENTS; and DOES 1-25,

Respondents.

Case No. 37-2020-00033974-CU-MC-CTL

[Assigned for All Purposes to: Hon. Richard E. L. Strauss]

SANDAG'S REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF DEMURRER AND MOTION TO STRIKE RE PETITION FOR WRIT OF MANDATE

Date: February 5, 2021
Time: 9:00 a.m.
Dept.: 75

Action Filed: September 24, 2020
Trial Date: None Set

TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

Pursuant to Evidence Code sections 452(b), (c), (h) and 453, and in accordance with California Rules of Court 3.1306(c), Respondents San Diego Association of Governments and Board of Directors of the San Diego Association of Governments (collectively, "SANDAG") respectfully request that the Court take judicial notice of the following documents in connection with SANDAG'S Demurrer and Motion to Strike regarding Petitioners' Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief ("Petition"):

1. Attached hereto as **Exhibit A** is a true and correct copy of Excerpts Of The Bill Analysis For Assembly Bill No. 805, 2017-2018 Regular Session, Amending The Public Utilities Code Regarding The Analysis On Proposed Amendments To Provide For Weighted Voting Procedures. Dated July 6, 2017 [Senate Committee On Transportation and Housing] and August 21, 2017 [Concurrence In Senate Amendments].

2. Attached hereto as **Exhibit B** is a true and correct copy of the February 23, 2018, San Diego Association Of Governments (SANDAG) Board Of Directors Agenda Regarding The Proposed Amendments To Bylaws In Accordance With Newly Enacted Weighted Voting Procedures In The Public Utilities Code.

3. Attached hereto as **Exhibit C** is a true and correct copy of the February 23, 2018, SANDAG Board Of Directors Agenda Item No. 15, With Attachment 8, Proposed Amendments To Board Policies And Bylaws Staff Report Regarding The Weighted Voting Procedures In Accordance With The Newly Amended Public Utilities Code.

4. Attached hereto as **Exhibit D** is a true and correct copy of the Voting Slide For The February 23, 2018, SANDAG Board Of Directors Agenda Item 15 Showing Unanimous Approval Of The Proposed Amendments To The Board Policies And Bylaws Adopting Weighted Voting Procedures In Accordance With The Newly Amended Public Utilities Code.

5. Attached hereto as **Exhibit E** is a true and correct copy of the SANDAG's Bylaws Adopted July 2003 And Unanimously Amended February 23, 2018, By The SANDAG Board Of Directors To Be In Accord With Newly Enacted Weighted Voting Procedures Set Forth In The Public Utilities Code.

6. Attached hereto as **Exhibit F** is a true and correct copy of the February 14, 2020, SANDAG Executive Committee Agenda Regarding The Consideration Of The Proposed RHNA Appeals Hearing Procedures For The Hearing On The Appeals of Coronado, Imperial Beach, Lemon Grove, And Solana Beach.

7. Attached hereto as **Exhibit G** is a true and correct copy of the February 14, 2020, SANDAG Executive Committee Agenda Item 5 Regional Housing Needs Assessment (RHNA): Proposed Appeals Hearing Procedures For Hearing On The Appeals of Coronado, Imperial Beach, Lemon Grove, And Solana Beach.

8. Attached hereto as **Exhibit H** is a true and correct copy of the Voting Slide For The February 14, 2020, SANDAG Executive Committee Showing Approval Of Agenda Item 5 RHNA: Proposed Appeals Hearing Procedures.

9. Attached hereto as **Exhibit I** is a true and correct copy of the February 28, 2020, SANDAG Board of Directors Agenda Regarding Ratification Of The RHNA Appeals Hearing Procedures For The Hearing On The Appeals of Coronado, Imperial Beach, Lemon Grove, And Solana Beach.

10. Attached hereto as **Exhibit J** is a true and correct copy of the February 28, 2020, SANDAG Board Of Directors Consent Agenda Item 5 Policy Advisory Committee Actions, Ratification Of RHNA Appeals Hearing Procedures For Hearing On The Appeals of Coronado, Imperial Beach, Lemon Grove, And Solana Beach.

11. Attached hereto as **Exhibit K** is a true and correct copy of the Voting Slide For The February 28, 2020, SANDAG Board Of Directors Consent Balance Showing Ratification Of RHNA Appeals Hearing Procedures For The Hearing On The Appeals of Coronado, Imperial Beach, Lemon Grove, And Solana Beach.

12. Attached hereto as **Exhibit L** is a true and correct copy of the RHNA Appeals Hearing Procedures For Hearing On The Appeals Of Coronado, Imperial Beach, Lemon Grove, And Solana Beach Approved By The SANDAG Executive Committee On February 14, 2020, And Ratified By The SANDAG Board Of Directors On February 28, 2020.

13. Attached hereto as **Exhibit M** is a true and correct copy of the June 26, 2020,

SANDAG Board Of Directors Agenda Regarding The RHNA Appeals Public Hearing On The Appeals of Coronado, Imperial Beach, Lemon Grove, And Solana Beach.

14. Attached hereto as **Exhibit N** is a true and correct copy of the June 26, 2020, SANDAG Board Of Directors Agenda Item No. 13, Attachment 11, June 24, 2020, Letter From Appealing Cities To SANDAG Re Joint Request regarding RHNA Draft Allocation Appeals.

15. Attached hereto as **Exhibit O** is a true and correct copy of June 26, 2020, SANDAG Board Of Directors Agenda Item No. 13, with Attachments 1-5, RHNA Appeals Public Hearing Staff Report With The attached Draft Appeals Determinations:

- SANDAG Appeals Determination: City Of Coronado.
- SANDAG Appeals Determination: City Of Imperial Beach.
- SANDAG Appeals Determination: City Of Lemon Grove.
- SANDAG Appeals Determination: City Of Solana Beach.

16. Attached hereto as **Exhibit P** is a true and correct copy of the Voting Slides For The June 26, 2020, SANDAG Board of Directors Agenda Item 13 Showing Adoption By Weighted Vote Of The Proposed Final RHNA Plan And The Staff Recommendation Draft Determinations Modifying The City of Coronado Appeal, And Rejecting The Appeals From The Cities Of Imperial Beach, Lemon Grove And Solana Beach.

17. Attached hereto as **Exhibit Q** is a true and correct copy of the July 21, 2020, Letter From Megan Kirkeby, Acting Deputy Director, HCD To Hasan Ikhrata, Executive Director, SANDAG Regarding HCD Review And Approval of 2021-2029 RHNA Allocation Plan.

This Request is based on this notice of request and legal argument in support thereof, all pleadings and papers on file in this action, and upon such other matters as may be presented to the Court at the time of the hearing on this request.

I. LEGAL ARGUMENT

A. The Documents Are Properly Subject to Judicial Notice.

The Court may take notice of the official acts of the "legislative enactments issued by or under … any public entity in the United States" as well as of the "[o]fficial acts of the legislative, executive, and judicial departments … of any state of the United States." Evid. Code § 452(b) and

(c); *see e.g. Shapiro v. Board of Directors* (2005) 134 Cal.App.4th 170, 174, fn. 2. Specifically, Evidence Code § 452(b) permits judicial notice of legislative enactments of any public entity in the United States and under Evidence Code § 452(c), the courts routinely take judicial notice of the legislative history of a bill. *UFCW & Employers Benefit Trust v. Sutter Hea*lth (2015) 241 Cal.App.4th 909, 924 and 926, fn. 11 and 12; *Jordan v. Los Angeles County* (1968) 267 Cal.App.2d 794, 798. Therefore, the California Bill Analysis for Assembly Bill No. 805 amending the Public Utilities Code attached as Exhibit A is a proper subject of judicial notice.

The Court may also take notice of the contents of the administrative files of a public entity. *See Assoc. Builders & Contractors, Inc. v. San Francisco Airports Comm'n* (1999) 21 Cal.4th 352, 374, fn. 4 [taking judicial notice of administrative agency records]. "The records and files of an administrative board are properly the subject of judicial notice. [Citations.]" *Hogen v. Valley Hosp.* (1983) 147 Cal.App.3d 119, 125. The documents are the proper subject for judicial notice under Evidence Code sections 452(b), (c) and 453, which provide that courts may take judicial notice of a public agency's regulations, legislative enactments, official action and official documents. Specifically, Exhibits B through P are in the official records and files of SANDAG, Exhibits B, C, D, E, F, G, H, I, J, K, L, M, O and P are also officials acts of SANDAG and Exhibit Q is in the official record and files of SANDAG and is an official act of the State agency, HCD.

Exhibits A through Q are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy. *See* Evid. Code § 452(h). Accordingly, SANDAG respectfully requests that the Court take judicial notice of SANDAG's Exhibits B through Q as specified above.

B. The Documents Are Relevant to the Case.

The documents are also relevant to the present matter and would be helpful to the Court in ruling on SANDAG's demurrer and motion to strike regarding the Petition in this matter. This lawsuit asks this Court to intervene in the complex RHNA process described in SANDAG's demurrer and motion to strike briefing and, among other things, demands that this Court order SANDAG to rescind its final RHNA allocation. Petitioners appealed the draft allocation to the SANDAG Board, but that process is now complete and they have no further right to challenge it.

Judicial notice of items is proper where such items are "necessary, helpful, or relevant" to the present matter. *Jordache Enter., Inc. v. Brobeck, Phleger & Harrison* (1998) 18 Cal.4th 739, 748, fn. 6. Additionally, the court may reject allegations by a plaintiff that are contrary to facts that the court may judicially notice. *City of Chula Vista v. County of San Diego* (1994) 23 Cal.App.4th 1713, 1719. Accordingly, the documents are relevant to the present litigation and are properly subject to judicial notice.

II. CONCLUSION

For the reasons stated above, SANDAG respectfully requests that this Court take judicial notice of Exhibits A through Q.

DATED: November 23, 2020

MEYERS, NAVE, RIBACK, SILVER & WILSON

By: _____

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MARGARET W. ROSEQUIST
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SAN DIEGO ASSOCIATION OF GOVERNMENTS and BOARD OF DIRECTORS OF THE SAN DIEGO ASSOCIATION OF GOVERNMENTS

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SANDAG'S INDEX OF EXHIBITS
RE DEMURRER AND MOTION TO STRIKE

Exhibit No.	Date	Description	Page Nos.
SANDAG'S REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF DEMURRER AND MOTION TO STRIKE RE PETITION FOR WRIT OF MANDATE			
A.	07/05/17 08/21/17	Excerpts Of The Bill Analysis For Assembly Bill No. 805, 2017-2018 Regular Session, Amending The Public Utilities Code Re Analysis On Proposed Amendments To Provide For Weighted Voting Procedures, Dated July 6, 2017 [Senate Committee On Transportation and Housing] And August 21, 2017 [Concurrence In Senate Amendments].	0009-0025
B.	02/23/18	February 23, 2018, San Diego Association Of Governments (SANDAG) Board Of Directors Agenda Re Proposed Amendments To Bylaws In Accordance With Newly Enacted Weighted Voting Procedures In Public Utilities Code.	0026-0033
C.	02/23/18	February 23, 2018, SANDAG Board Of Directors Agenda Item No. 15, Attachment 8, Proposed Amendments To Board Policies And Bylaws Staff Report Re Weighted Voting Procedures In Accordance With Newly Amended Public Utilities Code.	0034-0056
D.	02/23/18	Voting Slide For The February 23, 2018, SANDAG Board Of Directors Agenda Item 15 Showing Unanimous Approval Of Proposed Amendments To Board Policies And Bylaws Adopting Weighted Voting Procedures In Accordance With Newly Amended Public Utilities Code.	0057-0058
E.	02/23/18	SANDAG's Bylaws Adopted July 2003 And Unanimously Amended February 23, 2018, By The SANDAG Board Of Directors To Be In Accord With Newly Enacted Weighted Voting Procedures Set Forth In Public Utilities Code.	0059-0070
F.	02/14/20	February 14, 2020, SANDAG Executive Committee Agenda Re Consideration Of Proposed RHNA Appeals Hearing Procedures For Hearing On The Appeals Of Coronado, Imperial Beach, Lemon Grove, And Solana Beach.	0071-0075
G.	02/14/20	February 14, 2020, SANDAG Executive Committee Agenda Item 5 Regional Housing Needs Assessment (RHNA): Proposed Appeals Hearing Procedures For Hearing On The Appeals Of Coronado, Imperial Beach, Lemon Grove, And Solana Beach.	0076-0078

Exhibit No.	Date	Description	Page Nos.
H.	02/14/20	Voting Slide For The February 14, 2020, SANDAG Executive Committee Showing Approval Of Agenda Item 5 RHNA: Proposed Appeals Hearing Procedures.	0079-0080
I.	02/28/20	February 28, 2020, SANDAG Board Of Directors Agenda Re Ratification Of RHNA Appeals Hearing Procedures For Hearing On The Appeals Of Coronado, Imperial Beach, Lemon Grove, And Solana Beach.	0081-0088
J.	02/28/20	February 28, 2020, SANDAG Board Of Directors Consent Agenda Item 5 Policy Advisory Committee Actions, Ratification Of RHNA Appeals Hearing Procedures For Hearing On The Appeals Of Coronado, Imperial Beach, Lemon Grove, And Solana Beach.	0089-0091
K.	02/28/20	Voting Slide For The February 28, 2020, SANDAG Board Of Directors Consent Balance Showing Ratification Of RHNA Appeals Hearing Procedures For Hearing On The Appeals Of Coronado, Imperial Beach, Lemon Grove, And Solana Beach.	0092-0093
L.	02/28/20	RHNA Appeals Hearing Procedures For Hearing On The Appeals Of Coronado, Imperial Beach, Lemon Grove, And Solana Beach Approved By The SANDAG Executive Committee On February 14, 2020, And Ratified By The SANDAG Board Of Directors On February 28, 2020.	0094-0095
M.	06/26/20	June 26, 2020, SANDAG Board Of Directors Agenda Re RHNA Appeals Public Hearing On The Appeals Of Coronado, Imperial Beach, Lemon Grove, And Solana Beach.	0096-0101
N.	06/26/20	June 26, 2020, SANDAG Board Of Directors Agenda Item No. 13, Attachment 11: June 24, 2020, Letter From Appealing Cities To SANDAG Re Joint Request Regarding RHNA Draft Allocation Appeals.	0102-0105
O.	06/26/20	June 26, 2020, SANDAG Board Of Directors Agenda Item No. 13, Attachments 1-5 RHNA Appeals Public Hearing Staff Report With Attached Draft Appeals Determinations: • SANDAG Appeals Determination: City Of Coronado. • SANDAG Appeals Determination: City Of Imperial Beach. • SANDAG Appeals Determination: City Of Lemon Grove. • SANDAG Appeals Determination: City Of Solana Beach.	0106-0185

Exhibit No.	Date	Description	Page Nos.
P.	06/26/20	Voting Slides For The June 26, 2020, SANDAG Board Of Directors Agenda Item 13 Showing Adoption By Weighted Vote Of The Proposed Final RHNA Plan And The Staff Recommendation Draft Determinations Modifying The City Of Coronado Appeal, And Rejecting The Appeals From The Cities Of Imperial Beach, Lemon Grove And Solana Beach.	0186-0190
Q.	07/21/20	July 21, 2020, Letter From Megan Kirkeby, Acting Deputy Director, HCD To Hasan Ikhrata, Executive Director, SANDAG Re: HCD Review And Approval Of 2021-2029 RHNA Allocation Plan.	0191-0193
SANDAG'S REQUEST FOR JUDICIAL NOTICE OF LETTER ISSUED BY CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT			
R.	11/20/20	November 20, 2020, Letter From Megan Kirkeby, Deputy Director, HCD To Hasan Ikhrata, Executive Director, SANDAG Re: HCD Restating Approval And Support Of SANDAG's RHNA Methodology and Allocation.	0008-0013
DECLARATION OF MARGARET W. ROSEQUIST IN SUPPORT OF SANDAG's DEMURRER AND MOTION TO STRIKE RE PETITION FOR WRIT OF MANDATE			
S.	11/16/20	November 16, 2020, meet-and-confer email from attorney Margaret W. Rosequist to Petitioners' counsel regarding the basis for SANDAG's demurrer/motion to strike.	0006-0008
T.	11/18/20	November 18, 2020 response email from attorney Madeline E. Miller regarding Petitioners' position on SANDAG's demurrer/motion to strike.	0009-0011

EXHIBIT A

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	AB 805	**Hearing Date:**	7/11/2017
Author:	Gonzalez Fletcher		
Version:	5/30/2017		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Manny Leon		

SUBJECT: County of San Diego: transportation agencies

DIGEST: This bill makes changes to the governance and financing authority of the San Diego Association of Governments (SANDAG), the San Diego Metropolitan Transit System (MTS), and the North County Transit District (NCTD).

ANALYSIS:

Existing law:

1) Creates a consolidated transportation agency in San Diego, including the SANDAG, MTS, and NCTD, and authorized that agency to assume certain responsibilities, including the development of a regional transportation plan.

2) Defines the governance structure of the SANDAG, MTS, and NCTD boards, including membership and voting.

3) Authorizes cities and counties, and some transportation agencies such as SANDAG, to impose transactions and use taxes in 0.125% increments in addition to the state's 7.5% sales tax, provided that the combined rate in the county does not exceed 2%.

4) Requires SANDAG to adopt a regional comprehensive plan based on the local general and regional plan that integrates land uses, transportation systems, infrastructure needs, and public investment strategies, within a regional framework, in cooperation with member agencies and the public.

5) Requires regional transportation planning agencies to develop and adopt of a regional transportation plan (RTP) directed at achieving a coordinated and balanced regional transportation system, including, but not limited to, mass

transportation, highway, railroad, maritime, bicycle, pedestrian, goods movement, and aviation facilities and services.

This bill:

Overall, AB 805 makes four major changes to MTS, NCTD, SANDAG:

1) Modifies the governing structure of MTS.

2) Allows MTS and NCTD to impose a transactions and use tax,

3) Alters SANDAG's governance structure and approval process,

4) Creates an independent auditor, charges the position with specified powers, and requires the performance of certain duties, and

Specifically, this bill proposes to make the following changes to MTS, NCTD, SANDAG:

1) Revises the San Diego Association of Governments (SANDAG) Board of Directors as follows:

    a) Requires the mayors of the largest city and the second-largest city to alternate between serving as Chairperson and Vice Chairperson for four-year terms;

    b) Provides that terms of office for the SANDAG Board, other than for the Chairperson and Vice Chairperson, may be established by the Board;

    c) Requires the two directors from the City of San Diego to be the Mayor and the President of the City Council;

    d) Requires the Chair of the San Diego County Board of Supervisors (BOS) to be one of the two SANDAG Board members from the County of San Diego (County), and makes conforming changes; and,

    e) Requires the weighted vote allocated to the two representatives from the BOS and City of San Diego to be equal, instead of authorizing each agency to apportion the weighted vote among their two members.

2) Requires an affirmative vote of the majority of SANDAG Board members present to act on any item.

3) Removes a provision in existing law which required both a majority vote of the members present on the basis of one vote per agency and a majority of the weighted vote of the member agencies present in order to act on any item, and instead authorizes the members of any two jurisdictions to call a weighted vote after a vote of the SANDAG Board members on the basis of one vote per agency is taken.

4) Makes changes to the formula to apportion weighted votes by increasing the cap in existing law, from 40 to 50, which allocates 50 votes to any agency with 50% or more of the total population of the County and provides a formula to allocate the remaining 50 votes.

5) Requires for approval under the weighted vote procedure a vote of the representatives of no less than four jurisdictions which represent no less than 51% of the total weighted vote to supersede the original action of the SANDAG Board.

6) Requires the population of the County to be the population in the unincorporated area of the County for the purposes of determining the weighted vote for the County.

7) Adds an audit committee to the list of standing policy advisory committees within SANDAG.

8) Requires the audit committee to consist of five voting members, two members from the SANDAG Board, and three members of the public appointed by the SANDAG Board. Provides an exception, for directors serving on the Audit Committee, to the prohibition in existing law which prevents a director from serving on more than two standing policy advisory committees.

9) Requires the audit committee to recommend to the SANDAG Board the contract of the firm conducting the annual financial statement audits and the hiring of the independent performance auditor (Auditor), and to approval the annual audit plan after discussion with the Auditor, as specified.

10) Requires the audit committee to appoint an Auditor, subject to approval by the SANDAG Board, who may only be removed for cause by a vote of at least two-thirds of the audit committee and the SANDAG Board.

11) Establishes the powers granted to the Auditor over personnel matters, performance audits, investigation within SANDAG, and contracts.

12) Requires the Auditor to prepare annually an audit plan and to conduct audits as required by ordinance or in accordance with state law and the California Constitution. Requires all audits and reports to be made available to the public in accordance with the California Public Records Act.

13) Requires the Chairperson and Vice Chairperson of the SANDAG Board to be voting members of the executive committee.

14) Revises the composition of the Metropolitan Transit System Board (MTS Board), as follows:

a) Requires two members, instead of one member, from the Chula Vista city council, one of whom shall be the mayor, to be appointed by the city council; and,

b) Removes the BOS MTS Board member, as specified, as Chairperson of the Board, and makes conforming changes.

15) Authorizes any two MTS Board members to call for a weighted vote, and deletes existing law which authorized a weighted vote to be called by any two members at least one of whom is not the City of San Diego representative.

16) Removes a provision in existing law which authorizes an appointed MTS Board member to continue to serve on the Board for up to four years after the date of termination from elected office.

17) Makes specified changes to the appointment of alternate members of the MTS Board, and requires the BOS to appoint a supervisor who represents one of the two supervisorial districts with the greatest percentage of its area within the incorporated area of the County within the jurisdiction of MTS to serve as an alternate member of the MTS Board.

18) Requires an affirmative vote of the members present for all official acts of the MTS Board.

19) Revises the weighted vote to be a total of 100 votes, with each member agency allotted the number of votes annually determined by population, except as provided by exiting law which allocates 12.5 weighted votes to each of the four City of San Diego representatives for a total of 50 votes.

20) Requires a supermajority percentage of the weighted vote when a weighted vote is taken on any item that requires more than a majority vote of the MTS Board.

21) Requires the City of Chula Vista to allocate its weighted vote evenly between their two MTS Board members.

22) Authorizes any two members of the North County Transit District (NCTD) Board to call a weighted vote after a vote of the NCTD Board is taken.

23) Requires an affirmative vote of the majority of the members present for all official acts of the NCTD Board.

24) Establishes a total of 100 weighted votes to be apportioned to the County and each city annually based on population.

25) Requires for approval under the weighted vote procedure a vote of the representative of no less than three jurisdictions which represent no less than 51% of the total weighted vote to supersede the original action of the NCTD Board.

26) Requires a supermajority percentage of the weighted vote when a weighted vote is taken on any item that requires more than a majority vote of the NCTD Board.

27) Requires the NCTD Board to adopt policies and procedures to implement the weighted vote requirements.

28) Authorizes the MTS and NCTD Board, subject to the approval of their voters, to impose a 0.5% transaction and use tax for public transit purposes in accordance with transactions and use tax law and the California Constitution Article XIII C.

29) Authorizes the transactions and use tax ordinance to be applicable in the incorporated and unincorporated territory within the area of the MTS Board and the NCTD Board, respectively, as defined in existing law.

30) Provides that this authority remains in effect, if at any time, the voters do not approve transactions and use tax and authorizes both Boards to go back to their voters at any time subject to specified requirements.

31) Requires the ordinance to state the nature of the tax to be imposed, the tax rate, the term the tax will be imposed, purposes for which the revenue will be used, and to include an expenditure plan which must include the allocation of revenues.

32) Limits the use of tax revenue to public transit purposes serving the area of jurisdiction of the MTS and NCTD Board, as determined by the respective Board, as specified. Provides that these purposes include expenditure for the planning, environmental review, engineering and design costs, and related right of way acquisition.

33) Defines public transit purposes to include the public transit responsibilities under the jurisdiction of the Board as well as any bikeway, bicycle path, sidewalk, trail, pedestrian access, or pedestrian access way.

34) Authorizes each Board to allocate transactions and use tax revenues for public transit purposes consistent with the applicable regional transportation improvement program and the regional transportation plan.

35) Prohibits both Boards from levying the tax, subject to voter approval, at a rate other than 0.5% or 0.25%, unless specifically authorized by the Legislature.

36) Authorizes each Board to seek authorization to issue bonds payable from the proceeds of the tax, as part of the ballot proposition to approve the transactions and use tax.

37) Provides that both Boards have no power to impose any tax other than the transactions and use tax imposed, pursuant to this bill and subject to voter approval.

38) Requires the SANDAG Board to develop and adopt internal control guidelines and an administration policy, as specified.

39) Requires the SANDAG Board to provide a report, developed by the transportation committee, to the Legislature on or before July 1 of each year that outlines specified information.

40) Requires SANDAG's regional comprehensive plan to address the following:

a) Greenhouse gas emissions reduction targets set by the State Air Resources Board, pursuant to existing law, and to include strategies that provide for mode shift to public transportation; and,

b) Identify disadvantaged communities, as designated pursuant to existing law, and include transportation strategies to reduce pollution exposure in those communities.

41) Adds open space, including habitat to the list of components that the regional comprehensive plan may include.

COMMENTS:

1) *Purpose.* According to the author, "the San Diego Association of Governments is an unaccountable and unrepresentative agency with too much power and too little transparency. Structurally, one agency has been placed in charge of managing billions of dollars of taxpayer money for transportation purposes and has been set up to give a group of cities representing less than 15 percent of the county's population a veto over any actions. The lack of accountability and transparency in SANDAG has become evident with the recent scandals over SANDAG staff and board members who were aware of faulty revenue projections, but continued to use them and mislead voters leading up to the vote on proposed sales tax. Even now, those at SANDAG have continued to shift the

blame and have not been held accountable for presenting voters with false information. AB 805 would reform the governance structure of SANDAG to better reflect and represent the San Diego region's population, and decentralize some of the authority to raise revenue in order to empower smaller jurisdictions which may have different transportation priorities to act. The bill would also establish an audit committee and independent performance auditor within SANDAG to help ensure the agency stays on track and this sort of scandal does not happen again."

Transportation in San Diego:

2) *SANDAG.* SB 1703 (Peace), Chapter 743, Statutes of 2002, created a consolidated transportation agency in San Diego from existing agencies, including the San Diego Association of Governments (SANDAG), the San Diego Metropolitan Transit System (MTS), and the North County Transit District (NCTD), and authorized that agency to assume certain responsibilities. SANDAG is now the consolidated agency responsible for many public transit and long-term transportation planning and programming responsibilities that formerly resided with MTS and NCTD boards. SB 1703 established the general authority and powers of the revamped SANDAG in an attempt to create an agency with the power to develop a comprehensive regional public transportation system. In addition to the planning functions, SB 1703 transferred project development and construction activities to SANDAG, except on certain existing projects, and sought to refocus MTS and NCTD primarily as agencies operating public transit services.

SANDAG is the regional transportation planning agency for San Diego County and under federal law is the metropolitan planning organization for the region. SANDAG also manages a local, voter approved half-percent transportation sales tax.

SANDAG is governed by a 21-member board comprised of two members of the BOS, two members of the City of San Diego, which may include the mayor, and 17 members from the city councils, which may include the mayor, from each of the seventeen incorporated cities. Votes are allocated among the 21-member board by formula that apportions the total weighted vote of 100 based on the total population in the County and specifies a specific formula if any agency has 40% or more of the total population. Under existing law, a majority vote on the basis of one vote per agency and a majority vote of the weighted vote are required.

3) *MTS.* MTS is governed by a 15-member board comprised of two members of the Board of Supervisors appointed by the BOS, four members of the San Diego City Council, one of whom may be the mayor, appointed by the city council, and

nine members from the city councils of the following cities: Chula Vista, Coronado, El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, and Santee appointed by each respective city council. Under existing law, official acts of the MTS Board require a majority vote of members of the Board. A weighted vote may be called by any two members, as specified.

MTS provides transit services over approximately 570 square miles of the urbanized areas of San Diego County, including the City of San Diego, as well as the rural parts of East County, totaling 3240 square miles and serving an estimated 3 million people in San Diego County. Transit services primarily include bus and light rail providing over 92 million annual passenger trips on an operating budget of roughly $256 million.

4) *NCTD.* NCTD is governed by a nine-member board comprised of one member of the BOS, appointed by the BOS; eight members from the city councils of the following cities: Carlsbad, Del Mar, Encinitas, Escondido, Oceanside, San Marcos, Solana Beach; and Vista appointed by each respective city council. Existing law requires a majority vote of the members of the NCTD Board for any official act.

NCTD provides transit services for approximately 12 million passengers annually by providing public transportation for North San Diego County. Transit services include COASTER commuter rail service, SPRINTER light rail, BREEZE bus system, FLEX rural and on-demand service, and LIFT paratransit service.

As mentioned, this bill would make a variety of changes to the board and governance structure to SANDAG, MTS, and NCTD.

5) *TUT.* Existing law authorizes cities and counties to impose transactions and use taxes (TUT) in 0.125% increments in addition to the state's 7.5% sales tax, provided that the combined rate in the county does not exceed 2%. TUT's are taxes imposed on the total retail price of any tangible personal property and the use or storage of such property when sales tax is not paid. State law has been amended multiple times to authorize specific cities, counties, special districts and county transportation authorities, including SANDAG, to impose a transactions and use tax, if voters approve the tax.

This bill authorizes MTS and NCTD to each adopt an ordinance to propose the imposition of transactions and use tax for public transit purposes at a rate of no more than 0.5%, and with the appropriate voter approval pursuant to the California Constitution, which requires a two-thirds vote. With both MTS and NCTD including incorporated and unincorporated areas, this bill authorizes each Board to impose transactions and use tax within the area of the Board.

6) *Support.* In support, the State Building and Construction Trades Council writes, "SB 805 will bring much-needed reform, accountability and democracy to SANDAG. It will also empower transit agencies like the San Diego Metropolitan Transit System (MTS) and the North County Transit District (NCTD) to pursue their own voter funding for public transit. Allowing MTS and NCTD to levy taxes is more strategic way to serve regional transportation needs as both agencies exclusively focus on transit and operations."

7) *Opposition.* Writing in opposition, SANDAG notes, "AB 805 would eliminate the simultaneous and dual nature of the current voting structure and initially require a tally vote on all items. However, after the initial tally vote is taken, AB 805 would allow two jurisdictions to call for a weighted vote instead. If at least four jurisdictions representing a majority of the weighted vote supported the action, the weighted vote would supersede the original tally vote. In effect, the proposed voting system would enable 4 of the region's 19 jurisdictions to determine all of the agency's priorities and expenditures, effectively disenfranchising more than half of the region's population.

AB 805 also would mandate that the mayors of the two largest cities alternate between serving as Chair and Vice Chair of the Board of Directors for four-year terms, thereby preventing representatives of 16 cities and the County from ever serving in leadership. (In terms of current population, the two largest cities in the region are the cities of San Diego and Chula Vista.)"

8) *Amendments.* Pending the approval from this committee, the author wishes to make several amendments to the bill. First, amendments would prohibit SANDAG, MTS, and NCTD from entering into a construction contract over $1 million with any entity unless the entity provides an enforceable commitment that the entity and its subcontractors at every tier uses a skilled and trained workforce to perform all work on the project, as specified. This amendment further specifies that the abovementioned requirement does not apply if SANDAG, MTS, or NCTD has entered into a project labor agreement that will bind all contractors and subcontractors performing work on a project, as specified.

Several other clarification amendments include changing the MTS and SANDAG chairmanship terms from four to two years and changing the requirement that the Chair of the San Diego County Board of Supervisors serve on the SANDAG board to allow any member from the County Board of Supervisors to serve on the SANDAG board.

RELATED LEGISLATION:

SB 268 (Mendoza, 2017) — would revise the composition of the Los Angeles Metropolitan Transportation Authority (METRO) governing board, from 14 to 22 members, as specified, unless a different composition is agreed to in a plan supported by specified local entities prior to December 1, 2018.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, July 5, 2017.)

SUPPORT:

AFSCME Retirees Chapter 36
Amalgamated Transit Union
American Federation of Teachers, Local 1931
Association of Local Government Auditors
Bike San Diego
Bike Walk Chula Vista
California Alliance for Retired Americans
California Bicycle Coalition
California Environmental Justice Alliance
California Labor Federation
California Nurses Association / National Nurses United
Carlsbad City Councilmember Cori Schumacher
Center on Policy Initiatives
Chula Vista City Councilmember Stephen C. Padilla
Chula Vista Mayor Mary Casillas Salas
Circulate San Diego
Cleveland National Forest Foundation
Climate Action Campaign
Coastal Environmental Rights Foundation
Democratic Club of Carlsbad Oceanside
Environmental Center of San Diego
Environmental Health Coalition
Escondido Chamber of Citizens
International Brotherhood of Electrical Workers Local 569
La Mesa City Councilmember Colin Parent
Mid-City Community Advocacy Network
National City Councilmembers Alejandra Sotelo-Solis and Mona Rios
Preserve Calavera
San Diego 350
San Diego City Councilmembers David Alvarez, Myrtle Cole, and Georgette Gomez

San Diego County Building and Construction Trades Council
San Diego Metropolitan Transit System
South Bay Democratic Club
Southwestern Community College District Governing Board Members Nora E. Vargas and Roberto C. Alcantar
State Building and Construction Trades Council, AFL-CIO
UNITE HERE, AFL-CIO

OPPOSITION:

Associated Builders and Contractors, San Diego Chapter
Associated General Contractors – San Diego
Building Industry Association of San Diego County
California Taxpayers Association
City of Del Mar
City of El Cajon
City of Escondido
City of La Mesa
City of National City
City of Oceanside
City of Ontario
City of Poway
City of San Marcos
City of Solana Beach
City of Vista
County of San Diego
Howard Jarvis Taxpayers Association
Metrolink
Mobility 21
Oceanside City Councilmember Jerome Kern
Riverside County Transportation Commission
San Bernardino County Transportation Authority
San Diego City Councilmember Lorie Zapf
San Diego County Board of Supervisors
San Diego County Regional Airport Authority (oppose unless amend)
San Diego Regional Chamber of Commerce
SANDAG
Southern California Association of Governments

-- END --

CA B. An., A.B. 805 Sen., 8/21/2017

California Bill Analysis, Assembly Floor, 2017-2018 Regular Session, Assembly Bill 805

August 21, 2017
California Senate
2017-2018 Regular Session

CONCURRENCE IN SENATE AMENDMENTS

AB 805 (Gonzalez Fletcher)

As Amended August 21, 2017

Majority vote

ASSEMBLY: 50-25 (May 31, 2017) SENATE: 25-13 (September 7, 2017)

Original Committee Reference: **L. GOV.**

SUMMARY: Makes changes to the governance and financing authority of the San Diego Association of Governments, the San Diego Metropolitan Transit System, and the North County Transit District.

The Senate amendments:

1) Prohibit the Metropolitan Transit System (MTS), San Diego Association of Governments (SANDAG), and North County Transit District (NCTD) Board from entering into a construction contract over $1 million, with any entity, unless the entity provides to the Board an enforceable commitment that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeship occupation in the building and construction trades. Provide that this prohibition does not apply, if any of the following requirements are met:
   a) The Board has entered into a project labor agreement that binds all contractors and subcontractors performing work on the project;
   b) The Board has contracted to use a skilled and trained workforce and the entity has agreed to be bound by that project labor agreement;
   c) The project or contract is being performed under the extension or renewal of a project labor agreement that was entered into by the Board before January 1, 2017; or,
   d) The entity has entered into a project labor agreement that will bind the entity and all its subcontractors at every tier performing the project or the entity has contracted to use a skilled and trained workforce.

2) Require the MTS and NCTD Boards to contract with the California Department of Tax and Fee Administration (CDTFA) to administer a transactions and use tax, and provide CDTFA with a complete alphabetical list of all streets within the affected unincorporated area under the jurisdiction of the board within 45 days from the date the ordinance is approved by the voters.

3) Increase the membership of SANDAG's transportation committee from nine to 10 members, to include a member of the San Diego United Port District's governing board, appointed by their Board.

4) Delete the requirement that the mayors of the largest city and the second-largest city alternate between serving as Chairperson and Vice Chairperson, and instead, require the SANDAG Board to elect the Chairperson and Vice Chairperson by weighted vote every two years or when a vacancy exists. Prohibit the Chairperson and Vice Chairperson from representing the same

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subregion, and define subregion as east county, north county coastal, north county inland, south county, City of San Diego, and County of San Diego.

5) Require SANDAG Board members to make an annual report to their member agencies at a public meeting, pursuant to existing law, that includes a summary of SANDAG activities including, but not limited to, program developments, project updates, changes to voter approved expenditure plans, and potential ballot measures.

6) Require the Chairperson of the MTS Board to serve for a term of two years, instead of four years.

7) Make technical changes.

AS PASSED BY THE ASSEMBLY, this bill:

1) Revised the SANDAG Board of Directors as follows:
a) Required the mayors of the largest city and the second-largest city to alternate between serving as Chairperson and Vice Chairperson for four-year terms;
b) Provided that terms of office for the SANDAG Board, other than for the Chairperson and Vice Chairperson, may be established by the Board;
c) Required the two directors from the City of San Diego to be the Mayor and the President of the City Council;
d) Required the Chair of the San Diego County Board of Supervisors (BOS) to be one of the two SANDAG Board members from the County of San Diego (County), and makes conforming changes; and,
e) Required the weighted vote allocated to the two representatives from the BOS and City of San Diego to be equal, instead of authorizing each agency to apportion the weighted vote among their two members.

2) Required an affirmative vote of the majority of SANDAG Board members present to act on any item.

3) Removed a provision in existing law which required both a majority vote of the members present on the basis of one vote per agency and a majority of the weighted vote of the member agencies present in order to act on any item, and instead, authorized the members of any two jurisdictions to call a weighted vote after a vote of the SANDAG Board members on the basis of one vote per agency is taken.

4) Made changes to the formula to apportion weighted votes by increasing the cap in existing law, from 40 to 50, which allocates 50 votes to any agency with 50% or more of the total population of the County and provides a formula to allocate the remaining 50 votes.

5) Required for approval under the weighted vote procedure a vote of the representatives of no less than four jurisdictions which represent no less than 51% of the total weighted vote to supersede the original action of the SANDAG Board.

6) Required the population of the County to be the population in the unincorporated area of the County for the purposes of determining the weighted vote for the County.

7) Added an audit committee to the list of standing policy advisory committees within SANDAG.

8) Required the audit committee to consist of five voting members, two members from the SANDAG Board, and three members of the public appointed by the SANDAG Board. Provides an exception, for directors serving on the Audit Committee, to the prohibition in existing law which prevents a director from serving on more than two standing policy advisory committees.

9) Required the audit committee to recommend to the SANDAG Board the contract of the firm conducting the annual financial statement audits and the hiring of the independent performance auditor (Auditor), and to approval the annual audit plan after discussion with the Auditor, as specified.

10) Required the audit committee to appoint an Auditor, subject to approval by the SANDAG Board, who may only be removed for cause by a vote of at least two-thirds of the audit committee and the SANDAG Board.

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11) Established the powers granted to the Auditor over personnel matters, performance audits, investigation within SANDAG, and contracts.

12) Required the Auditor to prepare annually an audit plan and to conduct audits as required by ordinance or in accordance with state law and the California Constitution. Required all audits and reports to be made available to the public in accordance with the California Public Records Act.

13) Required the Chairperson and Vice Chairperson of the SANDAG Board to be voting members of the executive committee.

14) Revised the composition of the MTS Board, as follows:
a) Required two members, instead of one member, from the Chula Vista city council, one of whom shall be the mayor, to be appointed by the city council; and,
b) Removed the BOS MTS Board member, as specified, as Chairperson of the Board, and made conforming changes.

15) Authorized any two MTS Board members to call for a weighted vote, and deleted existing law which authorized a weighted vote to be called by any two members at least one of whom is not the City of San Diego representative.

16) Removed a provision in existing law which authorizes an appointed MTS Board member to continue to serve on the Board for up to four years after the date of termination from elected office.

17) Made specified changes to the appointment of alternate members of the MTS Board, and required the BOS to appoint a supervisor who represents one of the two supervisorial districts with the greatest percentage of its area within the incorporated area of the County within the jurisdiction of MTS to serve as an alternate member of the MTS Board.

18) Required an affirmative vote of the members present for all official acts of the MTS Board.

19) Revised the weighted vote to be a total of 100 votes, with each member agency allotted the number of votes annually determined by population, except as provided by exiting law which allocates 12.5 weighted votes to each of the four City of San Diego representatives for a total of 50 votes.

20) Required a supermajority percentage of the weighted vote when a weighted vote is taken on any item that requires more than a majority vote of the MTS Board.

21) Required the City of Chula Vista to allocate its weighted vote evenly between their two MTS Board members.

22) Authorized any two members of the NCTD Board to call a weighted vote after a vote of the NCTD Board is taken.

23) Required an affirmative vote of the majority of the members present for all official acts of the NCTD Board.

24) Established a total of 100 weighted votes to be apportioned to the County and each city annually based on population.

25) Required for approval under the weighted vote procedure a vote of the representative of no less than three jurisdictions which represent no less than 51% of the total weighted vote to supersede the original action of the NCTD Board.

26) Required a supermajority percentage of the weighted vote when a weighted vote is taken on any item that requires more than a majority vote of the NCTD Board.

27) Required the NCTD Board to adopt policies and procedures to implement the weighted vote requirements.

28) Authorized the MTS and NCTD Board, subject to the approval of their voters, to impose a 0.5% transactions and use tax for public transit purposes in accordance with transactions and use tax law and the California Constitution Article XIII C.

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29) Authorized the transactions and use tax ordinance to be applicable in the incorporated and unincorporated territory within the area of the MTS Board and the NCTD Board, respectively, as defined in existing law.

30) Provided that this authority remains in effect, if at any time, the voters do not approve a transactions and use tax and authorized both Boards to go back to their voters at any time subject to specified requirements.

31) Required the ordinance to state the nature of the tax to be imposed, the tax rate, the term the tax will be imposed, purposes for which the revenue will be used, and to include an expenditure plan which must include the allocation of revenues.

32) Limited the use of tax revenue to public transit purposes serving the area of jurisdiction of the MTS and NCTD Board, as determined by the respective Board, as specified. Provided that these purposes include expenditure for the planning, environmental review, engineering and design costs, and related right of way acquisition.

33) Defined public transit purposes to include the public transit responsibilities under the jurisdiction of the Board as well as any bikeway, bicycle path, sidewalk, trail, pedestrian access, or pedestrian access way.

34) Authorized each Board to allocate transactions and use tax revenues for public transit purposes consistent with the applicable regional transportation improvement program and the regional transportation plan.

35) Prohibited both Boards from levying the tax, subject to voter approval, at a rate other than 0.5% or 0.25%, unless specifically authorized by the Legislature.

36) Authorized each Board to seek authorization to issue bonds payable from the proceeds of the tax, as part of the ballot proposition to approve the transactions and use tax.

37) Provided that both Boards have no power to impose any tax other than the transactions and use tax imposed, pursuant to this bill and subject to voter approval.

38) Required the SANDAG Board to develop and adopt internal control guidelines and an administration policy, as specified.

39) Required the SANDAG Board to provide a report, developed by the transportation committee, to the Legislature on or before July 1 of each year that outlines specified information.

40) Required SANDAG's regional comprehensive plan to address the following:
 a) Greenhouse gas emissions reduction targets set by the State Air Resources Board, pursuant to existing law, and to include strategies that provide for mode shift to public transportation; and,
 b) Identify disadvantaged communities, as designated pursuant to existing law, and include transportation strategies to reduce pollution exposure in those communities.

41) Added open space, including habitat to the list of components that the regional comprehensive plan may include.

FISCAL EFFECT: According to the Senate Appropriations Committee: Unknown, potentially reimbursable local mandate costs to revise the governance structure and procedures for SANDAG, MTS, and NCTD, establish an in-house audit committee and independent auditor within SANDAG, revise contracting practices, and update the regional comprehensive plan, as specified. To the extent SANDAG, MTS, and/or NCTD files a successful claim for reimbursement with the Commission on State Mandates, this bill could result in significant General Fund impacts.

COMMENTS:

1) **Background.** SB 1703 (Peace), Chapter 743, Statutes of 2002, created a consolidated transportation agency in San Diego from existing agencies, including the San Diego Association of Governments (SANDAG), the San Diego Metropolitan Transit System (MTS), and the North County Transit District (NCTD), and authorized that agency to assume certain responsibilities. SANDAG is now the consolidated agency responsible for many public transit and long-term transportation planning and

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programming responsibilities that formerly resided with MTS and NCTD boards. SB 1703 established the general authority and powers of the revamped SANDAG in an attempt to create an agency with the power to develop a comprehensive regional public transportation system. In addition to the planning functions, SB 1703 transferred project development and construction activities to SANDAG, except on certain existing projects, and sought to refocus MTS and NCTD primarily as agencies operating public transit services.

SANDAG is the regional transportation planning agency for San Diego County and under federal law is the metropolitan planning organization for the region. SANDAG also manages a local, voter approved half-percent transportation sales tax.

This bill makes a number of changes to the statutes which govern SANDAG, MTS, and NCTD. This bill is author-sponsored.

2) **Author's Statement.** According to the author, "[SANDAG is] the agency currently enveloped in scandal for misleading voters in San Diego on how much revenue a proposed sales tax increase that failed this past November, Measure A, was expected to raise for transportation projects. Out-of-date cost estimates were also used in the official long term plans for TransNet, the transportation infrastructure program in San Diego, despite SANDAG having updated its own figures a year earlier. This enabled SANDAG to obscure an $8.4 billion cost increase facing the projects until after the Measure A tax increase had failed. Staff at SANDAG, its executive director, and high ranking officials knew of the faulty projections and did not act to correct the mistakes nor inform the elected officials who serve on the SANDAG board of directors, reportedly. The San Diego region is now facing a situation where there is no real way to hold the board accountable.

"The consolidation of power and money into a board that is not directly elected has led to priorities which do not reflect the growing population centers of the area, a lack of transparency, and the inability for constituents to know who should be held responsible for failures. Taxpayers deserve more than they have received in the past from SANDAG. It is time to reform the way transportation dollars are raised and spent in the San Diego region.

"AB 805 would overhaul the decision-making process at SANDAG, as well as the two transit districts that serve portions of San Diego County to provide better equity through proportional representation on the boards of directors that oversee those agencies. Additionally, the bill would create new financial controls at SANDAG by requiring that it employ an independent auditor who would report to a newly formed Audit Committee, comprised of members of the public, to oversee the agency's spending plans, financial forecasts and annual budget. AB 805 would also provide the two local transit operators - the Metropolitan Transit System and the North County Transit District - the ability to approach voters in the communities they represent with a ballot measure to raise the sales tax to fund transit projects and operations."

3) **Arguments in Support.** Bike San Diego argues that SANDAG "…is broken. It is failing our community, our citizens and our region…Their regional transportation plan is under litigation for failing to meet state climate targets. And, the community's repeated requests for equitable, healthier transportation options have been ignored and met with cold proposals to continue widening freeways in some of our most vulnerable neighborhoods, low-income and communities of color already devastated by pollution." Bike San Diego states that this bill "…will also empower [MTS and NCTD] to pursue their own voter funding for public transit. Allowing MTS and NCTD to levy taxes is a more strategic way to serve regional transportation needs as both agencies exclusively focus on transit and operations."

4) **Arguments in Opposition.** The Howard Jarvis Taxpayers Association states, "AB 805 would allow two government entities in the San Diego region, MTS and NCTD, to impose additional sales taxes and transportation bonds....Despite the fact that these new authorizations would be subject to a two-thirds vote requirement under the California Constitution, HJTA must oppose giving these entities new taxing authority. Between the city and county of San Diego, as well as SANDAG, there is no justification to seek to impose further regressive taxation on the citizens of San Diego. Between sales taxes, parcel taxes, or even benefit assessments, plenty of existing options are in place to increase revenue."

Analysis Prepared by: Misa Lennox / L. GOV. / (916) 319-3958 FN: 0002013

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EXHIBIT B

Board Members

Terry Sinnott, Chair
Councilmember, **Del Mar**

Steve Vaus, Vice Chair
Mayor, **Poway**

Matt Hall
Mayor, **Carlsbad**

Mary Salas
Mayor, **Chula Vista**

Richard Bailey
Mayor, **Coronado**

Bill Wells
Mayor, **El Cajon**

Catherine Blakespear
Mayor, **Encinitas**

Sam Abed
Mayor, **Escondido**

Serge Dedina
Mayor, **Imperial Beach**

Kristine Alessio
Councilmember, **La Mesa**

Racquel Vasquez
Mayor, **Lemon Grove**

Ron Morrison
Mayor, **National City**

Chuck Lowery
Deputy Mayor, **Oceanside**

Kevin Faulconer
Mayor, **City of San Diego**

Myrtle Cole
Council President, **City of San Diego**

Bill Horn
Supervisor, **County of San Diego**

Ron Roberts
Supervisor, **County of San Diego**

Jim Desmond
Mayor, **San Marcos**

John Minto
Mayor, **Santee**

David A. Zito
Deputy Mayor, **Solana Beach**

Judy Ritter
Mayor, **Vista**

Advisory Members

Hon. John Renison
Supervisor, District 1
Imperial County

Malcolm Dougherty, *Director*
California Department of Transportation

Mona Rios
Metropolitan Transit System

Rebecca Jones, *Chair*
North County Transit District

Joe Stuyvesant, Navy Region Southwest
Executive Director
U.S. Department of Defense

Garry Bonelli, *Commissioner*
San Diego Unified Port District

Mark Muir, *Chair*
San Diego County Water Authority

Cody Martinez, *Chairman*
Southern California Tribal Chairmen's Association

Hon. Marcela Celorio
Consul General, **Mexico**

Kim Kawada
Chief Deputy Executive Director, **SANDAG**

BOARD OF DIRECTORS AGENDA

Friday, February 23, 2018
9 a.m. to 12 noon
SANDAG Board Room
401 B Street, 7th Floor
San Diego

AGENDA HIGHLIGHTS

- **PROPOSED AMENDMENTS TO BOARD POLICIES AND BYLAWS**
- **FY 2019 – FY 2023 *TransNet* AND TRANSIT RELATED REVENUES**
- **SAN DIEGO FORWARD: THE 2019-2050 REGIONAL PLAN – FUNDING SCENARIOS**

PLEASE SILENCE ALL ELECTRONIC DEVICES DURING THE MEETING

YOU CAN LISTEN TO THE BOARD OF DIRECTORS MEETING BY VISITING OUR WEBSITE AT SANDAG.ORG

MESSAGE FROM THE CLERK

In compliance with Government Code §54952.3, the Clerk hereby announces that the compensation for legislative body members attending the following simultaneous or serial meetings is: Executive Committee (EC) $100, Board of Directors (BOD) $150, and Regional Transportation Commission (RTC) $100. Compensation rates for the EC and BOD are set pursuant to the SANDAG Bylaws, and the compensation rate for the RTC is set pursuant to state law.

MISSION STATEMENT

The 18 cities and county government are SANDAG serving as the forum for regional decision-making. SANDAG builds consensus; makes strategic plans; obtains and allocates resources; plans, engineers, and builds public transit; and provides information on a broad range of topics pertinent to the region's quality of life.

San Diego Association of Governments · 401 B Street, Suite 800, San Diego, CA 92101-4231
(619) 699-1900 · Fax (619) 699-1905 · sandag.org

Welcome to SANDAG. Members of the public may speak to the Board of Directors on any item at the time the Board is considering the item. Please complete a Request to Comment form, which is located in the rear of the room, and then present the form to the Clerk of the Board seated at the front table. Members of the public may address the Board on any issue under the agenda item entitled Public Comments/Communications/Member Comments. Public speakers are limited to three minutes or less per person. The Board may take action on any item appearing on the agenda.

Both agenda and non-agenda comments should be sent to SANDAG via comment@sandag.org. Please include the Board meeting date, agenda item, your name, and your organization. Any comments, handouts, presentations, or other materials from the public intended for distribution at the Board meeting should be received by the Clerk of the Board no later than 12 noon, two working days prior to the meeting. All public comments and materials received by the deadline become part of the official project record, will be provided to the members for their review at the meeting, and will be posted to the agenda file as a part of the handouts following each meeting.

In order to keep the public informed in an efficient manner and facilitate public participation, SANDAG also provides access to all agenda and meeting materials online at www.sandag.org/meetings. Additionally, interested persons can sign up for e-notifications via our e-distribution list either at the SANDAG website or by sending an email request to webmaster@sandag.org.

SANDAG operates its programs without regard to race, color, and national origin in compliance with Title VI of the Civil Rights Act. SANDAG has developed procedures for investigating and tracking Title VI complaints, and the procedures for filing a complaint are available to the public upon request. Questions concerning SANDAG nondiscrimination obligations or complaint procedures should be directed to the SANDAG General Counsel, John Kirk, at (619) 699-1997 or john.kirk@sandag.org. Any person who believes himself or herself or any specific class of persons to be subjected to discrimination prohibited by Title VI also may file a written complaint with the Federal Transit Administration.

In compliance with the Americans with Disabilities Act (ADA), SANDAG will accommodate persons who require assistance in order to participate in SANDAG meetings. If such assistance is required, please contact SANDAG at (619) 699-1900 at least 72 hours in advance of the meeting. To request this document or related reports in an alternative format, please call (619) 699-1900 or (619) 699-1904 (TTY), or fax (619) 699-1905.

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如有需要, 我们可以把SANDAG议程材料翻译成其他語言.

请在会议前至少 72 小时打电话 (619) 699-1900 提出请求.

SANDAG offices are accessible by public transit. Phone 511 or visit 511sd.com for route information. Bicycle parking is available in the parking garage of the SANDAG offices.



BOARD OF DIRECTORS

Friday, February 23, 2018

ITEM NO.		RECOMMENDATION
+1.	APPROVAL OF MEETING MINUTES	APPROVE
	+1A. January 12, 2018, Board Policy Meeting Minutes +1B. January 26, 2018, Board Business Meeting Minutes	
2.	PUBLIC COMMENTS/COMMUNICATIONS/MEMBER COMMENTS Public comments under this agenda item will be limited to five public speakers. Members of the public shall have the opportunity to address the Board on any issue within the jurisdiction of SANDAG that is not on this agenda. Other public comments will be heard during the items under the heading "Reports." Anyone desiring to speak shall reserve time by completing a "Request to Speak" form and giving it to the Clerk of the Board prior to speaking. Public speakers should notify the Clerk of the Board if they have a handout for distribution to Board members. Public speakers are limited to three minutes or less per person. Board members also may provide information and announcements under this agenda item.	
+3.	ACTIONS FROM POLICY ADVISORY COMMITTEES, INCLUDING CALIFORNIA ENVIRONMENTAL QUALITY ACT EXEMPTION APPROVAL FOR HOWARD AVENUE SEGMENT OF HOWARD–ORANGE BIKEWAY PROJECT (Victoria Stackwick) This item summarizes the actions taken by the Policy Advisory Committees since the last Board Business meeting, including California Environmental Quality Act exemption approval for the Howard Avenue segment of the Howard–Orange Bikeway Project. The Board of Directors is asked to ratify these actions.	APPROVE

CONSENT

+4.	APPROVAL OF PROPOSED SOLICITATIONS (Laura Coté) The Board of Directors is asked to authorize the Chief Deputy Executive Director to conduct solicitations for Job Order Contract – Railroad Construction Services and Job Order Contract – Landscaping, Irrigation & Mitigation Services.	APPROVE
+5.	*TransNet* REGIONAL TRANSPORTATION CONGESTION IMPROVEMENT PROGRAM FEE ADJUSTMENT (Jim Miller and Ariana zur Nieden)* The Board of Directors is asked to approve a 3.3 percent adjustment to the Regional Transportation Congestion Improvement Program, raising the minimum fee from $2,404.14 to $2,483.48, beginning July 1, 2018.	APPROVE
+6.	PROPOSED 2018 LEGISLATIVE PROGRAM (Victoria Stackwick) The Executive Committee recommends that the Board of Directors approve the proposed 2018 SANDAG Legislative Program.	APPROVE

+7. STATE OF GOOD REPAIR PROGRAM: NORTH COUNTY TRANSIT DISTRICT PROJECT LIST (Ariana zur Nieden) — APPROVE

The Board of Directors is asked to: (1) approve the submittal of the North County Transit District project list under the FY 2017-2018 State of Good Repair Program; and (2) adopt Resolution No. 2018-14, providing the required certifications and designations for the submittal.

+8. SAN DIEGO FORWARD: THE 2019-2050 REGIONAL PLAN - EMERGING TECHNOLOGIES WHITE PAPER (Phil Trom) — INFORMATION

This report provides an overview of the Emerging Technologies White Paper, which outlines important developments that should be considered in the development of San Diego Forward: The 2019-2050 Regional Plan.

+9. APPOINTMENT OF POLICY ADVISORY COMMITTEE MEMBERS AND DESIGNATION OF PUBLIC TRANSPORTATION REPRESENTATIVES TO THE BOARD OF DIRECTORS (Victoria Stackwick) — INFORMATION

This item summarizes the voting and advisory members appointed to the Policy Advisory Committees, including the Committee Chairs and Vice Chairs appointed by the SANDAG Chair; and the designation of Board members as public transportation representatives for the purpose of meeting federal requirements.

+10. OVERVIEW OF DEVELOPMENTS IN THE FINANCIAL MARKETS AND QUARTERLY FINANCE REPORT FOR THE PERIOD ENDING DECEMBER 31, 2017 (André Douzdjian, Lisa Kondrat-Dauphin, and Ray Major)* — INFORMATION

This quarterly report provides an overview of various finance-related items, including: (1) a quarterly report of investments, including all money under the direction or care of SANDAG; (2) an update on the SANDAG debt portfolio; and (3) information about the latest developments in the financial markets, the economy, and sales tax revenues.

+11. QUARTERLY PROGRESS REPORT ON TRANSPORTATION PROJECTS – OCTOBER THROUGH DECEMBER 2017 (Lamont Dowell)* — INFORMATION

This quarterly report summarizes the current status of major transit, highway, arterial, traffic management, and Transportation Demand Management projects in the SANDAG five-year Regional Transportation Improvement Program.

+12. REPORT ON MEETINGS AND EVENTS ATTENDED ON BEHALF OF SANDAG (Victoria Stackwick) — INFORMATION

Board members will provide brief reports orally or in writing on external meetings and events attended on behalf of SANDAG since the last Board Business meeting.

+13. REPORT SUMMARIZING DELEGATED ACTIONS TAKEN BY THE EXECUTIVE DIRECTOR (André Douzdjian)* — INFORMATION

In accordance with various SANDAG Board Policies, this report summarizes certain delegated actions taken by the Executive Director since the last Board Business meeting.

CHAIR'S REPORT

14. UPDATE ON SANDAG EXECUTIVE DIRECTOR RECRUITMENT — INFORMATION

An update on the status of recruitment efforts to fill the SANDAG Executive Director position will be provided.

REPORTS

+15. PROPOSED AMENDMENTS TO BOARD POLICIES AND BYLAWS (John Kirk)* — APPROVE

The Executive Committee recommends that the Board of Directors: (1) approve the proposed Board Policy and Bylaw amendments; (2) renew the annual delegation of authority to the Executive Director pursuant to SANDAG Board Policy No. 003: Investment Policy; and (3) renew its approval of SANDAG Board Policy No. 032: San Diego County Regional Transportation Commission Interest Rate Swap Policy.

+16. FY 2019 – FY 2023 *TransNet* AND TRANSIT RELATED REVENUES (Mayor Jim Desmond, Transportation Committee Chair; Dawn Vettese and Ray Major)* — APPROVE

The Transportation Committee recommends that the Board of Directors approve the FY 2019 - FY 2023 Transportation Development Act, *TransNet*, and Federal Transit Administration estimates and apportionments.

+17. SAN DIEGO FORWARD: THE 2019-2050 REGIONAL PLAN - FUNDING SCENARIOS (Mayor Jim Desmond, Transportation Committee Chair; José Nuncio and Phil Trom) — DISCUSSION

The Board of Directors is asked to provide feedback on various funding scenarios that would be evaluated as part of the development of San Diego Forward: The 2019-2050 Regional Plan.

+18. CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL PURSUANT TO GOVERNMENT CODE 54956.9(A) EXISTING LITIGATION AND CONFERENCE WITH REAL PROPERTY NEGOTIATORS PURSUANT TO GOVERNMENT CODE 54956.8 FROM THE MALONE EDWARD C & BARBARA J FAMILY TRUST (ASSESSOR PARCEL NUMBERS 343-140-24) LOCATED AT 9515 GENESEE AVENUE, SAN DIEGO, CA – PROPERTY TO BE ACQUIRED FOR THE MID-COAST CORRIDOR TRANSIT PROJECT (Ryan Kohut)

The Board of Directors will be briefed on existing eminent domain litigation and negotiations to acquire property from the Malone Edward C & Barbara J Family Trust for the Mid-Coast Corridor Transit Project.

+19. CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL PURSUANT TO GOVERNMENT CODE 54956.9(A) EXISTING LITIGATION AND CONFERENCE WITH REAL PROPERTY NEGOTIATORS PURSUANT TO GOVERNMENT CODE 54956.8 FROM LA JOLLA CANYON GARDENS, LLC (ASSESSOR PARCEL NUMBER 343-140-24) LOCATED AT 9515 GENESEE AVENUE, SAN DIEGO, CA – PROPERTY TO BE ACQUIRED FOR THE MID-COAST CORRIDOR TRANSIT PROJECT (Ryan Kohut)

The Board of Directors will be briefed on existing eminent domain litigation and negotiations to acquire property from La Jolla Canyon Gardens, LLC for the Mid-Coast Corridor Transit Project.

+20. CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL PURSUANT TO GOVERNMENT CODE 54956.9(A) EXISTING LITIGATION AND CONFERENCE WITH REAL PROPERTY NEGOTIATORS PURSUANT TO GOVERNMENT CODE 54956.8 FROM 8650 VILLA LA JOLLA INC. (ASSESSOR PARCEL NUMBERS 344-280-08, 344-28—19, 344-280-20) LOCATED AT 8650 VILLA LA JOLLA, SAN DIEGO, CA AND THE BPP SHOPS AT LA JOLLA (ASSESSOR PARCEL NUMBER 344-250-08) LOCATED AT 8801-8879 VILLA LA JOLLA, SAN DIEGO, CA – PROPERTY TO BE ACQUIRED FOR THE MID-COAST CORRIDOR TRANSIT PROJECT (Ryan Kohut)

The Board of Directors will be briefed on existing eminent domain litigation and negotiations to acquire property from the La Jolla Village Square shopping center and The Shops at La Jolla Village for the Mid-Coast Corridor Transit Project.

21. CONTINUED PUBLIC COMMENTS

If the five-speaker limit for public comments was exceeded at the beginning of this agenda, other public comments will be taken at this time. Subjects of previous agenda items may not again be addressed under public comment.

22. UPCOMING MEETINGS INFORMATION

The next Board Policy meeting is scheduled for Friday, March 9, 2018, at 10 a.m. The next Board Business meeting is scheduled for Friday, March 23, 2018, at 9 a.m.

23. ADJOURNMENT

+ next to an agenda item indicates an attachment

* next to an agenda item indicates that the Board of Directors also is acting as the San Diego County Regional Transportation Commission for that item

EXHIBIT C

AGENDA ITEM NO. 18-02-15

BOARD OF DIRECTORS
FEBRUARY 23, 2018

ACTION REQUESTED: APPROVE

PROPOSED AMENDMENTS TO BOARD POLICIES AND BYLAWS

File Number 8000100

Introduction

Recommendation

The Executive Committee recommends that the Board of Directors: (1) approve the proposed Board Policy and Bylaw amendments; (2) renew the annual delegation of authority to the Executive Director pursuant to SANDAG Board Policy No. 003: Investment Policy; and (3) renew its approval of SANDAG Board Policy No. 032: San Diego County Regional Transportation Commission Interest Rate Swap Policy.

Each year the Office of General Counsel solicits requests from Board leadership and staff for any suggested changes to the SANDAG Bylaws or Board Policies, and reviews these documents to determine if updates or changes should be recommended to the Board of Directors. This report outlines proposed amendments to the SANDAG Bylaws and certain Board Policies that were reviewed by the Executive Committee at its meetings on December 1, 2017, and January 12, 2018. The proposed amendments include general proposed updates to Board Policies, proposed improvements related to the Plan of Excellence, and modifications to the SANDAG Bylaws and Board Policies required to align those documents with the provisions of Assembly Bill 805 (AB 805) (Gonzalez Fletcher), which went into effect on January 1, 2018.

Discussion

The significant changes for the Bylaws and each of the Board Policies proposed for amendment are discussed below. The actual language changes are tracked in the attached draft versions of the Bylaws and Board Policies.

Proposed General Board Policy Amendments

Board Policy No. 003: Investment Policy (Attachment 1)

The Director of Finance, in consultation with the SANDAG investment advisors, Public Financial Management (PFM), and Cutwater Asset Management, has reviewed Board Policy No. 003. Based on that review, amendments to various sections of this policy are proposed pertaining to required credit ratings of specified investment instruments. These proposed changes are consistent with recent amendments to Government Code Section 53601, which addresses allowable investment instruments for local agencies, and allows local officials to invest in some investment instruments only if the instrument receives a specified rating from a nationally recognized statistical rating organization like Fitch, Moody's, or Standard & Poor's. Neither the Government Code amendments nor the proposed

amendments to the policy loosen any of the specified investment ratings requirements. Instead, these amendments are intended to clarify ambiguities in how to apply the mandated investment ratings requirements.

Section 5.1 of Board Policy No. 003 calls for the Board to renew its delegation of authority to the Executive Director for conducting investments on behalf of SANDAG on an annual basis, subject to the limitations set forth in the policy. The Executive Committee recommends that the Board of Directors renew this delegation for the coming year.

Board Policy No. 007: Equal Employment Opportunity (EEO) And Disadvantaged Business Enterprise (DBE) Programs (Attachment 2)

Amendments are proposed to Section 2.7 of Board Policy No. 007 to delete reference to Employment Utilization Reports. A recent review of the EEO process noted a duplicative procedure whereby similar EEO information already was available via another form and process. By deleting this form, SANDAG is able to manage a more efficient process. Contractual language will continue to be included in agreements that allow for SANDAG to request additional EEO information if necessary. The requirement for submittal of DBE Final Utilization Reports would remain in place.

Board Policy No. 011: Travel Expenses (Attachment 3)

The proposed amendments to Board Policy No. 011 would update the maximum reimbursement rates for lodging and food expenses for Sacramento (from $300 to $350 per day) and Washington, D.C. (from $352 to $380 per day). These are the cities where SANDAG staff and Board members travel most frequently, and the proposed updated rates are reflective of actual expenses incurred in the recent past.

Board Policy No. 012: SANDAG Service Bureau (Attachment 4)

Amendments are proposed to various sections of this policy. Under the "Project Priorities and Procedures" section, a new Paragraph 3 is proposed to be added that would reserve the right to deny any request for service that is beyond the capabilities of SANDAG staff, data, or models. This is based on a recognition that the Service Bureau's models are not designed to be applied to smaller-scale development projects. Additionally, Paragraph 5 is proposed to be amended to clarify that final work products of the Service Bureau are subject to public disclosure in accordance with the mandates and limitations of the California Public Records Act (CPRA).

A new Paragraph 6 is proposed to be added to this section to implement direction from the Executive Committee at its May 12, 2017, meeting, establishing an Eight-Year Lifecycle Policy for transportation modeling services requested through the SANDAG Service Bureau, effectively limiting Service Bureau support to the current version of the transportation model and one prior release.

Under the "Fees, Charges, and Pricing Policies" portion of the policy, current language calls for use of a written agreement only when the cost of Service Bureau work exceeds $10,000. Recognizing that written agreements provide clarity on the conditions under which work is undertaken, proposed amendments would provide that all Service Bureau work shall be done pursuant to a written agreement specifying at a minimum, the cost, scope, and schedule of the work to be performed. These agreements would be scaled relative to the complexity of each project to provide a balance of administrative efficiency and risk mitigation.

Paragraph 2 of the "Conflicts" section of the policy currently sets forth limitations on providing products and services "directly dealing with legislative matters, propositions, or candidates for public office." Proposed amendments to this section would increase the scope of what is recognized as a political conflict, thereby prohibiting Service Bureau work "if the subject matter of the request is or is reasonably expected to be the subject of any filing with the San Diego County Registrar of Voters or applicable filing authority regarding an upcoming election." Because application of this standard would involve a measure of staff discretion, a new Section 4 is proposed that would allow a right of appeal to be submitted to the Executive Committee (as the Service Bureau's governing body) of any denial of a Service Bureau project request. Per a request from the Executive Committee, language was added exempting member agencies from this prohibition.

Board Policy No. 032: San Diego County Regional Transportation Commission Interest Rate Swap Policy (Attachment 5)

All Board Policies typically are reviewed by SANDAG management on an annual basis for potential changes, but Board Policy No. 032 has a specific requirement for annual review. Section 1 of the policy provides in part: "The Interest Rate Swap Policy shall be reviewed and updated at least annually and presented to the Board of Directors for approval."

This policy was reviewed by management and the SANDAG Financial Advisor, PFM. Based on this review, no changes are proposed.

Proposed Board Policy Amendments Supporting the Plan of Excellence

Board Policy No. 015: Records Management (Attachment 6)

As part of the Plan of Excellence presented to the Board of Directors on November 3, 2017, and in response to recent case law related to the CPRA, SANDAG staff has completed a comprehensive review of Board Policy No. 015, which outlines procedures for management of SANDAG records. Extensive amendments are being proposed; many of the edits are minor and can be considered reorganizing or clean-up based upon changes to current law and SANDAG practices. The more significant proposed changes to the policy help to implement the "Transparency of Data and Processes" and "Document Retention and Training" elements of the Plan of Excellence and are described in more detail below.

- Language is proposed in Section 1 to clarify that Board Policy No. 015 is applicable to both SANDAG employees and non-SANDAG employees who act on SANDAG's behalf. Non-SANDAG employees generally are defined as the Board of Directors and committee members as well as those who do business with SANDAG, such as consultants and contractors.
- The term "SANDAG Business Record" is proposed to Section 3.1 to better define the types of records SANDAG staff would collect and review in response to a CPRA request. Additionally, information was added to better define what California law does not consider to be public records, such as personal correspondence unrelated to work.
- Clarification to Section 3.1 is proposed regarding the potential disclosure of records on personal devices that are used for work purposes. Both SANDAG employees and non-SANDAG employees using personal devices for work purposes are expected to provide requested records to SANDAG

staff after conducting a reasonable search of their own personal files, accounts, and devices for responsive material.

- Additional language is proposed for Sections 3.2 through 3.6 regarding records retention and disposal of records, including the need to preserve records when a CPRA request is received (Section 3.6).
- An amendment to Section 3.5 is proposed to formalize the requirement for annual public records training for all employees to ensure all staff are aware of SANDAG retention policies and procedures.
- Language is proposed for Sections 3.7 and 4 to better inform staff of proper file maintenance, including keeping files organized and in approved locations.

Board Policy No. 025: Public Participation Plan Policy (Attachment 7)

SANDAG Board Policy No. 025 provides an overview of the principles and practices SANDAG uses to engage the public. The proposed amendment to this policy supports implementation of the Plan of Excellence. The focus of the amendment is on increased transparency and a recognition that the public has a right to expect SANDAG to conduct business in an efficient, fair, and impartial manner and with the upmost integrity to promote and maintain the public's confidence and trust.

As required under 23 CFR Section 450.316, changes to this policy are subject to a 45-day public comment period prior to final approval. The proposed amendments to this Policy were released for public comment through newspapers, the SANDAG website, and social media. No public comments were received as of the time of this report.

Proposed Amendments Implementing AB 805

SANDAG Bylaws (Attachment 8)

Unless otherwise stated, all of the proposed Bylaw amendments are due to mandates in AB 805. All proposed Bylaw amendments relating to the Audit Committee have been drafted consistent with Board Policy 039: Audit Policy Advisory Committee and Audit Activities, approved by the Board on December 15, 2017.

<u>SANDAG Board of Directors and Policy Advisory Committee Leadership</u>

The first substantive amendment proposed is in Article III, Section 3. AB 805 prohibits the Chair and Vice Chair of the Board of Directors from both being from the same subregion. Thus, language that previously referred to situations in which the Chair and Vice Chair would potentially be from the same subregion or agency are stricken. In addition, language referencing this AB 805 prohibition is proposed to be added to Article V, Sections 3 and 3(e).

Amendments in Article III, Sections 3(d), and 3(f) include provisions related to the Chair and Vice Chair of the Audit Committee that were approved by the Board at its December 15, 2017, meeting as part of Board Policy No. 039.

Sections 3 and 3(h) also have been updated to reflect the change in AB 805 for the SANDAG Chair and Vice Chair to serve a two-year term instead of one.

Finally, language in Article V, Section 3(a) is proposed to be amended so that the SANDAG officer election process begins in or around July of each Board election year to ensure SANDAG officer terms align with election years.

Vote Distribution and Process

There are a large number of amendments suggested for Article IV, Section 5. The majority of the changes in subsections (a) through (c) are required based on voting method changes in AB 805. In particular, AB 805 requires that the City of San Diego (City) and County of San Diego's (County) weighted votes be allocated equally between their primary and secondary representatives. Previously this split was left to the discretion of the City and County, which meant that all of the City's or County's weighted votes could be controlled by one of its representatives when only one representative was present. The new AB 805 provision means that if one of the City or County's voting members is absent, a weighted vote is called for, and no alternate for that voting member is present to vote, the voting power of the City or County would be diminished by one-half.

In addition, AB 805 provides that a weighted vote may be called by the members of any two jurisdictions following a tally vote. An exception to the requirement for an initial tally vote is the election of SANDAG Chair and Vice Chair, which is to be conducted based on a weighted vote.

AB 805 states that approval under the weighted vote process "requires the vote of not less than four members representing separate jurisdictions and not less than 51 percent of the total weighted vote . . ." The bill is unclear on application of the "four member" requirement in the event that the City or County's two voting members end up voting at odds with each other. As drafted and presented to the Executive Committee, subsection (c) states that the vote of the representative holding control of the tally vote at the time of the vote will determine whether the City or County's vote will count toward meeting the four-separate jurisdiction minimum. Under this interpretation and language, the weighted votes of the representative without control of the tally vote would still count toward the 51 percent weighted vote threshold if that representative votes in favor.

The City of San Diego representative at the Executive Committee (San Diego Council President Myrtle Cole) asked that the Office of General Counsel confer with the San Diego City Attorney's Office on this provision prior to its consideration by the Board of Directors. Based on these discussions, another reasonable interpretation could be considered by the Board that would allow either member representing the City or County that votes in favor to count toward the "four jurisdiction" requirement in the event that the jurisdiction's members vote inconsistently. Under this interpretation the last sentence of Article IV, Section 5. Paragraph c. could be stricken as illustrated below:

> *The City and County of San Diego shall each determine how to allocate their tally vote between their two members by resolution and shall provide their resolutions to the SANDAG Clerk of the Board. The City and County of San Diego shall allocate their weighted votes equally. ~~In the event of a split vote between either the two City of San Diego or two County of San Diego voting representatives under the weighted vote process, the determination of whether that Member Agency's vote will count for purposes of meeting the requirement that at least four Board Members representing separate Member Agencies vote in favor of the action, will be based on the vote of~~*

~~*the Board Member who was designated by its Member Agency as the Board Member in control of the tally vote at the time the vote was taken.*~~

It is the opinion of the Office of General Counsel that while the version of this paragraph initially proposed to the Executive Committee avoids a potential inconsistency of which member "represents" a jurisdiction under the requirements of AB 805, the alternate interpretation discussed with the City of San Diego also is a reasonable interpretation of AB 805's requirement.

AB 805 does not address how SANDAG should contend with a scenario that involves an election with more than two candidates. Since the weighted vote is required, and it is possible that no candidate may get the required 51 percent when there are two or more candidates, the language in subsection (b), which is consistent with language currently included in the Bylaws, proposes to provide a method for run-offs by tally vote to narrow down the pool of candidates for the final election vote.

The remaining modifications to Article IV, Section 5 concern the voting formula and must be made for consistency with the language in AB 805.

Independent Performance Auditor

A nonmandatory change is proposed for 4(a) of Article IV so that the faithful performance bond required for the Executive Director also apply to the independent performance auditor.

Proposed Board Policy Amendments Implementing AB 805

Board Policy No. 001: Operations Policy (Attachment 9)

The name of this policy is proposed to be changed to "Allocation of Responsibilities" so that it more clearly reflects the contents of the policy. Changes proposed within the policy include the addition of the Audit Committee to the introductory section as well as new Sections 2.16 through 2.20, which pertain to Board of Directors' responsibilities that relate to audit and independent performance auditor activities. The language in these sections is consistent with the language approved by the Board for Board Policy No. 039.

New Sections 2.14 and 2.15 are intended to address the Board's new AB 805 responsibilities with regard to preparing an administrative policy regarding staff performance, and sending an annual report to the Legislature regarding public transit.

Section 4 of Board Policy No. 001 lists Transportation Committee membership and responsibilities. AB 805 necessitates changes to Section 4.1, which adds the Port District to the Transportation Committee's voting membership, and Section 4.1.26, which covers the Transportation Committee's new responsibility to develop the public transit report for the Board of Directors to approve and send to the Legislature each year. Changes proposed for Sections 4.1.3, 4.1.4, and 4.1.23 are unrelated to AB 805; however, are proposed for clarification regarding the committee's responsibilities regarding submittals by SANDAG for transportation project grant funds as well its authority to make recommendations regarding prioritization criteria, grant approvals, and project selection criteria for the *TransNet* grant programs.

The Regional Planning Committee's responsibilities are set forth in Section 5. Proposed updates to Section 5.1.5 would clarify that the committee has authority to distribute funds from both the California Coastal Commission Beach Sand Mitigation Fund and California Coastal Commission Public Recreational Beach Impact Mitigation Fund. Finally, Section 6 is proposed as an addition to the policy to direct readers to Board Policy No. 039 for information regarding the Audit Committee's membership and responsibilities.

Board Policy No. 002: Policy Advisory Committee Membership (Attachment 10)

Sections 1.2 and 1.5 of this policy contain amendments needed for consistency with AB 805. They add the Port District to the Transportation Committee as a voting member and add the Audit Committee as a Policy Advisory Committee (PAC). The change to Section 2 reflects AB 805's provision to allow Board Members to serve on more than two PACs, when one of them is the Audit Committee. The title of Section 4 would change to clarify that the appointment process used for the Audit Committee varies from the procedures in this policy and would instead be governed by Board Policy No. 039. Section 6 concerns Chair and Vice Chair appointments for the PACs and requires modifications to reference the process for Audit Committee appointments in Board Policy No. 039. Section 8 addresses compensation for PAC members and may be subject to amendment based on feedback from the Executive Committee (as discussed above under Proposed Bylaw Amendments).

Board Policy No. 010: Ballot Measures (Attachment 11)

This Board Policy currently limits SANDAG to taking a position on matters within SANDAG purview that appear on a state or countywide ballot. AB 805 gives authority to the Metropolitan Transit System (MTS) and North County Transit District (NCTD) to place sales tax measures on a ballot; however, due to the jurisdictions of MTS and NCTD, their measures may not appear on a countywide ballot, but instead on one or more city ballots. The proposed amendment to Section 1.1 of this policy would allow SANDAG to take a position on MTS and NCTD measures without consideration of the jurisdictional level of those measures.

Board Policy No. 016: Procurement of Services (Attachment 12)

The first change to this policy involves the "Procedures" section. The Federal Transit Administration (FTA) recently amended the upper limit of its "micro-purchase" threshold from $3,000 to $3,500. Changes are proposed to this section as well as to the micro-purchase thresholds in Board Policy No. 023: Procurement and Contracting – Equipment & Supplies and Board Policy No. 024: Procurement and Contracting – Construction to align SANDAG's "micro-purchase" threshold with the FTA's and to realize contracting efficiencies with small purchases. This change had not been identified at the time of the Executive Committee's consideration of these policies, and as such is being brought to the Board of Directors as a staff recommendation.

The next change proposed to this policy would add language to Section 6.6 to mandate that SANDAG contract templates include language allowing the independent performance auditor access to contracted entities' records. At its meeting on November 3, 2017, the Board of Directors directed staff to determine what the cost of adding a reference to the independent performance auditor's powers to existing contracts would be for SANDAG and whether that action was advisable. Staff estimates that it would take approximately $550 in staff time to make this type of amendment to a SANDAG contract. SANDAG currently has 17 active construction contracts and over 100 active service or

equipment contracts that would need to be amended—leading to a cost upwards of $64,000 to carry out the amendments. The Office of General Counsel as well SANDAG's existing principal internal auditor have compared the language of SANDAG's existing contract templates with the contract audit requirements of AB 805, and both are of the opinion that the existing language is consistent with AB 805's contract audit language requirement, and that the existing language has worked effectively over the past years to allow the principal internal auditor access to records necessary to carry out a performance audit on SANDAG consultants and contractors. With this in mind, it is recommended that the contract template language be updated for future contracts to strengthen the language and make express reference to the independent performance auditor and that no amendments be made to existing SANDAG contracts at this time.

An additional update is proposed for Section 11.6 of Board Policy No. 016. Currently, that section calls for consultant labor compliance to be guided by the California Labor Code and the "Labor Compliance" section of the Caltrans Construction Manual. Due to changes in practices at SANDAG and completion of a new SANDAG Construction Manual that solely references the Labor Code, this section is proposed to reference only the Labor Code.

Board Policy No. 023: Procurement and Contracting - Equipment & Supplies (Attachment 13)

The only proposed change to this policy other than that discussed above is the addition of a new Section 9 that mandates SANDAG contract templates include language allowing the independent performance auditor access to contracted entities' records.

Board Policy No. 024: Procurement and Contracting - Construction (Attachment147)

Sections 2.1.5 and 2.1.9 of this policy contain the same proposed changes in Board Policy No. 016 concerning removal of the cross-reference to the Caltrans Construction Manual and the addition of the internal performance auditor provision in SANDAG contract templates. Section 2.1.6 reflects the requirement in AB 805 that any entity contracting with SANDAG commit that it and its subcontractors at every tier will use a skilled and trained workforce to perform all construction work on the project consistent with Public Utilities Code Section 132354.7, unless one of the exceptions in Section 132354.7(a) are met. This requirement applies to construction contracts SANDAG issues in excess of $1 million after January 1, 2018.

KIM KAWADA
Chief Deputy Executive Director

Attachments:
1. Board Policy No. 003: Investment Policy
2. Board Policy No. 007: Equal Employment Opportunity (EEO) and Disadvantaged Business Enterprise (DBE) Programs
3. Board Policy No. 011: Travel Expenses
4. Board Policy No. 012: SANDAG Service Bureau
5. Board Policy No. 032: San Diego County Regional Transportation Commission Interest Rate Swap Policy

6. Board Policy No. 015: Records Management
7. Board Policy No. 025: Public Participation Plan Policy
8. SANDAG Bylaws
9. Board Policy No. 001: Operations Policy
10. Board Policy No. 002: Policy Advisory Committee Membership
11. Board Policy No. 010: Ballot Measures
12. Board Policy No. 016: Procurement of Services
13. Board Policy No. 023: Procurement and Contracting - Equipment & Supplies
14. Board Policy No. 024: Procurement and Contracting - Construction

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SAN DIEGO ASSOCIATION OF GOVERNMENTS
BYLAWS

ARTICLE I

NAME AND PURPOSE

Section 1

The name of this organization shall be the San Diego Association of Governments (hereinafter referred to as SANDAG).

Section 2

The purposes of this organization are as set forth in ~~SB 1703 (Chapter 743 of the Statutes of 2002~~the San Diego Regional Transportation Consolidation Act (the "Act"[1]), as established by state and federal law, and as approved by the Board of Directors. The primary purpose for which this organization is created is to engage in regional cooperative comprehensive planning, programming and where authorized, implementation thereof, and to assist the Member Agencies.

ARTICLE II

DEFINITIONS

The following terms shall have the meanings ascribed to them within this section unless the content of their use dictates otherwise:

a. "Board Member" shall mean a voting member of the Board of Directors.

~~a.~~b. "Region" shall mean that territory physically lying within the boundaries of San Diego County.

~~b.~~c. "Population" of any Member Agency shall mean that population as defined in SB 1703.

~~c.~~d. "Fiscal Year" shall mean that year beginning July 1, and ending June 30.

d. "Member Agencies" shall mean the cities within San Diego County and the County of San Diego collectively.

e. "Subregion" shall mean one of the ~~five~~ following ~~portions~~six geographic areas: San Diego County; the City of San Diego ~~County:~~; "North County Coastal," which includes the cities of Del Mar, Solana Beach, Encinitas, Carlsbad, and Oceanside; "North County Inland," which include~~d~~s the cities of Vista, San Marcos, Escondido, and Poway; "South County," which includes the cities of Chula Vista, National City, Imperial Beach, and Coronado; and "East County," which includes the cities of El Cajon, Santee, La Mesa, and Lemon Grove~~; and "San Diego region," which includes the territory located within the boundaries of San Diego County~~.

[1] Public Utilities Code §132350 *et seq.*

ARTICLE III

MEMBERSHIP AND ORGANIZATION

Section 1

Membership in this organization shall be as provided in state law, Board Policies, and these Bylaws.

Section 2

a. All powers of ~~this Organization~~SANDAG shall be exercised by the Board of Directors. The Board of Directors may choose to delegate several of its responsibilities from time to time in accordance with Board policy.

b. Only the duly selected official representative(s), or in his or her absence, his or her duly selected alternate or alternates, shall be entitled to represent his or her Member Agency in the deliberations of the Board of Directors.

c. When changes occur, names of the official representatives and alternates shall be communicated in writing to the ~~Organization~~SANDAG Clerk of the Board by each participating Member Agency.

Section 3

There shall be at least ~~five~~six standing committees which shall be known as Policy Advisory Committees with the membership set forth in ~~SB 1703~~the Act or Board Policy.

a. The procedure for ~~City and County of San Diego and~~ subregional appointments to the Policy Advisory Committees shall be established by Board policy. In the case of the subregional appointments, the policy shall ensure a noticed, formal process wherein all Board Members (including alternates) from each subregion are provided an opportunity to participate in the selection process. Each subregion shall ensure that SANDAG staff is notified of the date, time, and location for that subregion's meeting. After the meeting for each subregion is set by the primary Board Members, SANDAG staff shall provide Board alternates from each subregion advance notice of the meeting. A majority of the primary members present at the subregion meeting shall make a selection by January 31. An alternate member may vote in the absence of the primary member. In appointing persons to the Transportation Committee, to the extent possible, the subregions and other agencies should avoid duplication of representation from any city other than the City of San Diego.

b. Procedures for Policy Advisory Committee attendance and voting shall be established by Board policy. The policy shall ensure the formal delineation of the voting membership at each meeting.

c. The Board Chair and Vice Chair may serve as ex-officio, non-voting members of the Policy Advisory Committees.

d. The Board Chair shall select the Chair and Vice Chair of all Policy Advisory Committees except the Executive Committee and Audit Committee, annually in or around February.

e. The Board Chair shall serve as the chair of the Executive Committee. The Board Vice Chair shall

serve as the Vice Chair~~,~~ of the Executive Committee~~, unless both~~ .

~~e.~~f. The Chair and Vice Chair ~~are from the same subregion, in which case the Vice Chair shall serve as the alternate for that subregion, and the Chair shall select a non-overlapping primary member~~ of the ~~Executive~~Audit Committee ~~as its Vice Chair~~shall be selected as set forth in Board Policy No. 039.

Section 4

The Board of Directors or a Policy Advisory Committee with delegated authority shall have the authority to appoint all additional committees or working groups and may provide for the appointment of alternates to these committees if permitted by a Board Policy.

a. Additional Policy Advisory Committees may be appointed by the Board of Directors as may be required to carry out general and continuing functions and may be abolished only upon specific action by the Board of Directors.

b. Ad hoc specialized subcommittees or working groups may be appointed by the Board of Directors as the need arises to accomplish specific tasks. The Policy Advisory Committees may appoint working groups to advise them. Upon completion of its assignment, each ad hoc subcommittee or working group shall disband.

Section 5

In addition to any compensation mandated by state law for Board meetings, the rates below shall apply. Persons must be present for at least 1/2 of the time set for the meeting or the duration of the meeting, whichever is less, in order to be eligible for compensation.

a. For attendance by Board Members, or alternates in their absence, at Board meetings, $150 per meeting.

b. For meetings or events attended by Board Members, other than committee meetings of SANDAG, where the members are officially representing the Board, $150 per meeting or event. The Board may adopt and amend from time to time a list of such meetings and events. Ethics training and similar classes of an educational nature shall not constitute an event for which compensation will be paid.

c. For Board Members and alternates of Policy Advisory Committees, $100 per meeting.

d. The limit on the total number of paid meetings for Board and Policy Advisory Committee members or alternates per individual is six meetings per month.

e. The Chair of the Board shall receive additional monthly compensation of $500 per month.

f. The Vice Chair of the Board shall receive additional monthly compensation of $250 per month.

ARTICLE IV

MEETINGS

Section 1

a. A quorum for a meeting of the Board of Directors shall be as provided for in Section 5 of this Article.

b. A quorum shall be required for the conduct of any business of a committee. No business shall be conducted by a committee without a quorum. A simple majority of the appointed members of a committee shall constitute a quorum. All decisions by a committee shall be by simple majority of the quorum.

Section 2

Parliamentary procedure at all meetings shall be governed by Roberts Rules of Order except as otherwise modified by state law, Board Policy, or these Bylaws. ~~The Secretary~~SANDAG shall forward ~~written~~ notice of the meetings of the Board of Directors and each Policy Advisory Committee, stating the time, location, and the agenda of business to each Board Member's agency and to the respective members and alternates of the Board of Directors or the Policy Advisory Committees, at the earliest time possible, but in no event less than 72 hours prior to meetings, except that such written notice of regular Board of Directors' meetings may be forwarded by first class mail or other appropriate means not less than seven days prior to such meeting.

Section 3

All meetings of a SANDAG legislative body, including without limitation regular, adjourned regular, and special meetings of the Board of Directors, shall be called, noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act (commencing with Section 54950 of the California Government Code). Closed session items should be heard by the Board of Directors unless timeliness requires consideration by the Executive Committee or, for transportation matters the Transportation Committee. The Audit Committee may hold closed sessions on matters within its purview. In any event, the Transportation Committee is authorized to convene closed sessions and make final decisions with regard to real property transactions related to transportation projects, however, this delegation does not include the authority to make a Resolution of Necessity or to commence litigation. The Transportation Committee will report real property transaction purchase amounts at the next regular meeting of the Board occurring after final execution of the purchase documents.

Section 4

The Board and committees shall meet according to the following schedule:

a. The Board of Directors and Policy Advisory Committees shall hold their regular meetings on Fridays unless otherwise determined from time to time by the Board of Directors or Policy Advisory Committee. Regular meetings of the Board of Directors shall be held on the second and fourth Friday mornings of the month at the SANDAG offices ~~of the Organization~~ or at other locations within San Diego County, unless otherwise provided by the Board. Special meetings of

the Board of Directors or Policy Advisory Committees may be called from time to time by their respective Chair.

b. Other committees shall meet whenever called by their respective Chair.

Section 5 (Sections 132351.2 and 132352.1 of the Public Utilities Code)

a. There are 19 Member Agencies on the Board and a majority of the Member Agencies constitutes a quorum for the transaction of business. In order to take final action on any item, except ~~consent items~~the final vote(s) electing the Chair and Vice Chair of the Board, which ~~only~~shall require use of the weighted vote ~~specified~~procedure as described below in ~~paragraph (1), the following voting formula in both paragraphs (1) and (2) shall apply:~~subsection b, a majority vote of the Board Members present on the basis of one vote per agency (tally vote) is required. After the tally vote of the Board Members is taken, a weighted vote may be called by the Board Members of any two Member Agencies unless otherwise required by law. Approval under the weighted vote procedure requires the vote of not less than four Board Members representing separate Member Agencies and not less than 51 percent of the total weighted vote to supersede the original action of the Board.

~~(1) A majority of the weighted vote of the Member Agencies present.~~

b. The election of the Chair and Vice Chair of the Board shall require use of the weighted vote procedure set forth in Public Utilities Code Section 132352.1(e) without a prior tally vote requirement. In the event ~~a majority vote pursuant to~~ approval using the procedure in Public Utilities Code Section ~~5(a~~132352.1(e) cannot be obtained to allow final action on ~~an item~~the election, one or more preliminary votes may be taken using the tally vote method in ~~Section 5 (a)(1) in~~ order to narrow the options sufficiently to obtain ~~a majority vote~~approval on the final action as required by Public Utilities Code Section ~~132351.2.~~132352.1(e).

~~b. The City and County of San Diego shall determine how to allocate their single agency vote and weighted votes between their two members.~~

c. The City and County of San Diego shall each determine how to allocate their tally vote between their two members by resolution and shall provide their resolutions to the SANDAG Clerk of the Board. The City and County of San Diego shall allocate their weighted votes equally. In the event of a split vote between either the two City of San Diego or two County of San Diego voting representatives under the weighted vote process, the determination of whether that Member Agency's vote will count for purposes of meeting the requirement that at least four Board Members representing separate Member Agencies vote in favor of the action, will be based on the vote of the Board Member who was designated by its Member Agency as the Board Member in control of the tally vote at the time the vote was taken.

d. For the weighted vote, there shall be a total of 100 votes, except additional votes shall be allowed pursuant to subdivision (~~g~~h). Each ~~representative~~Member Agency shall have that number of votes determined by the following apportionment formula, provided that each agency shall have at least one vote, no agency shall have more than ~~40~~50 votes, and there shall be no fractional votes

in the allocation of votes to each Member Agency:

(1) If any agency has ~~40~~50 percent or more of the total population of the San Diego County region, allocate ~~40~~50 votes to that agency and follow paragraph (2), if not, follow paragraph (3).

(2) Total the population of the remaining agencies determined in paragraph (1) and compute the percentage of this total that each agency has.

(A) Multiply each percentage derived above by ~~60~~50 to determine fractional shares.

(B) Boost fractions that are less than one, to one and add the whole numbers.

(C) If the answer to subparagraph (B) is ~~60~~50, drop all fractions and the whole numbers are the votes for each Member Agency.

(D) If the answer to subparagraph (B) is less than ~~60~~50, the remaining vote(s) is allocated one each to ~~that agency(s)~~the Member Agency having the highest fraction~~(s)~~ excepting those whose vote was increased to one ~~in~~pursuant to subparagraph (B) above.

(E) If the answer to subparagraph (B) is more than ~~60~~50, the excess vote~~(s)~~ is taken one each from the ~~agency(s)~~Member Agency with the lowest fraction~~(s).~~. In no case shall a Member Agency's vote be reduced to less than one.

(3) Total the population determined in paragraph (1) and compute the percentage of this total that each Member Agency has.

(A) Boost fractions that are less than one~~,~~ to one and add the whole numbers.

(B) If the answer to subparagraph (A) is 100, drop all fractions and the whole numbers are the votes for each Member Agency.

(C) If the answer to subparagraph (A) is less than 100, the remaining vote(s) is allocated one each to ~~that agency(s)~~the Member Agency having the highest fraction~~(s)~~ excepting those whose vote was increased to one ~~in~~pursuant to subparagraph (A) above.

(D) If the answer to subparagraph (A) is more than 100, the excess vote(s) is taken one each from th~~at~~e agency~~(s)~~ with the lowest fraction~~(s).~~. In no case shall a Member Agency's vote be reduced to less than one.

e. When a weighted vote is taken on any item that requires more than a majority vote of the Board, it shall also require the supermajority percentage of the weighted vote.

f. The weighted vote formula shall be recomputed in the above manner every July 1.

g. For purposes of subsection d, the population of the County of San Diego is the population in the unincorporated area of the county. In those years when the primary representative of the San Diego County Board of Supervisors to the SANDAG Board of Directors is from a district that is substantially an incorporated area, a supervisor who represents a district that is substantially an unincorporated area shall be appointed to the Board as the secondary representative.

Alternatively, in those years when the primary representative of the San Diego County Board of Supervisors is from a district that is substantially an unincorporated area, a supervisor who represents a district that is substantially an incorporated area shall be appointed to the Board as the secondary representative.

h. Any ~~other~~ newly incorporated city shall receive ~~one vote under the single vote procedure and~~ one vote under the weighted vote procedure specified above until the next recomputation of the weighted vote formula, at which time the new agency shall receive votes in accordance with the recomputed formula ~~specified in subdivision (b).~~ Until this recomputation, the total weighted vote may exceed 100.

ARTICLE V

OFFICERS AND THEIR DUTIES

Section 1

The Board of Directors shall have as officers a Chair and Vice Chair who are primary members of the Board. Policy Advisory Committees shall have as officers a Chair and Vice Chair, who are primary or alternate members of the Board and primary members of their respective committees. The Executive Director shall be the Secretary of the Board and each Policy Advisory Committee.

a. The Chair shall preside over Board and committee meetings, and have general supervision of Board and committee affairs. The Chair shall sign all official documents when directed to do so by the Board and committees respectively.

b. The Vice Chair shall perform the duties of the Chair in his or her absence and perform any duties that the Chair may require.

c. In the event of the absence of both officers of the Board of Directors at a meeting or otherwise, a Chair of a Policy Advisory Committee shall serve as Chair Pro Tempore and perform the duties of the Chair according to the following schedule: first quarter of calendar year – Chair of Borders Committee; second quarter of calendar year – Chair of Public Safety Committee; third quarter of calendar year – Chair of Regional Planning Committee; fourth quarter of calendar year: Chair of Transportation Committee.

d. In the event of the absence of both officers of a Policy Advisory Committee, or in the case of a Board of Directors or Executive Committee meeting, the absence of all officers including the then-current Chair Pro Tempore as designated above, the Immediate Past Chair may preside or the quorum of members present shall elect a Chair Pro Tempore to preside for that meeting. The Secretary, with a quorum present, shall call the meeting to order and preside during such election of a Chair Pro Tempore; he or she shall immediately relinquish the chair upon completion of the election.

Section 2

The Board may delegate authority to the Board Chair for action consistent with Board approved criteria on categories of items.

Section 3

Election of officers of the Board of Directors shall be held ~~annually~~every two years during a regular meeting in or around December. A majority of the Board Members may approve variations to the schedule in this Section in the event of a vacancy or other exigency. The Chair and Vice Chair shall not be from the same subregion. Officers for the Board of Directors shall be elected in the following manner:

a. In or around July of ~~each~~an election year, application forms will be made available on the Board of Directors page of the SANDAG website for persons interested in applying for the Chair or Vice Chair position on the Board of Directors. Applications shall be structured to screen for the best regional leaders from among the primary members and shall include questions concerning the candidate's vision statement for SANDAG and his/her qualifications. Applications shall be due within 30 days after the application forms are posted. Only candidates who submit an application by the deadline or who are primary members nominated from the floor on the day of election will be considered for office.

b. The Chair shall appoint up to a six-person nominating committee, who shall be members of the Board from each of the subregions~~ and a Board member from the City and the County of San Diego~~. The nominating committee appointments shall be announced at a regular meeting in or around September of each year. The nominating committee shall not, however, include Board Members from ~~jurisdictions~~Member Agencies that have applicants for the Chair or Vice Chair position on the Board of Directors.

c. If more than one candidate has applied for a particular office, the nominating committee shall interview the candidates. The nominating committee shall submit a slate of nominees for the two Board offices in writing for mailing to Board Members in or around November. Additional nominations for any office may be made by Board Members at the election meeting.

d. In the event that the nominating committee is unable to recommend any of the applicants for any or all chair positions, either because an applicant is or is reasonably expected to be unavailable to serve, or for any other reason, the nominating committee may recommend a supplemental process, subject to Board approval. The constraints set forth in the normal nomination process, apart from the prohibition of a jurisdiction of a candidate for office serving on the nominating committee, shall not be mandated to apply to the supplemental process.

e. In choosing the nominees from the Board Members~~hip~~, the nominating committee shall take into account the nominee's availability, experience, skills, geographic diversity, and the benefits associated with having the Vice Chair succeed the outgoing Chair. The nominating committee also shall take into account the prohibition against both officers being from the same subregion in determining which nominees to present to the Board.

f. The officers shall be elected ~~by a majority of~~ pursuant to the ~~votes including~~ weighted ~~votes of those Board members present~~vote process set forth in Article IV, Section 5(b) of these Bylaws.

g. All officers shall be elected for a term(s) of ~~one year and shall serve~~two years or until their successors are elected. They shall begin their term of office on January 1.

h. In the event that the Board Member who has been elected Chair or Vice Chair is no longer a

primary member of the Board of Directors, the office shall be considered vacant.

i. Any vacated office of Chair or Vice Chair ~~shall~~may be filled at the next regular Board meeting by nominations from the floor, and ~~a majority~~the election shall be carried out pursuant to the weighted vote process set forth in Article IV, Section 5(b) of ~~votes from the members present.~~these Bylaws. A member must be a primary member to be nominated from the floor.

Section 4

a. The Board of Directors shall appoint an Executive Director who shall hold office until he or she resigns or is removed by the Board of Directors. The Executive Director shall be the chief executive officer of SANDAG. The Executive Director shall have charge of all projects and property of ~~the Organization and~~SANDAG. The Executive Director and if she or he is an employee, the independent performance auditor, shall file with the Director of Finance of SANDAG an official bond in the minimum amount of $100,000 or such larger amount as the Board of Directors specifies, guaranteeing faithful performance of his or her duties.

b. The Executive Director will be responsible to the SANDAG Board of Directors as set out in Board Policies and administrative policies and manuals for the administration of SANDAG's business, including: (1) development of program objectives, definition, directions and priorities; (2) management of SANDAG programs and coordination of staff and support services; (3) the development of financial support programs for SANDAG activities; (4) the recommendation and submission of an annual SANDAG program budget to the Board of Directors; ~~and~~ (5) execution of the adopted personnel, purchasing, and budgetary systems; and (6) development of a recommended administrative policy that includes a process to conduct staff performance evaluations on a regular basis to determine if the knowledge, skills, and abilities of staff members are sufficient to perform their respective functions, and which is brought to the Board for review on an annual basis. The Executive Director shall perform such other and additional duties as is necessary to carry out the objectives and function of SANDAG and as directed by the Board of Directors.

c. Any additional staff support services provided by Member Agencies or others shall be coordinated by the Executive Director.

d. The Executive Director is hereby enabled to promulgate an employee manual, as well as all other administrative policies governing the administrative procedures of ~~the Organization.~~SANDAG.

ARTICLE VI

FINANCIAL

Section 1

The Board of Directors shall approve a preliminary budget no later than April 1 of each year. The Board of Directors shall adopt a final budget no later than June 30 of each year. A copy of the preliminary budget when approved and a copy of the final budget when adopted shall be filed with

each Member Agency.

Section 2

Responsibility for supplying funds for that portion of the budget for SANDAG, which is to be supplied by the Member Agencies, as adopted by the Board of Directors, shall be divided among the Member Agencies based on their population with each Member Agency including within its budget as funds to be supplied to SANDAG that sum of money determined by taking the ratio its population bears to the total population of the region and multiplying it by that portion of the approved budget to be supplied by the Member Agencies. Payment of this determined sum of money shall be made by each Member Agency by July 15 of each year. If payment by a Member Agency has not been made by September 1 of each year, that Member Agency shall no longer vote as a member of the Board of Directors. A delinquent Member Agency will be allowed to vote when full payment has been made, including interest computed from July 15 at the established legal rate.

Section 3

The Director of Finance of SANDAG shall establish and maintain such funds and accounts as may be required by good accounting practice, state and federal law, and these Bylaws. The books and records of SANDAG in the hands of the Director of Finance shall be open to inspection at all reasonable times by representatives of the Member Agencies. The Director of Finance of SANDAG shall issue a Comprehensive Annual Financial Report (CAFR) by December 31 after the close of each fiscal year and a copy shall be provided to each of the Member Agencies.

Section 4

The Director of Finance of SANDAG shall receive, have the custody of, and disburse SANDAG funds upon the warrant or check-warrant of the Finance Manager pursuant to the accounting procedures developed under Section 3 above, and shall make the disbursements required to carry out any of the provisions or purposes of ~~the Organization.~~SANDAG. The Director of Finance of SANDAG may invest SANDAG funds in accordance with state and federal law. All interest collected on SANDAG funds shall be accounted for and posted to the account of such funds.

Section 5

Delegation of authority from the Board of Directors for final financial/contracting approvals, including selection of vendors, acceptance of funding, stipulations of any nature, and any resulting budget amendment to serve as a limitation applicable to a particular job or program (not to be exceeded on a serial basis), shall be as follows:

a. Up to $100,000 to the Executive Director, subject to increase by Board action, or as may be modified in Board Policy No. 017 concerning delegation of authority to the Executive Director.

b. Up to $500,000 to the Executive Committee for any item, subject to increase by Board action.

c. Up to $500,000 to the Transportation Committee for transportation items, subject to increase by Board action.

d. Up to $500,000 to the Public Safety Committee for ARJIS and Criminal Justice Division items,

subject to increase by Board action.

e. The Executive Director, Executive Committee, Public Safety Committee, and Transportation Committee shall report approvals under this section to the Board of Directors at least quarterly.

Section 6

The amount budgeted for Member Assessments related to Criminal Justice database access shall be as adopted by the Board of Directors, and divided among the Member Agencies using a formula based on population. Payment of this determined sum of money shall be made by each Member Agency by July 15 of each year. If payment by a Member Agency has not been made by September 1 of each year, that Member Agency shall no longer vote as a member of the Board of Directors. A delinquent Member Agency will be allowed to vote when full payment has been made, including interest computed from July 15 at the established legal rate.

ARTICLE VII

RELATIONSHIPS AND RULES OF PROCEDURE

Section 1

The functions of the Board of Directors and Policy Advisory Committees shall be established by Board policy. The Board of Directors may delegate functions to the Policy Advisory Committees as it deems appropriate.

Section 2

The Board of Directors shall provide guidance to committees and working groups. The Board may advise Member Agencies on the coordination of general plans, or on the resolution of conflicts between the general plans of agencies in the San Diego region.

Section 3

Conflicts between governmental agencies should be resolved among the affected agencies. In matters affecting more than one local government, and where requested by the affected agencies, ~~the Organization~~SANDAG shall have the authority to hear and make recommendations if the conflicts are not resolved to the satisfaction of each affected agency. Regional plans should serve as the guideline for the resolution of conflicts.

Section 4

Each action taken by ~~the Organization which~~SANDAG that requires implementation should include designation of the agency or agencies directly responsible for such implementation.

Section 5

The general and specific references to the construction authority of SANDAG in SB 1703 shall be interpreted as applicable solely to its responsibilities for project development and construction of

transit projects which were previously within the purview of the transit development boards and are consolidated under the authority of SANDAG.

ARTICLE VIII

INFORMATION AND EVALUATION

Section 1

a. ~~The Organization~~SANDAG shall disseminate information concerning its work program and activities. The required information system should be organized and categorized so that it will continue to allow full and efficient use of information by the public and private sectors.

b. Adequate provision for public participation shall be provided as required by law and as directed by the Board of Directors.

c. The Board shall perform an annual evaluation of ~~the Organization's~~SANDAG's goals, purpose, structure, and performance, directed toward continually improving the planning, coordination, and implementation process.

ARTICLE IX

AMENDMENTS

Section 1

The Board of Directors shall be responsible for making all amendments to these Bylaws.

a. Proposed amendments may be originated by the Board of Directors, the Executive Committee, or any member of the Board of Directors.

b. Prior to being taken to the Board of Directors for approval, proposed amendments should be taken to the Executive Committee preliminarily for review and discussion and then brought to the Executive Committee at a subsequent meeting for a recommendation for approval to the Board.

c. A copy of any proposed amendments shall be forwarded by the ~~Secretary~~Clerk of the Board to the official representative of each Member Agency, his or her alternate and the Member Agency itself, at the same time as the proposed amendments are mailed as a report attachment to the agenda for the preliminary Executive Committee meeting referred to in subsection b of this section.

d. Amendments to these Bylaws (except those provisions mandated by state law) shall require the vote of a majority of the Member Agencies ~~which also represents at least 51 percent of the weighted vote of Member Agencies~~using the voting process described in Article IV, Section 5(a) of these Bylaws.

Adopted July 2003 by the SANDAG Board of Directors
Revised November 2003 by the SANDAG Board of Directors
Amended November 2004 by the SANDAG Board of Directors
Amended January 2006 by the SANDAG Board of Directors
Amended July 2007 by the SANDAG Board of Directors
Amended December 2008 by the SANDAG Board of Directors
Amended January 2010 by the SANDAG Board of Directors
Amended March 2014 by the SANDAG Board of Directors
Amended November 2014 by the SANDAG Board of Directors
Amended December 2015 by the SANDAG Board of Directors
Amended January 2017 by the SANDAG Board of Directors
Amended 2018 by the SANDAG Board of Directors

EXHIBIT D

JURISDICTION	VOTE	TALLY
CARLSBAD	Yes	1
CHULA VISTA	Yes	1
CORONADO	Yes	1
COUNTY A	Yes	1
DEL MAR	Yes	1
EL CAJON	Yes	1
ENCINITAS	Yes	1
ESCONDIDO	Yes	1
IMPERIAL BEACH	Yes	1
LA MESA	Yes	1
LEMON GROVE	Yes	1
NATIONAL CITY	Yes	1
OCEANSIDE	Yes	1
POWAY	Yes	1
SAN DIEGO A	Yes	1
SAN MARCOS	Yes	1
SANTEE	Yes	1
SOLANA BEACH	Yes	1
VISTA	Yes	1

Agenda Item 15
Proposed Amendments to Board Policies and Bylaws

Action: APPROVE

TALLY
19
100%

Pass

SANDAG

EXHIBIT E

SAN DIEGO ASSOCIATION OF GOVERNMENTS
BYLAWS

ARTICLE I
NAME AND PURPOSE

Section 1

The name of this organization shall be the San Diego Association of Governments (hereinafter referred to as SANDAG).

Section 2

The purposes of this organization are as set forth in the San Diego Regional Transportation Consolidation Act (the "Act"[1]), as established by state and federal law, and as approved by the Board of Directors. The primary purpose for which this organization is created is to engage in regional cooperative comprehensive planning, programming and where authorized, implementation thereof, and to assist the Member Agencies.

ARTICLE II
DEFINITIONS

The following terms shall have the meanings ascribed to them within this section unless the content of their use dictates otherwise:

a. "Board Member" shall mean a voting member of the Board of Directors.

b. "Region" shall mean that territory physically lying within the boundaries of San Diego County.

c. "Population" of any Member Agency shall mean that population as defined in SB 1703.

d. "Fiscal Year" shall mean that year beginning July 1 and ending June 30.

d. "Member Agencies" shall mean the cities within San Diego County and the County of San Diego collectively.

e. "Subregion" shall mean one of the following six geographic areas: San Diego County; the City of San Diego; "North County Coastal," which includes the cities of Del Mar, Solana Beach, Encinitas, Carlsbad, and Oceanside; "North County Inland," which includes the cities of Vista, San Marcos, Escondido, and Poway; "South County," which includes the cities of Chula Vista, National City, Imperial Beach, and Coronado; and "East County," which includes the cities of El Cajon, Santee, La Mesa, and Lemon Grove.

ARTICLE III
MEMBERSHIP AND ORGANIZATION

Section 1

Membership in this organization shall be as provided in state law, Board Policies, and these Bylaws.

[1] Public Utilities Code §132350 *et seq*.

Section 2

a. All powers of SANDAG shall be exercised by the Board of Directors. The Board of Directors may choose to delegate several of its responsibilities from time to time in accordance with Board policy.

b. Only the duly selected official representative(s), or in his or her absence, his or her duly selected alternate or alternates, shall be entitled to represent his or her Member Agency in the deliberations of the Board of Directors.

c. When changes occur, names of the official representatives and alternates shall be communicated in writing to the SANDAG Clerk of the Board by each participating Member Agency.

Section 3

There shall be at least six standing committees which shall be known as Policy Advisory Committees with the membership set forth in the Act or Board Policy.

a. The procedure for subregional appointments to the Policy Advisory Committees shall be established by Board policy. In the case of the subregional appointments, the policy shall ensure a noticed, formal process wherein all Board Members (including alternates) from each subregion are provided an opportunity to participate in the selection process. Each subregion shall ensure that SANDAG staff is notified of the date, time, and location for that subregion's meeting. After the meeting for each subregion is set by the primary Board Members, SANDAG staff shall provide Board alternates from each subregion advance notice of the meeting. A majority of the primary members present at the subregion meeting shall make a selection by January 31. An alternate member may vote in the absence of the primary member. In appointing persons to the Transportation Committee, to the extent possible, the subregions and other agencies should avoid duplication of representation from any city other than the City of San Diego.

b. Procedures for Policy Advisory Committee attendance and voting shall be established by Board policy. The policy shall ensure the formal delineation of the voting membership at each meeting.

c. The Board Chair and Vice Chair may serve as ex-officio, non-voting members of the Policy Advisory Committees.

d. The Board Chair shall select the Chair and Vice Chair of all Policy Advisory Committees except the Executive Committee and Audit Committee, annually in or around February.

e. The Board Chair shall serve as the chair of the Executive Committee. The Board Vice Chair shall serve as the Vice Chair of the Executive Committee.

f. The Chair and Vice Chair of the Audit Committee shall be selected as set forth in Board Policy No. 039.

Section 4

The Board of Directors or a Policy Advisory Committee with delegated authority shall have the authority to appoint all additional committees or working groups and may provide for the appointment of alternates to these committees if permitted by a Board Policy.

a. Additional Policy Advisory Committees may be appointed by the Board of Directors as may be required to carry out general and continuing functions and may be abolished only upon specific action by the Board of Directors.

b. Ad hoc specialized subcommittees or working groups may be appointed by the Board of Directors as the need arises to accomplish specific tasks. The Policy Advisory Committees may appoint working groups to advise them. Upon completion of its assignment, each ad hoc subcommittee or working group shall disband.

Section 5

In addition to any compensation mandated by state law for Board meetings, the rates below shall apply. Persons must be present for at least 1/2 of the time set for the meeting or the duration of the meeting, whichever is less, in order to be eligible for compensation.

a. For attendance by Board Members, or alternates in their absence, at Board meetings or Board subcommittee meetings, $150 per meeting.

b. For attendance by Board Members and alternates when serving as a member or alternate of a Policy Advisory Committee, $100 per meeting.

c. For attendance by Board Members and alternates, or advisory Board members when serving as a chair of a Working Group, $100 per meeting.

d. For attendance by Board Members at meetings or events other than those described above when serving as an official representative of SANDAG or from which from which SANDAG will derive a specific benefit through the attendance of a representative, $100 per each day of the meeting or event in which business is conducted if within the County of San Diego, or $150 per each day of the meeting or event in which business is conducted if outside of the County of San Diego. Ethics training and similar classes of an educational nature shall not constitute an event for which compensation will be paid unless the Board Member is attending the training as an official representative of SANDAG.

e. The limit on the total number of paid Board, Policy Advisory Committee, and Working Group meetings is six meetings per individual per month.

f. The Chair of the Board shall receive additional monthly compensation of $700 per month.

g. The Vice Chair of the Board shall receive additional monthly compensation of $350 per month.

ARTICLE IV
MEETINGS

Section 1

a. A quorum for a meeting of the Board of Directors shall be as provided for in Section 5 of this Article.

b. A quorum shall be required for the conduct of any business of a committee. No business shall be conducted by a committee without a quorum. A simple majority of the appointed members of a committee shall constitute a quorum. All decisions by a committee shall be by simple majority of the quorum.

Section 2

Parliamentary procedure at all meetings shall be governed by Roberts Rules of Order except as otherwise modified by state law, Board Policy, or these Bylaws. SANDAG shall forward notice of the meetings of the Board of Directors and each Policy Advisory Committee, stating the time, location, and the agenda of business to each Board Member's agency and to the respective members and alternates of the Board of Directors or the Policy Advisory Committees, at the earliest time possible, but in no event less than 72 hours prior to meetings, except that such written notice of regular Board of Directors' meetings may be forwarded by first class mail or other appropriate means not less than seven days prior to such meeting.

Section 3

All meetings of a SANDAG legislative body, including without limitation regular, adjourned regular, and special meetings of the Board of Directors, shall be called, noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act (commencing with Section 54950 of the California Government Code). Closed session items should be heard by the Board of Directors unless timeliness requires consideration by the Executive Committee or, for transportation matters the Transportation Committee. The Audit Committee may hold closed sessions on matters within its purview. In any event, the Transportation Committee is authorized to convene closed sessions and make final decisions with regard to real property transactions related to transportation projects, however, this delegation does not include the authority to make a Resolution of Necessity or to commence litigation. The Transportation Committee will report real property transaction purchase amounts at the next regular meeting of the Board occurring after final execution of the purchase documents.

Section 4

The Board and committees shall meet according to the following schedule:

a. The Board of Directors and Policy Advisory Committees shall hold their regular meetings on Fridays unless otherwise determined from time to time by the Board of Directors or Policy Advisory Committee. Regular meetings of the Board of Directors shall be held on the second and fourth Friday mornings of the month at the SANDAG offices or at other locations within San Diego County, unless otherwise provided by the Board. Special meetings of the Board of Directors or Policy Advisory Committees may be called from time to time by their respective Chair.

b. Other committees shall meet whenever called by their respective Chair.

Section 5 (Sections 132351.2 and 132352.1 of the Public Utilities Code)

a. There are 19 Member Agencies on the Board and a majority of the Member Agencies constitutes a quorum for the transaction of business. In order to take final action on any item, except the final vote(s) electing the Chair and Vice Chair of the Board, which shall require use of the weighted vote procedure as described below in subsection b, a majority vote of the Board Members present on the basis of one vote per agency (tally vote) is required. After the tally vote of the Board Members is taken, a weighted vote may be called by the Board Members of any two Member Agencies unless otherwise required by law. Approval under the weighted vote procedure requires the vote of not less than four Board Members representing separate Member Agencies and not less than 51 percent of the total weighted vote to supersede the original action of the Board.

b. The election of the Chair and Vice Chair of the Board shall require use of the weighted vote procedure set forth in Public Utilities Code Section 132351.2(e) without a prior tally vote requirement. In the event approval using the procedure in Public Utilities Code Section 132351.2(e) cannot be obtained to allow final action on the election, one or more preliminary votes may be taken using the tally vote method in order to narrow the options sufficiently to obtain approval on the final action as required by Public Utilities Code Section 132351.2(e).

c. The City and County of San Diego shall each determine how to allocate their tally vote between their two members by resolution and shall provide their resolutions to the SANDAG Clerk of the Board. The City and County of San Diego shall allocate their weighted votes equally.

d. For the weighted vote, there shall be a total of 100 votes, except additional votes shall be allowed pursuant to subdivision (h). Each Member Agency shall have that number of votes determined by the following apportionment formula, provided that each agency shall have at least one vote, no agency shall have more than 50 votes, and there shall be no fractional votes in the allocation of votes to each Member Agency:

   (1) If any agency has 50 percent or more of the total population of the San Diego County region, allocate 50 votes to that agency and follow paragraph (2), if not, follow paragraph (3).

   (2) Total the population of the remaining agencies determined in paragraph (1) and compute the percentage of this total that each agency has.

      (A) Multiply each percentage derived above by 50 to determine fractional shares.

      (B) Boost fractions that are less than one, to one and add the whole numbers.

      (C) If the answer to subparagraph (B) is 50, drop all fractions and the whole numbers are the votes for each Member Agency.

      (D) If the answer to subparagraph (B) is less than 50, the remaining vote(s) is allocated one each to the Member Agency having the highest fraction excepting those whose vote was increased to one pursuant to subparagraph (B) above.

      (E) If the answer to subparagraph (B) is more than 50, the excess vote is taken one each from the Member Agency with the lowest fraction. In no case shall a Member Agency's vote be reduced to less than one.

   (3) Total the population determined in paragraph (1) and compute the percentage of this total that each Member Agency has.

      (A) Boost fractions that are less than one to one and add the whole numbers.

      (B) If the answer to subparagraph (A) is 100, drop all fractions and the whole numbers are the votes for each Member Agency.

      (C) If the answer to subparagraph (A) is less than 100, the remaining vote(s) is allocated one each to the Member Agency having the highest fraction excepting those whose vote was increased to one pursuant to subparagraph (A) above.

      (D) If the answer to subparagraph (A) is more than 100, the excess vote(s) is taken one each from the agency with the lowest fraction. In no case shall a Member Agency's vote be reduced to less than one.

e. When a weighted vote is taken on any item that requires more than a majority vote of the Board, it shall also require the supermajority percentage of the weighted vote.

f. The weighted vote formula shall be recomputed in the above manner every July 1.

g. For purposes of subsection d, the population of the County of San Diego is the population in the unincorporated area of the county. In those years when the primary representative of the San Diego County Board of Supervisors to the SANDAG Board of Directors is from a district that is substantially an incorporated area, a supervisor who represents a district that is substantially an unincorporated area shall be appointed to the Board as the secondary representative. Alternatively, in those years when the primary representative of the San Diego County Board of Supervisors is from a district that is substantially an unincorporated area, a supervisor who represents a district that is substantially an incorporated area shall be appointed to the Board as the secondary representative.

h. Any newly incorporated city shall receive one vote under the weighted vote procedure specified above until the next recomputation of the weighted vote formula, at which time the new agency shall receive votes in accordance with the recomputed formula. Until this recomputation, the total weighted vote may exceed 100.

ARTICLE V
OFFICERS AND THEIR DUTIES

Section 1

The Board of Directors shall have as officers a Chair and Vice Chair who are primary members of the Board. Policy Advisory Committees shall have as officers a Chair and Vice Chair, who are primary or alternate members of the Board and primary members of their respective committees. The Executive Director shall be the Secretary of the Board and each Policy Advisory Committee.

a. The Chair shall preside over Board and committee meetings and have general supervision of Board and committee affairs. The Chair shall sign all official documents when directed to do so by the Board and committees respectively.

b. The Vice Chair shall perform the duties of the Chair in his or her absence and perform any duties that the Chair may require.

c. In the event of the absence of both officers of the Board of Directors or Executive Committee at a meeting or otherwise, a Chair of a Policy Advisory Committee shall serve as Chair Pro Tempore and perform the duties of the Chair according to the following schedule: first quarter of calendar year: Chair of Borders Committee; second quarter of calendar year: Chair of Public Safety Committee; third quarter of calendar year: Chair of Regional Planning Committee; fourth quarter of calendar year: Chair of Transportation Committee.

d. In the event of the absence of both officers of a Policy Advisory Committee, or in the case of a Board of Directors or Executive Committee meeting, the absence of all officers including the then-current Chair Pro Tempore as designated above, the Immediate Past Chair may preside or the Board Chair may appoint a voting member of the Board or committee in advance to act as acting chair of the body for that meeting.

Section 2

The Board may delegate authority to the Board Chair for action consistent with Board approved criteria on categories of items.

Section 3

Election of officers of the Board of Directors shall be held every two years during a regular meeting in or around December. A majority of the Board Members may approve variations to the schedule in this Section in the event of a vacancy or other exigency. The Chair and Vice Chair shall not be from the same subregion. Officers for the Board of Directors shall be elected in the following manner:

a. In or around July of an election year, application forms will be made available on the Board of Directors page of the SANDAG website for persons interested in applying for the Chair or Vice Chair position on the Board of Directors. Applications shall be structured to screen for the best regional leaders from among the primary members and shall include questions concerning the candidate's vision statement for SANDAG and his/her qualifications. Applications shall be due within 30 days after the application forms are posted. Only candidates who submit an application by the deadline or who are primary members nominated from the floor on the day of election will be considered for office.

b. The Chair shall appoint up to a six-person nominating committee, who shall be members of the Board from each of the subregions. The nominating committee appointments shall be announced at a regular meeting in or around September of each year. The nominating committee shall not, however, include Board Members from Member Agencies that have applicants for the Chair or Vice Chair position on the Board of Directors.

c. If more than one candidate has applied for a particular office, the nominating committee shall interview the candidates. The nominating committee shall submit a slate of nominees for the two Board offices in writing for mailing to Board Members in or around November. Additional nominations for any office may be made by Board Members at the election meeting.

d. In the event that the nominating committee is unable to recommend any of the applicants for any or all chair positions, either because an applicant is or is reasonably expected to be unavailable to serve, or for any other reason, the nominating committee may recommend a supplemental process, subject to Board approval. The constraints set forth in the normal nomination process, apart from the prohibition of a jurisdiction of a candidate for office serving on the nominating committee, shall not be mandated to apply to the supplemental process.

e. In choosing the nominees from the Board Members, the nominating committee shall take into account the nominee's availability, experience, skills, geographic diversity, and the benefits associated with having the Vice Chair succeed the outgoing Chair. The nominating committee also shall take into account the prohibition against both officers being from the same subregion in determining which nominees to present to the Board.

f. The officers shall be elected pursuant to the weighted vote process set forth in Article IV, Section 5(b) of these Bylaws.

g. All officers shall be elected for a term(s) of two years or until their successors are elected. They shall begin their term of office on January 1.

h. In the event that the Board Member who has been elected Chair or Vice Chair is no longer a primary member of the Board of Directors, the office shall be considered vacant.

i. Any vacated office of Chair or Vice Chair may be filled at the next regular Board meeting by nominations from the floor, and the election shall be carried out pursuant to the weighted vote process set forth in Article IV, Section 5(b) of these Bylaws. A member must be a primary member to be nominated from the floor.

Section 4

a. The Board of Directors shall appoint an Executive Director who shall hold office until he or she resigns or is removed by the Board of Directors. The Executive Director shall be the chief executive officer of SANDAG. The Executive Director shall have charge of all projects and property of SANDAG. The Executive Director and if she or he is an employee, the independent performance auditor, shall file with the Director of Finance of SANDAG an official bond in the minimum amount of $100,000 or such larger amount as the Board of Directors specifies, guaranteeing faithful performance of his or her duties.

b. The Executive Director will be responsible to the SANDAG Board of Directors as set out in Board Policies and administrative policies and manuals for the administration of SANDAG's business, including: (1) development of program objectives, definition, directions and priorities; (2) management of SANDAG programs and coordination of staff and support services; (3) the development of financial support programs for SANDAG activities; (4) the recommendation and submission of an annual SANDAG program budget to the Board of Directors; (5) execution of the adopted personnel, purchasing, and budgetary systems; and (6) development of a recommended administrative policy that includes a process to conduct staff performance evaluations on a regular basis to determine if the knowledge, skills, and abilities of staff members are sufficient to perform their respective functions, and which is brought to the Board for review on an annual basis. The Executive Director shall perform such other and additional duties as is necessary to carry out the objectives and function of SANDAG and as directed by the Board of Directors.

c. Any additional staff support services provided by Member Agencies or others shall be coordinated by the Executive Director.

d. The Executive Director is hereby enabled to promulgate an employee manual, as well as all other administrative policies governing the administrative procedures of SANDAG.

ARTICLE VI
FINANCIAL

Section 1

The Board of Directors shall consider a draft budget for approval no later than April 1 of each year, and again during the month of May. Upon initial consideration, the Board of Directors may approve the draft budget as presented, or direct staff to either make specified revisions to the draft budget or provide the Board with additional information regarding projected revenues or proposed expenditures in the draft budget. After approval of a draft budget, the Board of Directors shall adopt a final budget no later than June 30 of each year. A copy of the draft budget when approved and a copy of the final budget when adopted shall be filed with each Member Agency.

Section 2

Responsibility for supplying funds for that portion of the budget for SANDAG, which is to be supplied by the Member Agencies, as adopted by the Board of Directors, shall be divided among the Member Agencies based on their population with each Member Agency including within its budget as funds to be supplied to SANDAG that sum of money determined by taking the ratio its population bears to the total population of the region and multiplying it by that portion of the approved budget to be supplied by the Member Agencies. Payment of this determined sum of money shall be made by each Member Agency by July 15 of each year. If payment by a Member Agency has not been made by September 1 of each year, that Member Agency shall no longer vote

as a member of the Board of Directors. A delinquent Member Agency will be allowed to vote when full payment has been made, including interest computed from July 15 at the established legal rate.

Section 3

The Director of Finance of SANDAG shall establish and maintain such funds and accounts as may be required by good accounting practice, state and federal law, and these Bylaws. The books and records of SANDAG in the hands of the Director of Finance shall be open to inspection at all reasonable times by representatives of the Member Agencies. The Director of Finance of SANDAG shall issue a Comprehensive Annual Financial Report by December 31 after the close of each fiscal year and a copy shall be provided to each of the Member Agencies.

Section 4

The Director of Finance of SANDAG shall receive, have the custody of, and disburse SANDAG funds upon the warrant or check-warrant of the Finance Manager pursuant to the accounting procedures developed under Section 3 above, and shall make the disbursements required to carry out any of the provisions or purposes of SANDAG. The Director of Finance of SANDAG may invest SANDAG funds in accordance with state and federal law. All interest collected on SANDAG funds shall be accounted for and posted to the account of such funds.

Section 5

Delegation of authority from the Board of Directors for final financial/contracting approvals, including selection of vendors, acceptance of funding, stipulations of any nature, and any resulting budget amendment to serve as a limitation applicable to a particular job or program (not to be exceeded on a serial basis), shall be as follows:

a. Up to $100,000 to the Executive Director, subject to increase by Board action, or as may be modified in Board Policy No. 017 concerning delegation of authority to the Executive Director.
b. Up to $500,000 to the Executive Committee for any item, subject to increase by Board action.
c. Up to $500,000 to the Transportation Committee for transportation items, subject to increase by Board action.
d. Up to $500,000 to the Public Safety Committee for ARJIS and Criminal Justice Division items, subject to increase by Board action.
e. The Executive Director, Executive Committee, Public Safety Committee, and Transportation Committee shall report approvals under this section to the Board of Directors at least quarterly.

Section 6

The amount budgeted for Member Assessments related to Criminal Justice database access shall be as adopted by the Board of Directors and divided among the Member Agencies using a formula based on population. Payment of this determined sum of money shall be made by each Member Agency by July 15 of each year. If payment by a Member Agency has not been made by September 1 of each year, that Member Agency shall no longer vote as a member of the Board of Directors. A delinquent Member Agency will be allowed to vote when full payment has been made, including interest computed from July 15 at the established legal rate.

ARTICLE VII
RELATIONSHIPS AND RULES OF PROCEDURE

Section 1

The functions of the Board of Directors and Policy Advisory Committees shall be established by Board policy. The Board of Directors may delegate functions to the Policy Advisory Committees as it deems appropriate.

Section 2

The Board of Directors shall provide guidance to committees and working groups. The Board may advise Member Agencies on the coordination of general plans, or on the resolution of conflicts between the general plans of agencies in the San Diego region.

Section 3

Conflicts between governmental agencies should be resolved among the affected agencies. In matters affecting more than one local government, and where requested by the affected agencies, SANDAG shall have the authority to hear and make recommendations if the conflicts are not resolved to the satisfaction of each affected agency. Regional plans should serve as the guideline for the resolution of conflicts.

Section 4

Each action taken by SANDAG that requires implementation should include designation of the agency or agencies directly responsible for such implementation.

Section 5

The general and specific references to the construction authority of SANDAG in SB 1703 shall be interpreted as applicable solely to its responsibilities for project development and construction of transit projects which were previously within the purview of the transit development boards and are consolidated under the authority of SANDAG.

ARTICLE VIII
INFORMATION AND EVALUATION

Section 1

a. SANDAG shall disseminate information concerning its work program and activities. The required information system should be organized and categorized so that it will continue to allow full and efficient use of information by the public and private sectors.

b. Adequate provision for public participation shall be provided as required by law and as directed by the Board of Directors.

c. The Board shall perform an annual evaluation of SANDAG's goals, purpose, structure, and performance, directed toward continually improving the planning, coordination, and implementation process.

ARTICLE IX
AMENDMENTS

Section 1

The Board of Directors shall be responsible for making all amendments to these Bylaws.

a. Proposed amendments may be originated by the Board of Directors, the Executive Committee, or any member of the Board of Directors.

b. Prior to being taken to the Board of Directors for approval, proposed amendments should be taken to the Executive Committee preliminarily for review and discussion and then brought to the Executive Committee at a subsequent meeting for a recommendation for approval to the Board.

c. A copy of any proposed amendments shall be forwarded by the Clerk of the Board to the official representative of each Member Agency, his or her alternate and the Member Agency itself, at the same time as the proposed amendments are mailed as a report attachment to the agenda for the preliminary Executive Committee meeting referred to in subsection b of this section.

d. Amendments to these Bylaws (except those provisions mandated by state law) shall require the vote of a majority of the Member Agencies using the voting process described in Article IV, Section 5(a) of these Bylaws.

Adopted July 2003 by the SANDAG Board of Directors
Revised November 2003 by the SANDAG Board of Directors
Amended November 2004 by the SANDAG Board of Directors
Amended January 2006 by the SANDAG Board of Directors
Amended July 2007 by the SANDAG Board of Directors
Amended December 2008 by the SANDAG Board of Directors
Amended January 2010 by the SANDAG Board of Directors
Amended March 2014 by the SANDAG Board of Directors
Amended November 2014 by the SANDAG Board of Directors
Amended December 2015 by the SANDAG Board of Directors
Amended January 2017 by the SANDAG Board of Directors
Amended February 2018 by the SANDAG Board of Directors
Amended January 2019 by the SANDAG Board of Directors
Amended April 2020 by the SANDAG Board of Directors

EXHIBIT F

Members

Steve Vaus, Chair
Mayor, City of Poway
(Representing **North County Inland**)

Catherine Blakespear, Vice Chair
Mayor, City of Encinitas
(Representing **North County Coastal**)

Georgette Gomez
Council President, **City of San Diego**

Jim Desmond
Vice Chair, **County of San Diego**
Chair, **Transportation Committee**

Bill Wells
Mayor, City of El Cajon
(Representing **East County**)

Mary Salas
Mayor, City of Chula Vista
(Representing **South County**)
Chair, **Regional Planning Committee**

Alternates

Rebecca Jones
Mayor, City of San Marcos
(Representing **North County Inland**)

David Zito
Councilmember, City of Solana Beach
(Representing **North County Coastal**)

Barbara Bry
Councilmember, **City of San Diego**

Monica Montgomery
Councilmember, **City of San Diego**

Kristin Gaspar
Supervisor, **County of San Diego**

John Minto
Mayor, City of Santee
(Representing **East County**)
Chair, **Public Safety Committee**

Serge Dedina
Mayor, City of Imperial Beach
(Representing **South County**)
Chair, **Borders Committee**

Hasan Ikhrata
Executive Director, **SANDAG**

Executive Committee Agenda

Friday, February 14, 2020
8 to 9 a.m.
SANDAG, 7th Floor Conference Room
401 B Street, 7th Floor
San Diego

Agenda Highlights

- **Regional Housing Needs Assessment: Proposed Appeals Hearing Procedures**
- **Preliminary Development of the FY 2021 Program Budget**
- **Proposed 2020 Legislative Program**

Please silence all electronic devices during the meeting

You can listen to the Executive Committee meeting by visiting our website at sandag.org

Mission Statement

The 18 cities and county government are SANDAG serving as the forum for regional decision-making. SANDAG builds consensus; makes strategic plans; obtains and allocates resources; plans, engineers, and builds public transit; and provides information on a broad range of topics pertinent to the region's quality of life.

San Diego Association of Governments · 401 B Street, Suite 800, San Diego, CA 92101-4231
(619) 699-1900 · Fax (619) 699-1905 · sandag.org

Welcome to SANDAG. Members of the public may speak to the Executive Committee (Committee) on any item at the time the Committee is considering the item. Please complete a Request to Comment form located at the Clerk desk. Members of the public may address the Committee on any issue under the agenda item entitled Public Comments/Communications/Member Comments. Public speakers are limited to three minutes or less per person. The Committee may take action on any item appearing on the agenda.

Both agenda and non-agenda comments should be sent to the Clerk of the Committee via clerk@sandag.org. Please include the meeting date, agenda item, your name, and your organization. Any comments, handouts, presentations, or other materials from the public intended for distribution at the meeting should be received by the Clerk no later than 5 p.m. two working days prior to the meeting. All public comments and materials received by the deadline become part of the official public record and will be provided to the members for their review at the meeting.

In order to keep the public informed in an efficient manner and facilitate public participation, SANDAG also provides access to all agenda and meeting materials online at sandag.org/meetings. Additionally, interested persons can sign up for email notifications at sandag.org/subscribe.

SANDAG operates its programs without regard to race, color, and national origin in compliance with Title VI of the Civil Rights Act. SANDAG has developed procedures for investigating and tracking Title VI complaints, and the procedures for filing a complaint are available to the public upon request. Questions concerning SANDAG nondiscrimination obligations or complaint procedures should be directed to the SANDAG General Counsel, John Kirk, at (619) 699-1997 or john.kirk@sandag.org. Any person who believes himself or herself or any specific class of persons to be subjected to discrimination prohibited by Title VI also may file a written complaint with the Federal Transit Administration.

In compliance with the Americans with Disabilities Act (ADA), SANDAG will accommodate persons who require assistance in order to participate in SANDAG meetings. If such assistance is required, please contact the SANDAG ADA Coordinator, the Director of Diversity and Equity, at (619) 699-1900, at least 72 hours in advance of the meeting. To request this document or related reports in an alternative format, please call (619) 699-1900 or (619) 699-1904 (TTY), or fax (619) 699-1905.

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Los materiales de la agenda de SANDAG están disponibles en otros idiomas. Para hacer una solicitud, llame al (619) 699-1900 al menos 72 horas antes de la reunión.

如有需要, 我□ 可以把SANDAG□ □ □ □ 翻□ 成其他語言.

□ 在□ □ 前至少 72 小□ 打□ □ (619) 699-1900 提出□ □ .

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Executive Committee

Friday, February 14, 2020

Item No.		Action
+1.	Approval of Meeting Minutes The Executive Committee is asked to approve the minutes from its January 10, 2020, meeting.	Approve
2.	Public Comments/Communications/Member Comments Members of the public shall have the opportunity to address the Executive Committee on any issue within the jurisdiction of SANDAG that is not on this agenda. Anyone desiring to speak shall reserve time by completing a Request to Comment form and giving it to the Clerk prior to speaking. Public speakers should notify the Clerk if they have a handout for distribution to Executive Committee members. Public speakers are limited to three minutes or less per person. Executive Committee members also may provide information and announcements under this agenda item.	
3.	Executive Director's Report *Hasan Ikhrata, SANDAG* An update on key programs, projects, and agency initiatives, including San Diego Forward: The 2021 Regional Plan and the Airport Connectivity project will be provided.	Discussion

Reports

+4.	Review of Draft Board Agendas *Victoria Stackwick and Irene McCormack, SANDAG* +4A. Draft Board Business Agenda – February 28, 2020 +4B. Draft Board of Directors Retreat Agenda – March 11-13, 2020	Approve
+5.	Regional Housing Needs Assessment: Proposed Appeals Hearing Procedures *Seth Litchney, SANDAG* The Executive Committee is asked to approve the proposed procedures for the Regional Housing Needs Assessment appeals hearing.	Approve
+6.	Preliminary Development of the FY 2021 Program Budget *André Douzdjian and Sandi Craig, SANDAG* Staff will provide preliminary information on the development of the FY 2021 Program Budget.	Discussion
+7.	Proposed 2020 Legislative Program *Victoria Stackwick, Robyn Wapner, Hector Vanegas, and Laurie Gartrell, SANDAG* The Executive Committee is asked to recommend that the Board of Directors approve the proposed 2020 Legislative Program, including sponsorship of Assembly Bill 2062 (Boerner Horvath).	Recommend

8. Continued Public Comments

If the five-speaker limit for public comments was exceeded at the beginning of this agenda, other public comments will be taken at this time. Subjects of previous agenda items may not again be addressed under public comment.

9. Upcoming Meetings — Information

A special Executive Committee meeting is scheduled for Friday, February 28, 2020 at 8 a.m.

10. Adjournment

+ next to an item indicates an attachment

EXHIBIT G

SANDAG

Executive Committee

Item: **5**

February 14, 2020

Regional Housing Needs Assessment: Proposed Appeals Hearing Procedures

Action: **Approve**

The Executive Committee is asked to approve the proposed procedures for the Regional Housing Needs Assessment appeals hearing.

Overview

On November 22, 2019, the SANDAG Board of Directors voted to adopt the Final Regional Housing Needs Assessment (RHNA) Methodology. As required by state law, SANDAG staff distributed the Final RHNA Methodology and Draft RHNA Allocation to each jurisdiction in the region and the state's Department of Housing and Community Development (HCD) which began the 45-day appeal period. SANDAG received appeals from the cities of Coronado, Imperial Beach, Lemon Grove, and Solana Beach which can be viewed at sandag.org/rhna.

At the conclusion of the appeal period, SANDAG distributed the four appeals to each jurisdiction and HCD for an opportunity to provide comment. State law requires SANDAG conduct one public hearing to consider the appeals and any comments from jurisdictions or HCD on the appeals. State law, however, does not provide procedures for the appeals hearing.

Key Considerations

The proposed RHNA Appeals Hearing Procedures are included in Attachment 1 and would allow each appealing jurisdiction the opportunity to make its case to the Board by providing an organized presentation that is recommended to last no longer than ten minutes. SANDAG staff would have the opportunity to present information and clarify issues on each appeal, subject to a response by the appealing jurisdiction.

After the conclusion of the public hearing, the Board will be asked to grant, grant in part, or deny each appeal as described in the proposed RHNA Appeals Hearing Procedures. All jurisdictions – including appealing jurisdictions - may participate in each vote consistent with the Board's standard voting procedures.

Next Steps

Pending the Executive Committee's approval of the proposed procedures and Board agenda, the Board will hold the RHNA Appeals hearing on February 28, 2020. After disposition of the appeals, the Board will be asked to release a proposed RHNA Plan which would be considered for adoption at a future Board meeting.

Coleen Clementson, Director of Regional Planning

Key Staff Contact: Seth Litchney, (619) 699-1943, seth.litchney@sandag.org

Attachment: 1. SANDAG RHNA Appeals Hearing Procedures

SANDAG RHNA Appeals Hearing Procedures

The Regional Housing Needs Assessment (RHNA) public hearing will be held during the Board of Directors meeting on February 28, 2020, and shall comply with relevant SANDAG policies related to public participation. The hearing process for each of the four appeals is as follows:

1. The appealing jurisdiction will be provided an opportunity to make its case regarding the change in its share of the draft regional housing need allocation, with the burden on the appealing jurisdiction to prove its case. An appealing jurisdiction may choose to have technical staff present its case at the hearing. A jurisdiction may present its own proposed findings on its appeal for the Board's consideration. The four appealing jurisdictions will present in alphabetical order. (Approximately 10 minutes maximum for each appealing jurisdiction presentation)

2. SANDAG staff will present information and clarify issues raised in the jurisdiction's presentation and will provide its assessment of the technical merits of the appeal, including a discussion of its proposed draft findings on the appeal which shall be published in advance of the hearing. (Approximately 10 minutes maximum for each appeal)

3. The appealing jurisdiction will be allowed to present a rebuttal to SANDAG staff's response. (Approximately 5 minutes maximum for each rebuttal)

4. Board members will be invited to ask questions of the appealing jurisdiction or of SANDAG staff regarding the information presented.

5. Steps 1 through 4 above will be repeated for each of the remaining appeals.

6. Members of the public will be invited to provide public comment regarding any or all of the appeals. (3 minutes or less maximum per speaker as determined by the Chair based on the number of speakers and availability of time)

7. The Chair will close the public hearing on the RHNA Appeals.

8. Board members will be invited to discuss the issues raised in the appeals.

9. The Board will be asked to conduct a separate vote for each appeal pursuant to SANDAG standard voting procedures, considering all information presented in the appeal, all comments received regarding the appeal, and all information received during the public hearing, determining one of the following outcomes for each appeal:

    a. Adopting SANDAG staff's or a jurisdiction's draft findings for the appeal, and granting, granting in part, or denying the appeal based on such findings.

    b. Adopting SANDAG staff's or a jurisdiction's draft findings <u>with specified modifications</u> for the appeal, and granting, granting in part, or denying the appeal based on such findings.

    c. Directing SANDAG staff to collaborate with the Chair and Vice Chair on drafting findings for the appeal reflecting the substance of the Board's discussions on the appeal for the Board's consideration at a future meeting. The disposition of the appeal would also be determined by the Board at such future meeting.

10. Once a final determination has been made of all RHNA appeals, the Board will be asked to issue a proposed final RHNA Plan consistent with the disposition of all RHNA appeals. At a subsequent public hearing, the Board will be asked to adopt the final RHNA Plan.

DRAFT

EXHIBIT H

JURISDICTION	VOTE	TALLY
City of San Diego	Yes	1
County of San Diego	Yes	1
East County	Yes	1
North County Coastal	Yes	1
North County Inland	Yes	1
South County	Yes	1

Item 5
RHNA: Proposed Appeals Hearing Procedures

Action: APPROVE

Pass

	TALLY
	6
% Yes	100%
% No	0%

SANDAG

EXHIBIT I

Board Members

Steve Vaus, Chair
Mayor, **Poway**

Catherine Blakespear, Vice Chair
Mayor, **Encinitas**

Cori Schumacher
Councilmember, **Carlsbad**

Mary Salas
Mayor, **Chula Vista**

Richard Bailey
Mayor, **Coronado**

Ellie Haviland
Mayor, **Del Mar**

Bill Wells
Mayor, **El Cajon**

Paul McNamara
Mayor, **Escondido**

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Racquel Vasquez
Mayor, **Lemon Grove**

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Kevin Faulconer
Mayor, **City of San Diego**

Georgette Gomez
Council President, **City of San Diego**

Jim Desmond
Supervisor, **County of San Diego**

Kristin Gaspar
Supervisor, **County of San Diego**

Rebecca Jones
Mayor, **San Marcos**

John Minto
Mayor, **Santee**

David A. Zito
Councilmember, **Solana Beach**

Judy Ritter
Mayor, **Vista**

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Imperial County

Toks Omishakin, *Executive Director*
California Department of Transportation

Paloma Aguirre, *Boardmember*
Metropolitan Transit System

Tony Kranz, *Chair*
North County Transit District

Joe Stuyvesant, Navy Region Southwest
Executive Director
U.S. Department of Defense

Garry Bonelli, *Commissioner*
Port of San Diego

Mel Katz, *Director*
San Diego County Water Authority

Cody Martinez, *Chairman*
Southern California Tribal Chairmen's Association

April Boling, *Chair*
San Diego County Regional Airport Authority

Hon. Carlos González Gutiérrez
Consul General, **Mexico**

Hasan Ikhrata
Executive Director, **SANDAG**

Board of Directors Agenda

Friday, February 28, 2020
9 a.m. to 12 noon
SANDAG Board Room
401 B Street, 7th Floor
San Diego

Agenda Highlights

- **Impact of the Safer Affordable Fuel-Efficient Vehicle Rule on the 2020 Regional Transportation Improvement Program**
- **California Department of Finance Population Projections**
- **FY 2021 to FY 2025 *TransNet* Program and Transit-Related Revenues**

Please silence all electronic devices during the meeting

You can listen to the Board of Directors meeting by visiting our website at sandag.org

Message from the Clerk

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Both agenda and non-agenda comments should be sent to the Clerk of the Board via clerk@sandag.org. Please include the meeting date, agenda item, your name, and your organization. Any comments, handouts, presentations, or other materials from the public intended for distribution at the meeting should be received by the Clerk no later than 5 p.m. two working days prior to the meeting. All public comments and materials received by the deadline become part of the official public record and will be provided to the members for their review at the meeting.

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请在会议**前至少** 72 **小**n **打**电话 (619) 699-1900 **提出**请求.

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Board of Directors

Friday, February 28, 2020

Item No.		Recommendation
+1.	Approval of Meeting Minutes	Approve
	+1A. January 10, 2020, Board Policy Meeting +1B. January 17, 2020, Joint Meeting of the Board of Directors, Transportation Committee, and Regional Planning Committee +1C. January 24, 2020, Board Business Meeting	
2.	Public Comments/Communications/Member Comments	
	Public comments under this agenda item will be limited to five public speakers. Members of the public shall have the opportunity to address the Board on any issue within the jurisdiction of SANDAG that is not on this agenda. Other public comments will be heard during the items under the heading "Reports." Anyone desiring to speak shall reserve time by completing a "Request to Speak" form and giving it to the Clerk of the Board prior to speaking. Public speakers should notify the Clerk of the Board if they have a handout for distribution to Board members. Public speakers are limited to three minutes or less per person. Board members also may provide information and announcements under this agenda item.	
3.	Policy Advisory Committee Chairs' Report	Information
	Policy Advisory Committee Chairs will provide updates on key committee activities.	
4.	Executive Director's Report *Hasan Ikhrata, SANDAG*	Discussion
	An update on key programs, projects, and agency initiatives, including San Diego Forward: The 2021 Regional Plan and Airport Connectivity project, will be presented.	
	Consent	
+5.	Policy Advisory Committee Actions *Tessa Lero, SANDAG*	Approve
	The Board of Directors is asked to ratify the delegated actions taken by the Policy Advisory Committees.	
+6.	Office of the Independent Performance Auditor Transfer of Internal Audit Position Budget – FY 2020 Budget Amendment *Mary Khoshmashrab, SANDAG*	Approve
	The Audit Committee recommends that the Board of Directors approve an FY 2020 Budget Amendment to transfer the remaining FY 2020 budget for Internal Audit position to the Office of the Independent Performance Auditor.	

+7. *TransNet* Regional Transportation Congestion Improvement Program Fee Adjustment * — Approve

Stephanie Guichard and Ariana zur Nieden, SANDAG

The Board of Directors is asked to approve a 2% adjustment to the Regional Transportation Congestion Improvement Program, raising the minimum fee from $2,533.15 to $2,583.82, beginning July 1, 2020.

+8. Proposed FY 2020 Program Budget Amendment: Division 6 Bus Maintenance Facility — Approve

Jennifer Williamson, SANDAG

The Transportation Committee recommends that the Board of Directors approve an amendment to the FY 2020 Program Budget to:

1. create new Capital Improvement Program Project No. 1147500 for the Division 6 Bus Maintenance project; and
2. accept up to $100,000 from Metropolitan Transit System to fund the initial environmental studies.

+9. Federal Transit Administration Section 5311 Program of Projects — Approve

Michelle Smith, SANDAG

The Transportation Committee recommends that the Board of Directors approve the FFY 2020 apportionment of Federal Transit Administration Section 5311 Non-Urbanized Area Formula Program funds for the San Diego region.

+10. 2020 Transit Asset Management Regional Targets — Approve

Sam Sanford, SANDAG

The Board of Directors is asked to approve the proposed 2020 Transit Asset Management regional targets in accordance with the Fixing America's Surface Transportation Act.

+11. Executive Director Delegated Actions* — Approve

André Douzdjian, SANDAG

In accordance with various SANDAG Board Policies, this report summarizes certain delegated actions taken by the Executive Director since the last Board Business meeting. In addition, the Board of Directors is asked to: (1) renew its annual delegation of authority to the Executive Director pursuant to Board Policy No. 003: Investment Policy, and (2) re-approve Board Policy No. 032: San Diego County Regional Transportation Commission Interest Rate Swap Policy.

+12. Appointment of Policy Advisory Committee Members and Designation of Transit Representatives to the Board of Directors — Information
Tessa Lero, SANDAG

This report summarizes the voting and advisory members appointed to the Policy Advisory Committees, including the committee chairs and vice chairs appointed by the SANDAG Chair, and the designation of Board members as transit representatives for the purpose of meeting federal requirements.

+13. Meetings and Events Attended on Behalf of SANDAG — Information
Tessa Lero, SANDAG

Board members will provide brief reports on external meetings and events attended on behalf of SANDAG.

+14. Quarterly Finance Report and Update on Financial Markets Through December 2019* — Information
Andre Douzdjian and Ray Major, SANDAG

This quarterly report provides various finance-related items to the Board of Directors, including: (1) a quarterly report of investments, including all money under the direction or care of SANDAG; (2) an update on the SANDAG debt portfolio; and (3) information about the latest developments in the financial markets, the economy, and sales tax revenues.

+15. Quarterly Progress Report on Major Transportation Projects – Through December 2019 — Information
Michelle Smith, SANDAG

This quarterly report provides an update on the status of major SANDAG and Caltrans projects and programs in the San Diego region.

Reports

16. California Department of Finance Population Projections* — Information
Ray Major, SANDAG

An update on the population projections released by the Department of Finance in January 2020 will be presented.

+17. FY 2021 to FY 2025 *TransNet* Program and Transit-Related Revenues* — Approve
Jim Desmond, Transportation Committee Chair
Ariana zur Nieden and Stephanie Guichard, SANDAG

The Transportation Committee recommends that the Board of Directors approve the FY 2021 to FY 2025 estimates and apportionments for Transportation Development Act, Federal Transit Administration, and *TransNet* funds.

+18. Impact of the Safer Affordable Fuel-Efficient Vehicle Rule on the 2020 Regional Transportation Improvement Program* — Information

Sue Alpert, SANDAG

An overview of the impact of the Safer Affordable Fuel-Efficient rule on the 2020 Regional Transportation Improvement Program will be presented.

+19. Adoption of the California Building Code and Delegation of Authority to Act as a Building Official for SANDAG Capital Projects — Adopt

John Haggerty and Ryan Kohut, SANDAG

The Board of Directors is asked to:

1) Waive the requirements of Sections 1.3 and 1.6 of SANDAG Board Policy No. 004 by a two-thirds vote, allowing the immediate consideration of the proposed ordinance by the Board and allowing for its immediate implementation; and
2) Adopt Ordinance 2020-01, adopting the 2019 California Building Standards Code by reference and authorizing the Executive Director to contract with consultants to serve as the Building Official for the Mid-Coast Trolley Project and as needed to serve as the Board of Appeals under the adopted Code.

+20. 2020 Legislative Program — Approve

Vice Chair Catherine Blakespear
Victoria Stackwick, Hector Vanegas, Robyn Wapner, and Laurie Gartrell, SANDAG

The Executive Committee recommends that the Board of Directors approve the proposed 2020 Legislative Program, including sponsorship of Assembly Bill 2026 (Boerner Horvath).

+21. A Primer on Environmental Review for Transportation Improvements — Information

Keith Greer, SANDAG

Information on the environmental review process for transportation projects under the National Environmental Policy Act and California Environmental Quality Act will be presented.

22. Continued Public Comments

If the five-speaker limit for public comments was exceeded at the beginning of this agenda, other public comments will be taken at this time. Subjects of previous agenda items may not again be addressed under public comment.

23. Upcoming Meetings — Information

Please Note: The Board of Directors Annual Retreat, scheduled for March 11-13, 2020, will be held at the following location:

Viejas Resort
5000 Willows Road
Alpine, CA 91901

The next Board Business meeting is scheduled for Friday, March 27, 2020, at 9 a.m.

24. Adjournment

+ next to an agenda item indicates an attachment

* next to an agenda item indicates that the Board of Directors also is acting as the San Diego County Regional Transportation Commission for that item

EXHIBIT J

Policy Advisory Committee Actions

Overview

Action: **Approve**

The Board of Directors is asked to ratify the delegated actions taken by the Policy Advisory Committees.

SANDAG Board Policy No. 001 delegates certain responsibilities to the Policy Advisory Committees to allow SANDAG to effectively address key public policy and funding responsibilities. All items delegated to the Policy Advisory Committees are subject to Board ratification.

Below are the delegated actions taken or scheduled to be taken by the Policy Advisory Committees that are subject to ratification.

Transportation Committee: February 7, 2020

Adopted Resolution No. 2020-16, approving the FY 2019 Transportation Development Act amendment for the North County Transit District.

Executive Committee: February 14, 2020

Approved the February 28, 2020, draft Board Business Agenda, as amended; and the March 11-13, 2020, draft Board Retreat agenda.

Approved the proposed procedures for the Regional Housing Needs Assessment (RHNA) appeals hearing, as amended and attached as Exhibit 1, and approved an extension of the time period for conducting the public hearing on RHNA appeals and comments on appeals until March 27, 2020, consistent with Government Code Section 65584.05(i).

Transportation Committee: February 21, 2020

Adopted Resolution No. 2020-19, approving the FY 2020 State Transit Assistance claim amendment for the North County Transit District.

Hasan Ikhrata, Executive Director

Key Staff Contact: Tessa Lero, (619) 595-5629, tessa.lero@sandag.org

Attachment 1. RHNA Appeals Procedures

SANDAG RHNA Appeals Hearing Procedures

The Regional Housing Needs Assessment (RHNA) public hearing will be held during the Board of Directors meeting on March 27, 2020, and shall comply with relevant SANDAG policies related to public participation. The hearing process for each of the four appeals will be as follows:

1. The appealing jurisdiction will be provided an opportunity to make its case regarding the change in its share of the draft regional housing need allocation, with the burden on the appealing jurisdiction to prove its case. An appealing jurisdiction may choose to have technical staff present its case at the hearing. A jurisdiction may present its own proposed findings on its appeal for the Board's consideration. The four appealing jurisdictions will present in alphabetical order. (Approximately 10 minutes maximum for each appealing jurisdiction presentation)

2. SANDAG staff will present information and clarify issues raised in the jurisdiction's presentation and will provide its assessment of the technical merits of the appeal, including a discussion of staff's proposed draft findings on the appeal which shall be published in advance of the hearing. (Approximately 10 minutes maximum for each appeal)

3. Board members will be invited to ask questions of the appealing jurisdiction or of SANDAG staff regarding the information presented.

4. Steps 1 through 3 above will be repeated for each of the remaining appeals.

5. Members of the public will be invited to provide public comment regarding any or all of the appeals. (3 minutes or less maximum per speaker as determined by the Chair based on the number of speakers and availability of time)

6. The appealing jurisdictions will be allowed to present a rebuttal/final statement to address SANDAG staff presentations and public comments. (Approximately 5 minutes maximum for each rebuttal/statement)

7. The Chair will close the public hearing on the RHNA Appeals.

8. Board members will be invited to discuss the issues raised in the appeals.

9. The Board will be asked to conduct a separate vote for each appeal pursuant to SANDAG standard voting procedures, considering all information presented in the appeal, all comments received regarding the appeal, and all information received during the public hearing, determining one of the following outcomes for each appeal:

    a. Adopting SANDAG staff's or a jurisdiction's draft findings for the appeal, and granting, granting in part, or denying the appeal based on such findings.

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EXHIBIT K

JURISDICTION	VOTE	TALLY
Carlsbad	Yes	1
Chula Vista	Yes	1
Coronado	Yes	1
County A	Yes	1
Del Mar	Yes	1
El Cajon	Yes	1
Encinitas	Yes	1
Escondido	Yes	1
Imperial Beach	Yes	1
La Mesa	Yes	1
Lemon Grove	Yes	1
National City	Yes	1
Oceanside	Yes	1
Poway	Yes	1
San Diego A	Yes	1
San Marcos	Yes	1
Santee	Yes	1
Solana Beach	Yes	1
Vista	Yes	1

Consent Balance

Action: APPROVE

Pass

	TALLY
	19
% Yes	100%
% No	0%

093

SANDAG

EXHIBIT L

SANDAG RHNA Appeals Hearing Procedures

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EXHIBIT M

Board Members

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Hasan Ikhrata
Executive Director, **SANDAG**

Board of Directors Agenda

Friday, June 26, 2020
9 a.m. to 12 noon
Teleconference Meeting

Agenda Highlights

- **Regional Housing Needs Assessment Appeals Public Hearing**

MEETING ANNOUNCEMENT AMIDST COVID-19 PANDEMIC:

The SANDAG Board of Directors scheduled for Friday, June 26, 2020, will be conducted virtually in accordance with Governor Newsom's State of Emergency declaration regarding the COVID-19 outbreak, Executive Order N-29-20, and the Guidance for Gatherings issued by the California Department of Public Health. Committee Members will primarily participate in the meeting virtually, while practicing social distancing, from individual remote locations.

There are a few options for public participation:

- At the time of the meeting, listen to the audio stream through sandag.org
- Observe the meeting via GoToMeeting (registration required)
- Submit comments via email to clerk@sandag.org

To register for the GoToMeeting webinar, follow the prompts to enter your name and email address. Members of the public who prefer not to share their names with SANDAG may use initials or a pseudonym; however, to receive a confirmation email, including a link to join the webinar, you will need to enter a valid email address. On the morning of the meeting, click the "Join Webinar" link in the confirmation email. To avoid connection issues, check your system requirements in advance.

During the GoToMeeting webinar: To minimize/expand the webinar attendee panel, click on the orange arrow at the top right corner of your screen. Attendees will be in "listen only" mode. View GoToMeeting FAQs for additional information.

SANDAG is relying on commercial technology to broadcast the meeting via GoToWebinar. With the recent increase of virtual meetings, platforms such as Microsoft Teams, WebEx, GoToMeeting, and Zoom are working to scale their systems to meet the new demand. If we experience technical difficulty or you are unexpectedly disconnected from the broadcast, please close and re-open your browser and click the link to re-join the meeting. SANDAG staff will take all possible measures to ensure a publicly accessible experience. Please note that the meeting will continue to be broadcast audio-only via the "Listen to the meeting" link on sandag.org.

Public Comments: Persons who wish to address the members on an item to be considered at this meeting, or on non-agendized issues, may email comments to the Clerk at clerk@sandag.org (please reference: "June 26 BOD Meeting" in your subject line and identify the item number(s) to which your comments pertain). Comments received by 4 p.m. on Thursday, June 25, will be provided to members prior to the meeting. If you desire to provide a live verbal comment during the meeting, register for the GoToMeeting webinar as noted above, and join the meeting using the "Join Webinar" link provided in your confirmation email. Commenters can use a computer microphone and speakers to listen and communicate or dial into the meeting with a telephone. Commenters must join the webinar portion of the session to obtain a personal audio PIN before attempting to call-in. You may use either the "Telephone" or "Mic & Speakers" audio option, although the "Telephone" option will require use of the PIN. When public comments for an item are called for, press the "raise your hand" button in the GoToWebinar control panel to be called on. You will then be called on by name and unmuted by the organizer and may provide comments for the allotted time. Do not self-mute – organizers will not be able to unmute you to provide comments. All comments received prior to the close of the meeting will be made part of the meeting record.

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Closed Captioning is available

To access Closed Captioning:

- Open your browser and go to https://www.streamtext.net/player?event=SANDAG-BOD

Message from the Clerk

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San Diego Association of Governments · 401 B Street, Suite 800, San Diego, CA 92101-4231
(619) 699-1900 · Fax (619) 699-1905 · sandag.org

Board of Directors

Friday, June 26, 2020

Item No.		Recommendation
1.	Public Comments/Communications/Member Comments Public comments under this agenda item will be limited to five public speakers. Members of the public shall have the opportunity to address the Board on any issue within the jurisdiction of SANDAG that is not on this agenda. Other public comments will be heard during the items under the heading "Reports."	
2.	Policy Advisory Committee Chairs' Report Policy Advisory Committee Chairs will provide updates on key committee activities.	Information
3.	Executive Director's Report *Hasan Ikhrata, SANDAG* An update on key programs, projects, and agency initiatives, including San Diego Forward: The 2021 Regional Plan, the Airport Connectivity project, and the agency's response to COVID-19, will be presented.	Discussion

Consent

+4.	Approval of Meeting Minutes +4A. May 1, 2020, Board Special Meeting +4B. May 8, 2020, Board Business Meeting +4C. May 15, 2020, Board Special Meeting +4D. May 22, 2020, Board Business Meeting	Approve
+5.	Policy Advisory Committee Actions *Tessa Lero, SANDAG* The Board of Directors is asked to ratify the delegated actions taken by the Policy Advisory Committees.	Approve
+6.	Executive Director Delegated Actions* *Kim Monasi, SANDAG* In accordance with various Board Policies, this report summarizes delegated actions taken by the Executive Director since the last Board of Directors Business meeting.	Information
+7.	Transportation Development Act and State Transit Assistance Claims *Ariana zur Nieden, SANDAG* The Transportation Committee recommends that the Board of Directors: 1. Adopt Resolution Nos. 2020-23 through 2020-28, approving the FY 2021 Transportation Development Act and State Transit Assistance (STA) claims; and 2. Approve the STA findings as certified by North County Transit District.	Approve

+8. Proposed Amendments to Conflict of Interest Code — Approve
John Kirk, SANDAG

The Board of Directors is asked to approve proposed amendments to the Conflict of Interest Code.

+9. FY 2021 SANDAG Financial and Compliance Audit* — Approve
Yen Ho, SANDAG

The Audit Committee recommends that the Board of Directors exercise the option under the existing agreement with Crowe LLP to conduct the FY 2021 SANDAG Financial and Compliance Audit, with a rotation of the lead auditor.

+10. Annual Review of Committees and Working Groups — Information
Tessa Lero, SANDAG

This report provides an update on the status of all standing and temporary committees and working groups.

+11. Progress Report on Major Transportation Projects – Through March 2020 — Information
Michelle Smith, SANDAG

This progress report provides an update on the status of major SANDAG and Caltrans projects and programs in the San Diego region.

+12. Meetings and Events Attended on Behalf of SANDAG — Information
Tessa Lero, SANDAG

Board members will provide brief reports on external meetings and events attended on behalf of SANDAG.

Report

+13. Regional Housing Needs Assessment Appeals Public Hearing — Conduct Hearing/ Possible Action
Coleen Clementson and Seth Litchney, SANDAG

The Board of Directors is asked to:

1. Conduct a public hearing to consider the Regional Housing Needs Assessment (RHNA) appeals and all comments on appeals;
2. Make a final determination, and adopt written findings that either grants, grants in part, or denies each appeal; and
3. Pending a final determination on all appeals, issue the proposed RHNA Plan.

14. Continued Public Comments

If the five-speaker limit for public comments was exceeded at the beginning of this agenda, other public comments will be taken at this time. Subjects of previous agenda items may not again be addressed under public comment.

15. Upcoming Meetings — Information

The next Board Business meeting is scheduled for Friday, July 10, 2020, at 10 a.m.

16. Adjournment

+ next to an agenda item indicates an attachment

* next to an agenda item indicates that the Board of Directors also is acting as the San Diego County Regional Transportation Commission for that item

EXHIBIT N

June 24, 2020

San Diego Association of Governments (SANDAG)
401 B Street, Suite 800
San Diego, CA 92101

RE: JOINT REQUEST REGARDING REGIONAL HOUSING NEEDS ASSESSMENT (RHNA) DRAFT ALLOCATION APPEALS

Dear Chairperson and Members of the Board:

The Cities of Coronado, Imperial Beach, Lemon Grove, and Solana Beach (collectively "Appealing Cities") jointly and respectively request that the Board take the following actions with respect to the four appeals filed pursuant to Government Code Section 65584.05 for revisions to the shares of the regional housing need proposed to be allocated under the Regional Housing Needs Assessment ("RHNA") methodology adopted for the 6th cycle, which appeals are scheduled to be heard on June 26, 2020:

1. **Grant the appeals and reduce the Appealing Cities' allocations.**

Based on the significant, unforeseen changed circumstances due to the COVID-19 pandemic and for the reasons stated in each of the appeals, the Appealing Cities request that the Board grant all four appeals, to the extent it pertains to the Appealing City. Government Code section 65584.05(f) allows the Board to adjust the allocations to local governments based on the results of the appeals process.

The Appealing Cities submit that given the points raised, it is appropriate to reduce the draft allocations to the four Appealing Cities by the amounts that each has requested in its appeal. In addition to the points made in each Appealing City's argument, granting these reductions will result in a more equitable distribution of units and yet each of the Appealing Cities will still be allocated a substantially higher number of units than in the last cycle, demonstrating their willingness to support the increased building of housing to meet the regional need.

2. **Decide the appeals by tally vote.**

On February 14, 2020, the Executive Committee adopted policies and procedures related to hearing the RHNA appeals. Over the objections of two cities, the Executive Committee declined to apply the procedural safeguard of a straight majority vote (a tally vote only with no weighted option) in deciding the RHNA appeals. The Board was never presented

with a copy of the objections. See Attachments 1 and 2. Instead, the RHNA hearing procedures were buried in the middle of consent items to "ratify the delegated actions" taken by the "policy advisory committees." The Board should take a more careful look at the voting procedures in light of the requirements for due process in deciding the appeals.

With respect to voting procedures, Article IV, Section 5(a) of SANDAG's Bylaws provides that: "After the tally vote of the Board Members is taken, a weighted vote may be called by the Board Members of any two Member Agencies ***unless otherwise required by law***." (Emphasis added.) Accordingly, where the law requires otherwise, a tally vote only is to be taken.

In the context of deciding the RHNA appeals, which are quasi-judicial proceedings, due process requires that the weighted vote not be employed. All appellants are entitled to a fair hearing with voting procedures that do not create an unacceptable risk of bias nor disenfranchise any jurisdiction's citizens.

Under Government Code Section 120102.5(f) and its bylaws, policies and procedures governing different voting mechanisms for different contexts can be adopted. The RHNA appeals present a situation in which experience teaches that the probability of bias is too high to be constitutionally tolerable. Due process therefore requires a straight majority vote in deciding the RHNA appeals to minimize the risk of error in such an adjudicatory setting.

3. **Hear, consider and decide the appeals together.**

Each of the appeals raise multiple concerns, many of which are similar, and call for an adjustment to the draft allocations. Many elements of the appeals are interrelated and each member jurisdiction has an interest in the outcome of each appeal. That is why the RHNA statutes require that all appeals be heard at the same time in one public hearing. See Government Code section 65584.05(d). Deciding the appeals alphabetically has the potential to produce inconsistent results. The Board should be consistent in its approach and consider the valid points raised in all the appeals to inform the overall decision. This can only be properly done by considering and deciding all the appeals at the same time.

4. **Reduce the total regional allocation by the number of units deducted in the appeals.**

For every regional body other than SANDAG, Government Code Section 65584.05(f) requires that, in deciding appeals to RHNA allocations, those bodies must distribute the entire regional housing need as determined by HCD. But for SANDAG, through AB 1730, the state legislature transformed that into a discretionary action for SANDAG's determination through Government Code Section 65584.05(j).

Based on the significant, unforeseen changed circumstances of the Department of Finance's (DOF's) population projections reflecting a 6.6% decrease from previous projections through the 6th housing cycle, the Appealing Cities request that SANDAG exercise its discretionary authority granted by AB 1730 to reduce the total regional allocation. According to the accurate DOF population projections, as little as a 3% increase from the 5th cycle (rather than the 6% increase suggested by HCD) is what is actually supported by the accurate DOF population projection data. Further, this projected reduction in the region's estimated housing need was prior to the certain additional impacts to be experienced by the current economic downturn triggered by the COVID-19 crisis which is far from over. The actual reduction should be in an amount sufficient to reduce the allocations to each of the Appealing Cities by the amounts that they have each requested.

Thank you for your consideration. Should you have any questions, please feel free to contact any of the Appealing Cities' Community Development Directors.

Respectfully Submitted,

Blair King, City Manager
City of Coronado

Andy Hall, City Manager
City of Imperial Beach

Lydia Romero, City Manager
City of Lemon Grove

Gregory Wade, City Manager
City of Solana Beach

Attachment 1 – City of Coronado's letter dated February 13, 2020

Attachment 2 – City of Solana Beach's letter dated February 13, 2020

cc: Hasan Ikhrata, Executive Director, SANDAG
Councilmembers for the Appealing Cities

EXHIBIT O

Regional Housing Needs Assessment Appeals Public Hearing

Overview

On November 22, 2019, the Board of Directors voted to adopt the final Regional Housing Needs Assessment (RHNA) Methodology. As required by state law, SANDAG staff distributed the final RHNA Methodology and draft RHNA Allocation to each jurisdiction in the region and the state's Department of Housing and Community Development (HCD), which began the 45-day appeal period. SANDAG received appeals from the cities of Coronado, Imperial Beach, Lemon Grove, and Solana Beach, which are available at sandag.org/rhna.

At the conclusion of the appeal period, SANDAG distributed the four appeals to each jurisdiction and HCD, which began a second 45-day period for jurisdictions or HCD to provide comments on any or all appeals. SANDAG received five comment letters on the appeals: three from the City of Lemon Grove and one each from the cities of Coronado and Solana Beach. These letters are available at sandag.org/rhna.

State law requires that SANDAG conduct a public hearing to consider the appeals and any comments on the appeals from jurisdictions or HCD. On February 28, 2020, the Board ratified procedures for the appeals hearing (Attachment 1).

Action: **Conduct Hearing/Possible Action**

The Board of Directors is asked to:

1. Conduct a public hearing to consider the Regional Housing Needs Assessment (RHNA) appeals and all comments on appeals;
2. Make a final determination, and adopt written findings that either grants, grants in part, or denies each appeal; and
3. Pending a final determination on all appeals, issue the proposed RHNA Plan.

Fiscal Impact:

Development of the Regional Housing Needs Assessment Plan is funded through Overall Work Program No. 3102000 in the FY 2020 Program Budget.

Schedule/Scope Impact:

Pending a final determination on all appeals and issuance of the RHNA Plan, the Board would be asked to adopt a final RHNA Plan at the conclusion of a public hearing at a future meeting of the Board.

Key Considerations

Appeal Considerations

Each jurisdiction's appeal requested a revision to the draft RHNA Allocation. Proposed final determinations for each appeal are attached (Attachments 2, 3, 4, and 5) which include proposed written findings as to how each determination is consistent with state law. SANDAG received supplements to the appeals and proposed findings from the cities of Coronado and Solana Beach (Attachments 6 and 7), and a letter co-signed by all four appealing jurisdictions on June 24, 2020 (Attachment 11). Addenda to the proposed final determinations for each appeal responding to these recent submissions are also attached (Attachments 12, 13, 14, and 15). SANDAG staff recommends the following actions on the appeals:

1. Modify the housing unit allocation for the cities of Coronado, Imperial Beach, and San Diego based on the City of Coronado's appeal.

   The City of Coronado's appeal requested clarification on whether the jobs at Naval Base Coronado included jobs at installations located outside of the City of Coronado. During a discussion with Naval Facilities Engineering Command (NAVFAC) Southwest in February 2020, it became clear that the jobs data for the Silver Strand Training Complex (SSTC) in the City of Coronado and the Naval Outlying

Landing Field (NOLF) in the City of Imperial Beach was not aligned with the Demographics report published by Defense Manpower Data Center (DMDC) used to develop the SANDAG Employment Estimates. SSTC and NOLF have—at most—99 active duty military jobs according to the DMDC data. The total jobs data had erroneously treated both SSTC and NOLF as remote stations of Naval Base San Diego 32nd Street and redistributed a portion of the jobs at the 32nd Street installation located in the City of San Diego to SSTC and NOLF. To provide a consistent application of the final RHNA Methodology, SANDAG staff recommends reassigning the jobs previously associated with SSTC and NOLF to the City of San Diego and assigning jobs for SSTC and NOLF based on data from DMDC, consistent with other military installations in the region. The correction of the jobs count per jurisdiction would result in a revised housing unit allocation for the cities of Coronado, Imperial Beach, and San Diego.

Additionally, the City of Coronado's appeal noted that Naval Air Station North Island (NASNI) is located in the cities of Coronado and San Diego; however, all the jobs at NASNI were assigned to the City of Coronado. The final RHNA methodology allocates housing units based on the total number of jobs in each jurisdiction. NAVFAC does not identify NASNI jobs by jurisdiction, and SANDAG staff was not able to identify another data source of the jobs split between jurisdictions. Therefore, staff recommends revising the jobs count for the cities of Coronado and San Diego by assigning NASNI jobs based on the share of NASNI land area located in each city. Nineteen and a half percent of the active duty and civilian jobs associated with NASNI would be assigned to the City of San Diego and 80.5% of the active duty and civilian jobs associated with NASNI would be assigned to the City of Coronado.

The two revisions to the jobs data described above would result in an increase of 3,913 jobs in the City of San Diego, a decrease of 2,445 jobs in the City of Coronado, and a decrease of 1,270 jobs in the City of Imperial Beach (Attachment 8). Accordingly, these changes would result in a revised housing unit allocation for the cities of Coronado, San Diego, and Imperial Beach (Attachment 9).

SANDAG staff recommends rejecting the remaining requests for a revised share of the regional housing need included in the City of Coronado's appeal. Proposed findings for the remaining requests can be found in the proposed Final Determination for the City of Coronado's Appeal (Attachment 2).

2. Reject the appeals from the cities of Lemon Grove, Imperial Beach, and Solana Beach

   SANDAG staff recommends rejecting the remaining requests for a revised share of the regional housing need included in the appeals of the cities of Imperial Beach, Lemon Grove, and Solana Beach. Proposed findings for each request can be found in the proposed final determinations for each appeal (Attachments 3, 4, and 5).

Final Appeals Determination and Proposed Final RHNA Plan

The Board is asked to make a final determination on each appeal.

Based on staff's recommendations, revisions to the draft allocation as described above would include an increase of 135 housing units for the City of San Diego, a decrease of 89 housing units for the City of Coronado, and a decrease of 46 housing units for the City of Imperial Beach. Attachment 7 shows the revised draft RHNA Allocation with these changes. Attachment 10 is the proposed RHNA Plan incorporating the revised RHNA Allocation based on the proposed final determinations.

Consistent with the SANDAG RHNA Appeals Hearing Procedures, the Board is asked to consider all information presented in the appeal, all comments received regarding the appeal, all information received during the public hearing, and determine one of the following outcomes for each appeal:

a. Adopt the proposed final determinations or a jurisdiction's proposed findings for the appeal, and grant, grant in part, or deny the appeal based on such findings.

b. Adopt the proposed final determinations or a jurisdiction's proposed findings with specified modifications for the appeal, and grant, grant in part, or deny the appeal based on such findings.

c. Direct SANDAG staff to collaborate with the Chair and Vice Chair on drafting final determinations with written findings for the appeal reflecting the substance of the Board's discussions on the appeal for the

Board's consideration at a future meeting. The disposition of the appeal would also be determined by the Board at such future meeting.

Next Steps

Pending a final determination on all appeals and issuance of the RHNA Plan, the Board would be asked to adopt a final RHNA Plan at the conclusion of a public hearing at a future meeting of the Board.

Hasan Ikhrata, Executive Director

Key Staff Contact: Seth Litchney, (619) 699-1943, seth.litchney@sandag.org

Attachments:
1. SANDAG RHNA Appeals Hearing Procedures
2. SANDAG RHNA Appeals Draft Determination: City of Coronado
3. SANDAG RHNA Appeals Draft Determination: City of Imperial Beach
4. SANDAG RHNA Appeals Draft Determination: City of Lemon Grove
5. SANDAG RHNA Appeals Draft Determination: City of Solana Beach
6. City of Coronado Supplement to City Appeal
7. City of Solana Beach Supplement to City Appeal
8. Revised Jobs Count for Each Jurisdiction
9. Revised RHNA Housing Unit Allocation
10. Proposed RHNA Plan
11. Letter from all Appealing Jurisdictions
12. Addendum to SANDAG RHNA Appeals Draft Determination: City of Coronado
13. Addendum to SANDAG RHNA Appeals Draft Determination: City of Imperial Beach
14. Addendum to SANDAG RHNA Appeals Draft Determination: City of Lemon Grove
15. Addendum to SANDAG RHNA Appeals Draft Determination: City of Solana Beach

SANDAG RHNA Appeals Hearing Procedures

The Regional Housing Needs Assessment (RHNA) public hearing will be held during the Board of Directors meeting on June 26, 2020, and shall comply with relevant SANDAG policies related to public participation. The hearing process for each of the four appeals will be as follows:

1. The appealing jurisdiction will be provided an opportunity to make its case regarding the change in its share of the draft regional housing need allocation, with the burden on the appealing jurisdiction to prove its case. An appealing jurisdiction may choose to have technical staff present its case at the hearing. A jurisdiction may present its own proposed findings on its appeal for the Board's consideration. The four appealing jurisdictions will present in alphabetical order. (Approximately 10 minutes maximum for each appealing jurisdiction presentation).

2. SANDAG staff will present information and clarify issues raised in the jurisdiction's presentation and will provide its assessment of the technical merits of the appeal, including a discussion of staff's proposed draft findings on the appeal, which shall be published in advance of the hearing. (Approximately 10 minutes maximum for each appeal).

3. Board members will be invited to ask questions of the appealing jurisdiction or of SANDAG staff regarding the information presented.

4. Steps 1 through 3 above will be repeated for each of the remaining appeals.

5. Members of the public will be invited to provide public comment regarding any or all of the appeals. (3 minutes or less maximum per speaker as determined by the Chair based on the number of speakers and availability of time).

6. The appealing jurisdictions will be allowed to present a rebuttal/final statement to address SANDAG staff presentations and public comments (approximately 5 minutes maximum for each rebuttal/statement).

7. The Chair will close the public hearing on the RHNA Appeals.

8. Board members will be invited to discuss the issues raised in the appeals.

9. The Board will be asked to conduct a separate vote for each appeal pursuant to SANDAG standard voting procedures, considering all information presented in the appeal, all comments received regarding the appeal, and all information received during the public hearing, determining one of the following outcomes for each appeal:

    a. Adopting SANDAG staff's or a jurisdiction's draft findings for the appeal, and granting, granting in part, or denying the appeal based on such findings.

    b. Adopting SANDAG staff's or a jurisdiction's draft findings with specified modifications for the appeal, and granting, granting in part, or denying the appeal based on such findings.

    c. Directing SANDAG staff to collaborate with the Chair and Vice Chair on drafting findings for the appeal reflecting the substance of the Board's discussions on the appeal for the Board's consideration at a future meeting. The disposition of the appeal would also be determined by the Board at such future meeting.

10. Once a final determination has been made of all RHNA appeals, the Board will be asked to issue a proposed final RHNA Plan consistent with the disposition of all RHNA appeals. At a subsequent public hearing, the Board will be asked to adopt the final RHNA Plan.

San Diego Association of Governments Regional Housing Needs Assessment Appeals Determination: City of Coronado

The City of Coronado (City) has appealed its draft Regional Housing Needs Assessment (RHNA) allocation. The following constitutes the final determination of the San Diego Association of Governments (SANDAG) Board of Directors regarding the City's appeal. This final determination is based on the information and methodology described in California Government Code Section 65584.04, [1] the information presented in the appeal, all comments received regarding the appeal, and information received during the public hearing.

I. Statutory Background

The California Legislature developed the RHNA process in 1977 to address the affordable housing shortage in California. The RHNA process is codified in state law at Section 65580, *et seq.* Over the years the housing element laws, including the RHNA process, have been revised to address the changing housing needs in California. As of the last revision, the Legislature has declared that:

> (a) The availability of housing is of vital statewide importance, and the early attainment of decent housing and a suitable living environment for every Californian, including farmworkers, is a priority of the highest order.
> (b) The early attainment of this goal requires the cooperative participation of government and the private sector in an effort to expand housing opportunities and accommodate the housing needs of Californians of all economic levels.
> (c) The provision of housing affordable to low- and moderate-income households requires the cooperation of all levels of government.
> (d) Local and state governments have a responsibility to use the powers vested in them to facilitate the improvement and development of housing to make adequate provision for the housing needs of all economic segments of the community.
> (e) The Legislature recognizes that in carrying out this responsibility, each local government also has the responsibility to consider economic, environmental, and fiscal factors and community goals set forth in the general plan and to cooperate with other local governments and the state in addressing regional housing needs.
> (f) Designating and maintaining a supply of land and adequate sites suitable, feasible, and available for the development of housing sufficient to meet the locality's housing need for all income levels is essential to achieving the state's housing goals and the purposes of this article.

See Section 65580.

To carry out the policy goals above, the Legislature also codified the intent of the housing element laws:

> (a) To assure that counties and cities recognize their responsibilities in contributing to the attainment of the state housing goal.

[1] All statutory references are to the California Government Code unless otherwise noted.

(b) To assure that counties and cities will prepare and implement housing elements which, along with federal and state programs, will move toward attainment of the state housing goal.
(c) To recognize that each locality is best capable of determining what efforts are required by it to contribute to the attainment of the state housing goal, provided such a determination is compatible with the state housing goal and regional housing needs.
(d) To ensure that each local government cooperates with other local governments in order to address regional housing needs.

See Section 65581.

The housing element laws exist within a larger planning framework which requires each city and county in California to develop and adopt a comprehensive, long-term general plan for the physical development of the jurisdiction (*See* Section 65300). A general plan consists of many planning elements, including an element for housing (*See* Section 65302). In addition to identifying and analyzing the existing and projected housing needs, the housing element must also include a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. Consistent with Section 65583, adequate provision must be made for the existing and projected housing needs of all economic segments of the community.

A. RHNA Determination by HCD

Each cycle of the RHNA process begins with the California Department of Housing and Community Development's (HCD) determination of the existing and projected housing need for each region in the state (Section 65584(a)). HCD's determination must be based on population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments. (*See Section* 65584.01(a)). The RHNA Determination allocates the regional housing need among four income categories: very low, low, moderate, and above moderate.

Within 30 days of receiving the final RHNA Determination from HCD, the council of governments may file an objection to the determination with HCD. The objection must be based on HCD's failure to base its determination on either the population projection for the region established under Section 65584.01(a), or a reasonable application of the methodology and assumptions determined under Section 65584.01(b). Within 45 days of receiving the council of governments objection, HCD must "make a final written determination of the region's existing and projected housing need that includes an explanation of the information upon which the determination was made." (*See* Section 65584.01).

B. Development of RHNA Methodology

Each council of governments is required to develop a methodology for allocating the regional housing need to local governments within the region. The methodology must further the following objectives:

(1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households.
(2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.

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(3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.
(4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.
(5) Affirmatively furthering fair housing.

See Section 65584(b).

To the extent that sufficient data is available, the council of government must also include the following factors in development of the methodology consistent with Section 65884.04(e):

(1) Each member jurisdiction's existing and projected jobs and housing relationship. This shall include an estimate based on readily available data on the number of low-wage jobs within the jurisdiction and how many housing units within the jurisdiction are affordable to low-wage workers as well as an estimate based on readily available data, of projected job growth and projected household growth by income level within each member jurisdiction during the planning period.
(2) The opportunities and constraints to development of additional housing in each member jurisdiction, including all of the following:
    (A) Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.
    (B) The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities. The council of governments may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions. The determination of available land suitable for urban development may exclude lands where the Federal Emergency Management Agency (FEMA) or the Department of Water Resources has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding.
    (C) Lands preserved or protected from urban development under existing federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis, including land zoned or designated for agricultural protection or preservation that is subject to a local ballot measure that was approved by the voters of that jurisdiction that prohibits or restricts conversion to nonagricultural uses.
    (D) County policies to preserve prime agricultural land, as defined pursuant to Section 56064, within an unincorporated area and land within an unincorporated area zoned or designated for agricultural protection or preservation that is subject to a local ballot measure that was approved by the voters of that jurisdiction that prohibits or restricts its conversion to nonagricultural uses.

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(3) The distribution of household growth assumed for purposes of a comparable period of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure.
(4) Agreements between a county and cities in a county to direct growth toward incorporated areas of the county and land within an unincorporated area zoned or designated for agricultural protection or preservation that is subject to a local ballot measure that was approved by the voters of the jurisdiction that prohibits or restricts conversion to nonagricultural uses.
(5) The loss of units contained in assisted housing developments, as defined in paragraph (9) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions.
(6) The percentage of existing households at each of the income levels listed in subdivision (e) of Section 65584 that are paying more than 30 percent and more than 50 percent of their income in rent.
(7) The rate of overcrowding.
(8) The housing needs of farmworkers.
(9) The housing needs generated by the presence of a private university or a campus of the California State University or the University of California within any member jurisdiction.
(10) The housing needs of individuals and families experiencing homelessness. If a council of governments has surveyed each of its member jurisdictions pursuant to subdivision (b) on or before January 1, 2020, this paragraph shall apply only to the development of methodologies for the seventh and subsequent revisions of the housing element.
(11) The loss of units during a state of emergency that was declared by the Governor pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2), during the planning period immediately preceding the relevant revision pursuant to Section 65588 that have yet to be rebuilt or replaced at the time of the analysis.
(12) The region's greenhouse gas emissions targets provided by the State Air Resources Board pursuant to Section 65080.
(13) Any other factors adopted by the council of governments, that further the objectives listed in subdivision (d) of Section 65584, provided that the council of governments specifies which of the objectives each additional factor is necessary to further. The council of governments may include additional factors unrelated to furthering the objectives listed in subdivision (d) of Section 65584 so long as the additional factors do not undermine the objectives listed in subdivision (d) of Section 65584 and are applied equally across all household income levels as described in subdivision (f) of Section 65584 and the council of governments makes a finding that the factor is necessary to address significant health and safety conditions.

To guide development of the methodology, each council of governments surveys its member jurisdictions to request, at a minimum, information regarding the factors listed above (*See* Section 65584.04(b)). If a survey is not conducted, however, a jurisdiction may submit information related to the factors to the council of governments before the public comment period for the draft methodology begins ((*See* Section 65584.04(b)(5)).

Housing element law also explicitly prohibits consideration of the following criteria in determining, or reducing, a jurisdiction's share of the regional housing need:

(1) Any ordinance, policy, voter-approved measure, or standard of a city or county that directly or indirectly limits the number of residential building permits issued by a city or county.
(2) Prior underproduction of housing in a city or county from the previous regional housing need allocation, as determined by each jurisdiction's annual production report.

DRAFT

(3) Stable population numbers in a city or county from the previous regional housing needs cycle.

See Section 65584.04(g).

Finally, Section 65584.04(m) requires that the final RHNA Plan, which includes both the methodology and the allocation, is consistent with the development pattern included in the region's sustainable communities strategy, distributes the entire regional housing need determined under Section 65584, distributes units for low- and very low income households to each jurisdiction in the region, and furthers the five objectives listed in Section 65584(d).

C. Public Participation

Government Code Section 65584.04(d) states that "public participation and access shall be required in the development of the methodology." The council of governments is required to "explain in writing how each of the factors described in subdivision (e) was incorporated into the methodology and how the methodology furthers the objectives listed in subdivision (d) of Section 65584" (*See* Section 65584.04(f)) as well as explain "how information about local government conditions gathered pursuant to subdivision (b) has been used to develop the proposed methodology" (*See* Section 65584.04(d)). The proposed methodology, "this information, and any other supporting materials used in determining the methodology, shall be posted on the council of governments' or delegate subregion's, internet website." (*See* Section 65584.04(f)).

The council of governments is required to open the proposed methodology to public comment and "conduct at least one public hearing to receive oral and written comments on the proposed methodology." (*See* Section 65584.04(d)). Following the conclusion of the public comment period and after making any revisions deemed appropriate by the council of governments as a result of comments received during the public comment period and consultation with the HCD, the council of governments publishes the proposed methodology on its website and submits it, along with the supporting materials, to HCD. (*See* Section 65584.04(h)).

D. HCD Review of Methodology and Adoption by Council of Governments

HCD has 60 days to review the proposed methodology and report its written findings to the council of governments. The written findings must include a determination by HCD as to "whether the methodology furthers the objectives listed in subdivision (d) of Section 65584." (*See* Section 65584.04(i)). If HCD finds that the proposed methodology is not consistent with the statutory objectives, the council of governments must take one of the following actions: (1) revise the methodology to further the objectives in state law and adopt a final methodology; or (2) adopt the methodology without revisions "and include within its resolution of adoption findings, supported by substantial evidence, as to why the council of governments, or delegate subregion, believes that the methodology furthers the objectives listed in subdivision (d) of Section 65584 despite the findings of [HCD]." (*See* Section 65584.04(i)). Upon adoption of the final methodology, the council of governments "shall provide notice of the adoption of the methodology to the jurisdictions within the region, or delegate subregion, as applicable, and to HCD, and shall publish the adopted allocation methodology, along with its resolution and any adopted written findings, on its internet website." (*See* Section 65584.04(k)).

E. RHNA Draft Allocation, Appeals, and Adoption of Final RHNA Plan

Based on the adopted methodology, each council of governments shall distribute a draft allocation of regional housing needs to each local government in the region and HCD, and shall publish the draft allocation on its website. (*See* Section 65584.05(a)). Upon completion of the appeals process,

DRAFT

discussed in more detail below, each council of governments must adopt a final regional housing need allocation plan and submit it to HCD (*See* Section 65584.05(g)). HCD has 30 days to review the final allocation plan and determine if it is consistent with the regional housing need developed pursuant to Section 65584.01. The resolution approving the final housing need allocation plan shall demonstrate that the plan is consistent with the SCS and furthers the objectives listed in Section 65584(d) as discussed above. (*See* Section 65584.04(m)(3); Section 65584.045).

II. SANDAG Oversight of the 6th Cycle RHNA Process

A. RHNA Determination

SANDAG began consultation with HCD for the 6th Cycle RHNA process in April 2017. The consultation process included a review of HCD's calculations and data sources and presentations to the Regional Planning Technical Working Group (TWG)[2], Regional Planning Committee (RPC)[3], and the Board[4].

In March 2018, SANDAG received a draft RHNA Determination from HCD. Consistent with Section 65584.01, HCD used the following data to prepare the draft RHNA Determination for the San Diego region:

- Population forecast from the California Department of Finance (DOF)
- Projected number of new households formed
- Vacancy rate in existing housing stock
- Percentage of renter's households that are overcrowded, defined as more than one person per room per dwelling unit
- Housing replacement needs

At its meeting on May 4, 2018, the RPC considered potential changes to the draft RHNA Determination that could be proposed to HCD reflecting factors unique to housing in the San Diego region. The RPC recommended that the Board accept the draft RHNA Determination without modifications.

At its May 11, 2018, meeting, the Board authorized the Executive Director to submit comments to HCD outlining suggested revisions to the RHNA Determination. Then on May 25, 2018, the Board voted to place this item on a future agenda for further discussion before submitting comments to HCD. On June 8, 2018, the Board amended its May 11, 2018, action and directed staff to submit a letter to HCD accepting the draft RHNA Determination. Following SANDAG's acceptance of the draft RHNA Determination, the consultation process concluded when HCD submitted the final RHNA Determination in a letter to SANDAG dated July 5, 2018.

The final RHNA Determination requires SANDAG and its member agencies to plan for 171,685 total housing units through the 2021-2029 planning period to address the region's housing needs.

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[2] SANDAG staff presented information related to the RHNA Determination to the TWG at its March 26, 2018, and April 12, 2018, meetings.
[3] SANDAG staff presented information related to the RHNA Determination to the RPC at its April 6, 2018, and May 4, 2018, meetings.
[4] SANDAG staff presented information related to the RHNA Determination to the Board at its March 9, 2018, May 11, 2018, and June 8, 2018, meetings.

B. RHNA Methodology and Public Participation

At its September 14, 2018 meeting the Board was surveyed to determine each jurisdiction's priorities for the upcoming RHNA cycle, including which RHNA objectives and factors would be most important when determining the distribution of housing units in the region. The Board expressed a desire to take a different approach than what had been used in previous housing element cycles and wanted to play a bigger role in the development of the methodology. This culminated in the formation of the RHNA Subcommittee in December 2018, which included members of the Board from each SANDAG subregion to reflect the diversity of geography, jurisdiction size, and other attributes of member jurisdictions. The Board also requested that their initial set of priorities be further discussed by the Regional Planning Technical Working Group (TWG), which consists of the planning or community development director from each jurisdiction, among other members.

The RHNA Subcommittee began meeting in early 2019. To develop its recommendation to the Board, the RHNA Subcommittee explored options for how to build consensus around a methodology that complies with state law while best achieving the goals of the Board. The RHNA Subcommittee held six meetings[5] in spring and summer 2019, prior to the Board's release of the draft methodology for public comment. All meetings were noticed and open to the public.

SANDAG staff also solicited input on the development of the methodology from the TWG, whose membership is described above. The TWG advises the RPC and Board on the development and implementation of San Diego Forward: the Regional Plan, which includes the RHNA Plan. The TWG discussed and provided input on the development of the methodology over 12 meetings[6] from August 2018 to November 2019, including two workshops specifically focused on RHNA.

Attendees at the meetings of the Board, RHNA Subcommittee, RPC, and TWG provided information regarding the types of data SANDAG should use, assumptions that should be made, as well as information regarding conditions in individual jurisdictions that should be taken into consideration. Jurisdictions and stakeholders also provided written comments during the outreach process. In addition to addressing comments at public meetings, SANDAG staff responded to comments and questions related to the development of the methodology via phone calls and emails, which led to the creation of Frequently Asked Questions that were posted to the SANDAG website. Staff also presented at city council meetings upon request.

On July 26, 2019, the Board released the draft methodology for public comment. At the end of a 42-day public comment period, SANDAG conducted a public hearing on September 6, 2019. SANDAG received nearly 2,200 public comments. During the public comment period, SANDAG compiled and posted on its website supplemental information requested by Board members, a list of Frequently Asked Questions (FAQs), and a response to comments received during the public comment period.

On September 6, 2019, the Board authorized staff to submit the draft methodology to HCD for review. In a letter dated November 1, 2019, HCD found that the draft methodology furthers the objectives in state law. At its November 22, 2019, meeting, the Board adopted by resolution the final methodology and released the draft allocation. Following the Board meeting, the draft allocation was posted on the SANDAG website and distributed to each jurisdiction and HCD.

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[5] The RHNA Subcommittee met on February 8, 2019, February 22, 2019, March 22, 2019, April 26, 2019, May 24, 2019, and June 14, 2019.

[6] The TWG discussed RHNA at the following meetings: August 9, 2018, October 11, 2018, December 13, 2018, January 10, 2019, February 14, 2019, March 14, 2019, April 3, 2019, May 9, 2019, June 6, 2019, June 13, 2019, June 27, 2019, and November 14, 2019.

III. RHNA Appeal Process

A. Statutory Background

Under Section 65584.05(b), a local government or HCD may appeal the council of governments within 45 days following receipt of the draft allocation "for a revision of the share of the regional housing need proposed to be allocated to one or more local governments." Appeals "shall be based upon comparable data available for all affected jurisdictions and accepted planning methodology, and supported by adequate documentation, and shall include a statement as to why the revision is necessary to further the intent of the objectives listed in subdivision (d) of Section 65584." Appeals also shall be consistent with the sustainable communities strategy included in the regional transportation plan (*See* Section 65584.05(b)). In accordance with Section 65584.05(b), appeals are limited to the following circumstances:

(1) The council of governments or delegate subregion, as applicable, failed to adequately consider the information submitted pursuant to subdivision (b) of Section 65584.04.
(2) The council of governments or delegate subregion, as applicable, failed to determine the share of the regional housing need in accordance with the information described in, and the methodology established pursuant to, Section 65584.04, and in a manner that furthers, and does not undermine, the intent of the objectives listed in subdivision (d) of Section 65584.
(3) A significant and unforeseen change in circumstances has occurred in the local jurisdiction or jurisdictions that merits a revision of the information submitted pursuant to subdivision (b) of Section 65584.04. Appeals on this basis shall only be made by the jurisdiction or jurisdictions where the change in circumstances has occurred.

Following the 45-day period for filing an appeal, the council of governments "shall notify all other local governments within the region or delegate subregion and the department of all appeals and shall make all materials submitted in support of each appeal available on a publicly available internet website." (*See* Section 65584.05(c)). Local governments and HCD may, within 45 days, comment on one or more appeals.

Within 30 days of the end of the appeals comment period, and with at least 21 days prior notice, the council of governments "shall conduct one public hearing to consider all appeals filed pursuant to subdivision (b) and all comments received pursuant to subdivision (c)." (*See* Section 65584.05(d)). Within 45 days of the public hearing to consider appeals, the council of governments is required to make a written final determination for each appeal filed that either accepts, rejects, or modifies the appeal and issue a proposed final allocation plan (*See* Section 65584.05(e)). The written finding(s) must describe how the determination is consistent with Section 65584.05.

If a final determination on an appeal requires the council of governments to adjust the allocation to one or more local governments that are not the subject of an appeal, Section 65584.05(f) provides: (1) if the adjustment totals 7 percent or less of the regional housing need, the council of governments must redistribute those housing units proportionally to all local jurisdictions; or (2) if the adjustment totals more than 7 percent of the regional housing need, then the council of governments shall develop a methodology to distribute the amount greater than the 7 percent to local governments. The total distribution of housing need shall not equal less than the regional housing need established under Section 65584.01. (*See* Section 65584.05(f))

Within 45 days after issuing the proposed final allocation plan, the council of governments "shall hold a public hearing to adopt a final allocation plan." The council of governments must then submit the final allocation plan to HCD within 3 days of adoption. HCD has 30 days to determine if the final allocation plan is consistent with the regional housing need. (*See* Section 65584.05(g)). The council

DRAFT

of governments has final authority to determine the distribution of the region's housing needs "[t]o the extent that the final allocation plan fully allocates the regional share of statewide housing need, as determined pursuant to Section 65584.01 and has taken into account all appeals." (*See* Section 65584.05(g)). HCD may revise the determination of the council of governments to obtain consistency with the existing and projected housing need for the region. (*See* Section 65584.05(g)).

B. SANDAG Appeal Process

SANDAG received four appeals during the appeals period of November 22, 2019 to January 6, 2020. Following close of business on January 6, 2020, the appeals were posted on SANDAG's website and distributed to the planning or community development directors of each local jurisdiction and the Board consistent with Section 65584.05(c).

SANDAG received five comment letters on the appeals during the appeals comment period from January 7, 2020 to February 21, 2020.

On February 7, 2020, SANDAG issued a notice of public hearing to consider appeals and comments on appeals at a meeting of the Board on February 28, 2020, pursuant to Section 65584.05(d), which was posted on the SANDAG website and published in two local newspapers. The Executive Committee, a committee of the Board responsible for setting Board agendas and providing direction to staff in preparing items for Board consideration, was scheduled to consider proposed RHNA Appeals Hearing Procedures at its meeting on February 14, 2020. Prior to the Executive Committee meeting, three of the appealing jurisdictions submitted letters to SANDAG stating that individual notice of the proposed public hearing was not received 21 days in advance of the February 28, 2020, public hearing date. To ensure compliance with the requirements of Section 65584.05(d), at its February 14, 2020, meeting, the Executive Committee approved continuing the public hearing to March 27, 2020, in addition to approving the RHNA Appeals Hearing Procedures with modifications. At its meeting on February 28, 2020, the Board ratified the Executive Committee's actions.

On March 3, 2020, SANDAG issued a notice of the public hearing to consider appeals and comments on appeals on March 27, 2020, pursuant to Section 65584.05(d), which was provided to each jurisdiction, posted on SANDAG's website, and published in two local newspapers.

The Board conducted the public hearing at its meeting on March 27, 2020.

IV. The City's Appeal

In a letter dated January 6, 2020, the City appealed the draft allocation. The grounds for appeal are as follows:

(1) SANDAG failed to adequately consider the information submitted pursuant to Government Code Section 65584(b); and
(2) SANDAG failed to determine the share of the regional housing need in accordance with the information described in, and the methodology established pursuant to, Section 65584.04, and in a manner that furthers, and does not undermine, the intent of the objectives listed in Government Code Section 65584(d).

A. Statutory Factors Under 65584.04(e)

1. Section 65584.04(e)(1): Jobs-Housing Relationship

Section 65584.04(e)(1) states:

> To the extent that sufficient data is available from local governments pursuant to subdivision (b) or other sources, each council of governments, or delegate

DRAFT

subregion as applicable, shall include the following factors to develop the methodology that allocates regional housing needs:

(1) Each member jurisdiction's existing and projected jobs and housing relationship. This shall include an estimate based on readily available data on the number of low-wage jobs within the jurisdiction and how many housing units within the jurisdiction are affordable to low-wage workers as well as an estimate based on readily available data, of projected job growth and projected household growth by income level within each member jurisdiction during the planning period.

As described above, pursuant to Section 65584.04, SANDAG has been charged with developing the RHNA methodology in consultation with HCD. SANDAG has the discretion to develop this methodology so long as it meets all the procedural requirements under Section 65584, *et seq.*, and the methodology furthers the objectives in Section 65584(d) as ultimately determined by HCD. In compliance with the RHNA statute, SANDAG carefully developed its methodology with input from HCD and local jurisdictions.

The City asserts that the draft allocation is deficient because SANDAG failed to adequately consider military housing during the development of the methodology. Contrary to the City's assertions, SANDAG did in fact give due consideration to the issue of the military housing raised by the City. In the development of the methodology, members of the RHNA Subcommittee and the TWG participated in substantive discussion considering the exclusion of active duty military from the jobs data at the following noticed public meetings:

- April 3, 2019, TWG Meeting - Two committee members requested evaluating the impact on using data for civilian jobs as opposed to military jobs. Two other working group members discussed the jobs data source.
- April 26, 2019, RHNA Subcommittee Meeting - Three subcommittee members discussed whether to exclude active duty military jobs from total jobs count.
- May 9, 2019, TWG Meeting - Three working group members discussed whether to exclude active duty military jobs from total jobs count.
- June 6, 2019, TWG Meeting – One working group member discussed whether to exclude active duty military jobs.

Additionally, at the following noticed public meetings, members of the Board, the RHNA Subcommittee, and the TWG participated in substantive discussion considering reducing a jurisdiction's jobs count by the number of on-base military housing units within its jurisdiction, which became known as a "housed military adjustment":

- May 24, 2019, RHNA Subcommittee Meeting – Seven subcommittee members and one additional elected official discussed a potential of using a housed military adjustment.
- June 6, 2019, TWG Meeting - One working group member discussed a potential of using a housed military adjustment.
- June 14, 2019, RHNA Subcommittee Meeting – Six subcommittee members discussed the housed military adjustment for over 1 hour; the RHNA Subcommittee voted to recommend a methodology with the housed military adjustment to the Board.
- June 27, 2019, TWG Meeting – Four working group members discussed the housed military adjustment.
- July 26, 2019, Board Meeting – One public speaker and nine Board members discussed the housed military adjustment.

DRAFT

- September 6, 2019, Board Meeting – Two public speakers and three Board members discussed the housed military adjustment.

In fact, the City's own appeal demonstrates that SANDAG considered the housed military adjustment at length. As noted in the City's appeal, the Board rejected the draft methodology recommended to the Board by the RHNA Subcommittee that incorporated the housed military adjustment. At its July 26, 2019, meeting where the RHNA Subcommittee's recommendation was considered, the Board discussed the housed military adjustment for approximately 30 minutes during its 2-hour consideration of the draft methodology before voting to release a draft for public comment that did not include the adjustment.

As several Board members noted, every jurisdiction in the region could identify carve outs from the methodology to address the unique circumstances facing their communities: "Each and every one of us across this table could come up with valid reason[s] why we – there should be some carve out or cut out for our region or area. I can think of, as the councilmember of District 4, about 5 reasons in my own district and there are 9 districts in the City [of San Diego] and so with that I think we are, we would be approving what could potentially be a slippery slope and from a technical standpoint don't think we should do that." (Board meeting on July 26, 2019 (1:37:10 in meeting audio)).

On September 6, 2019, the Board again considered the housed military adjustment in the context of carve outs for individual jurisdictions during its public hearing on the draft methodology and voted to submit the methodology without the housed military adjustment to HCD for review. Approximately 30 minutes were dedicated to robust discussion around the merits of submitting a draft methodology without carve outs for individual jurisdictions that would dilute the guiding principles of collocating housing near the region's jobs and established transit infrastructure to reduce vehicle miles traveled and greenhouse gas emissions.

Ultimately, in its discretion, the Board adopted a final methodology that did not include the housed military adjustment. Nuanced adjustments that may have modified the methodology in marginal ways in relation to the overall objectives and factors would likely result in a similar allocation because units being shifted away from one jurisdiction must necessarily be shifted toward others. At the close of the process, the Board was concerned that the methodology would be consumed by the 19 jurisdictions' "rational" exceptions based on unique community characteristics and the objectives identified by state law would be no better served.

As demonstrated above, the Board adequately considered both the exclusion of active duty military from the jobs data and the housed military adjustment and adopted the Final Methodology prioritizing jurisdictions' share of transit and jobs to allocate the region's housing needs in furtherance of the objectives listed in Section 65584.

The City also asserts that the jobs data used in the methodology has not been verified and points out that at a July 26, 2019, meeting, Joe Stuyvesant from the Navy had different military housing data. Specific to the housing data, prior to release of the draft methodology for public comment, SANDAG staff worked closely with members of the Naval Facilities Engineering Command (NAVFAC) Southwest to gather and verify military housing data. After the July 26, 2019, meeting of the Board, NAVFAC staff were again consulted concerning the military housing data and confirmed that the housing data used in the draft methodology recommended by the RHNA Subcommittee was accurate. While there is some off-base military housing associated with Naval Base Coronado in other jurisdictions, the off-base military housing was not used in the housed military adjustment proposed by the RHNA Subcommittee because the housing is not restricted to military personnel from Naval Base Coronado installations. Residents of off-base housing may

be employed at any of the military installations in the region. Because the Board voted for a final methodology which did not include an adjustment for housed military, the military housing data is not used in the draft allocation.

With respect to the jobs data, in defining the data sources available during the development of the methodology, SANDAG performed extensive stakeholder outreach. The data source for the jobs component of the methodology is the SANDAG Employment Estimates, which are also being used to develop the latest Regional Growth Forecast. SANDAG Employment Estimates are derived from Quarterly Census of Employment and Wages (QCEW) data from the Economic Development Department (EDD) and the Longitudinal Employer-Household Dynamics Origin-Destination Employment Statistics (LODES) data from the Center for Economic Studies at the U.S. Census Bureau.

The LODES data combines federal, state, and Census Bureau survey data on employers and employees. SANDAG uses the QCEW dataset for its detailed geographic information on businesses to geolocate "job spaces" throughout the region. The LODES data (average of the last five years), which are available at the census block level, are used to fill the job spaces to determine total jobs within various geographies. SANDAG Employment Estimates are also supplemented by other data sources including the San Diego Military Advisory Council (SDMAC) and Defense Manpower Data Center (DMDC). Finally, the jobs data are validated against published job totals for the County from the EDD Labor Market Information's yearly data.

Specific to the military jobs data, the DMDC produces an annual demographic report on the military population, which includes a breakdown of active duty military personnel by installation in the Unites States. Of the multiple installations that form Naval Base Coronado, only Naval Air Station North Island (NASNI) and Coronado Naval Amphibious Base (NAB) are included in the report with associated personnel data. The report notes that bases with fewer than 100 active duty personnel are not individually reported and are instead rolled up into an "other" category for the relevant state. SANDAG used the active duty personnel data for NASNI and NAB in the calculation to determine the City's total jobs. SANDAG confirmed with NAVFAC that active duty personnel data for NASNI and NAB do not include data for any other installation comprising Naval Base Coronado that may lie outside the City's jurisdictional boundaries. During this subsequent discussion with NAVFAC, however, it became clear that the jobs data for the Silver Strand Training Complex, located in the City, was not aligned with the DMDC.[7] For this reason, the City's total jobs figure is reduced by 175 jobs and the allocation in the proposed final RHNA Plan corrected accordingly.[8]

The City also argues that its share of the regional housing need was not determined in accordance with the methodology because all military jobs (active duty personnel and civilian Department of Defense jobs) associated with NASNI have been erroneously assigned to the City.

[7] The Silver Strand Training Complex (SSTC) has at most 99 active duty military jobs. Similarly, Naval Outlying Landing Field (NOLF) in the City of Imperial Beach also has at most 99 active duty military jobs according to the DMDC data. The total jobs data had erroneously treated both the SSTC and NOLF as remote stations of Naval Base San Diego at 32nd Street and redistributed a portion of the jobs at the 32nd Street installation located in the City of San Diego to SSTC and NOLF. As such, the jobs previously assigned to these two installations will be properly attributed to the City of San Diego as part of the 32nd Street installation.
[8] The total jobs count for the City of Imperial Beach and the City of San Diego will also be corrected in the proposed final RHNA Plan.

The City asserts that a portion of NASNI is located in the City of San Diego and "the proposed allocation does not allocate any NASNI jobs to the City of San Diego." (City's Appeal, p. 2). While assigning all jobs attributed to NASNI may be consistent with the approach used for Naval Base San Diego 32nd Street,[9] after further analysis, the City's requested revision is consistent with a plain reading of the final methodology. Therefore, the City's total jobs count is reduced by an additional 2,270 and the allocation in the proposed final RHNA Plan corrected accordingly.[10]

2. Section 65584.04(e)(2): Opportunities and Constraints to Development

The City argues that the draft RHNA allocation fails to adequately account for its unique constraints to development and submits the following documentation in support of its claim.

Land Use Constraint	Acreage
APZ I (Accident Potential Zone)	174
APZ II	22
Airport Clear Zone	78
Historic Designation	86
Commercial Recreation Zone (Coronado Shores, Coronado Yacht Club, Recreation areas)	16
Civic Uses	42
Visitors Serving Hotel/Motel Zone	49
Parks and Designated Open Spaces	297
TOTAL	764 Acres (1.2 square-miles)

City's Appeal, p. 4

However, SANDAG "may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under the alternative zoning ordinances and land use restrictions." (*See* Section 65584.04 (e)(2)(B)). In fact, HCD noted in its letter dated November 1, 2019 (p. 1-2) that "[p]articularly relevant to supporting infill development and climate change goals is the fact that this methodology does not consider land capacity or vacant land as a determinant of RHNA, and instead focuses on where housing is needed to encourage transit ridership and reduced commutes." Because consideration of existing zoning ordinances and land use restrictions is specifically prohibited by state law, the facts raised by the City do not support this ground for appeal.

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[9] Naval Base San Diego 32nd Street installation is the only other military installation in the region which exists across jurisdictional boundaries. For the 32nd Street base, the division of jobs between the City of San Diego and the City of National City was based on the share of traffic passing through each of the installation's security gates as determined from a 2015 military gate count survey conducted by SANDAG to inform updates to the SANDAG Activity Based Model. Based on these comparable data for the other affected jurisdictions, the division of jobs associated with NASNI was determined consistent because all access to NASNI is within the City of Coronado.

[10] Approximately 80.5 percent of the land area of NASNI is within the City and 19.5 percent is within the City of San Diego. The jobs at NASNI (7,223 active duty personnel and 4,417 civilian Department of Defense jobs) have been reassigned to the City and the City of San Diego proportionate to the share of land area within each jurisdiction. Therefore, the City's jobs count is reduced by the 2,270 jobs at NASNI that have been reassigned to the City of San Diego.

The City also argues that planning for the housing units in the draft allocation would require the City to violate the Coastal Act, or alternatively, to significantly overhaul the City's certified Local Coastal Program. As mentioned above, SANDAG "may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under the alternative zoning ordinances and land use restrictions." (*See* Section 65584.04 (e)(2)(B)).

Additionally, the Coastal Commission recently commented on the City's assertion in the San Diego Union Tribune[11]:

> In a statement, Coastal Commission Executive Director Jack Ainsworth said that while there are some constraints in the coastal zone related to increases in housing density around areas vulnerable to sea level rise and erosion, that doesn't mean that there are not areas within the coastal zone where significant increases in housing density are possible.
>
> "To make a blanket statement that the Coastal Commission would not approve increases in housing density is simply not accurate," he wrote. "Over the past year or so, the Commission has demonstrated our commitment to increasing housing density through individual permitting actions and our local coastal program planning efforts with local governments."

While the legislative priorities under the Coastal Act may be different from the state law governing RHNA, this can be said about other statutory schemes affecting local land use. Consistent with past cycles of RHNA, a jurisdiction wholly or partly in the coastal zone must work with the Coastal Commission when updating the housing element in its general plan.

In addition, the City has failed to submit a specific revision to the allocation based on their Local Coastal Program. Because a specific revision was not submitted, SANDAG cannot determine whether this request is based on comparable data for all affected jurisdictions and accepted planning methodology, or whether the revision would be necessary to further the intent of the statutory objectives.

3. Section 65584.04(e)(9): Housing Needs of Universities and Colleges

The City asserts that Section 65584.04(e)(9) requires SANDAG to consider the housing needs of colleges and universities "as a separate factor or an adjustment in the allocations." (City's Appeal, p. 5). State law makes no such mandate. Rather, it states:

> (e) To the extent that sufficient data is available from local governments pursuant to subdivision (b) or other sources, each council of governments, or delegate subregion as applicable, shall include the following factors to develop the methodology that allocates regional housing needs:
>
> . . .

[11] "San Diego County cities push back on state-mandated housing goals." San Diego Union Tribune, January 14, 2020 (https://www.sandiegouniontribune.com/business/growth-development/story/2020-01-14/sandag-housing).

(9) The housing needs generated by the presence of a private university or a campus of the California State University or the University of California within any member jurisdiction.

On page 18, the Final Methodology specifically describes the data and assumptions included to develop the methodology that consider the housing needs generated by a private university or campus of the California State University or the University of California. Because the major universities and community colleges in the San Diego region are located in urban areas served by the existing transportation network, prioritizing transit in the methodology encourages housing development near existing transit facilities serving these key destinations. The City of San Diego is home to San Diego State University; University of California San Diego; University of San Diego; Point Loma Nazarene University; various smaller, private universities; and three community colleges: San Diego City College, San Diego Mesa College, and San Diego Miramar College. It also has the greatest share of the region's transportation system in part because of transportation investments near universities and colleges located within its jurisdiction. Similarly, the cities of Chula Vista (Southwestern Community College), El Cajon (Cuyamaca College), Oceanside (Mira Costa College), and San Marcos (California State University San Marcos and Palomar College) have made transportation investments to improve access to transit near colleges and universities.

Additionally, the methodology includes a jobs component in furtherance of promoting an improved intraregional relationship between jobs and housing consistent with Section 65584(d)(3). The major universities in the region are also key employers and jobs associated with those institutions are included in the methodology. As such, both the transit and jobs components address the housing needs generated by students, faculty, and staff at private universities and campuses of the California State University or the University of California within each affected jurisdiction.

Importantly, the City has failed to submit a specific revision to the allocation or any supporting documentation or alternative data concerning the housing needs of universities and colleges within the region. Because a specific revision was not requested and no documentation was submitted, SANDAG cannot determine whether this request is based on comparable data for all affected jurisdictions and accepted planning methodology, and cannot determine whether the revision is necessary to further the statutory objectives.

4. Section 65584.04(e)(12) [12]: Other Factors and Furtherance of Statutory Objectives

The City asserts that "SANDAG could have adopted [a methodology] over any HCD objection under Government Code Section 65584.04(i)(2)." (City's Appeal, p. 6). The City's argument based on Section 65584.04(e)(12) is premised on an erroneous statement of facts and interpretation of law. By ending its analysis of HCD's RHNA oversight at Section 65584.04, the City fails to recognize the import of recent statutory changes to the housing laws. Effective January 1, 2019, following adoption of a final methodology not only may local jurisdictions appeal the draft allocation, but also HCD "may appeal to the council of governments or the delegate subregion for a revision of the share of the regional housing need proposed to be allocated to one or more local governments" (Section 65584.05(b)). In fact, SANDAG has final authority to determine the distribution of the region's housing need only to the extent it has allocated the entire regional share of the statewide housing need, and "has taken into account all appeals." HCD, notably, "may revise the determination of the council of governments if

[12] This subsection is now at Section 65584.04(e)(13) following revisions to the law effective January 1, 2020.

necessary to obtain" consistency with the existing and projected housing need for the region (Section 65584.05(g)).

The City also asserts that "[t]he factors that SANDAG applied under Government Code Section 65584.04(e)(12) successfully in past cycles should be used to revise the draft allocation to bring it into line with RHNA's statutory objectives" (City Appeal, p. 6). First, SANDAG did not adopt any other factors under Section 65584.04(e)(12). Furthermore, the City's assertion based on Section 65584.04(e)(12) again is premised on an erroneous statement of facts and interpretation of law. Section 65584.04(e)(12) in its current form did not exist in prior RHNA cycles; the Legislature substantively amended this section of state law effective January 1, 2019, as illustrated below by the language in bold:

> (12) Any other factors adopted by the council of governments**, that further the objectives listed in subdivision (d) of Section 65584, provided that the council of governments specifies which of the objectives each additional factor is necessary to further. The council of governments may include additional factors unrelated to furthering the objectives listed in subdivision (d) of Section 65584 so long as the additional factors do not undermine the objectives listed in subdivision (d) of Section 65584 and are applied equally across all household income levels as described in subdivision (f) of Section 65584 and the council of governments makes a finding that the factor is necessary to address significant health and safety conditions.**

To state that prior cycle factors could be incorporated into this RHNA cycle by virtue of their success in the past ignores the *current* language of Section 65584.04(e)(12). To the extent the City is requesting to modify the draft allocation by incorporating unidentified, prior cycle factors, this request is necessarily deficient because it has not provided adequate supporting documentation and SANDAG cannot determine whether it is based on comparable data for all affected jurisdictions or accepted planning methodology. In addition, the City has not provided any statement as to why the revision is necessary to further the intent of the objectives in state law (Section 65584.05(b)).

The City asserts that SANDAG did not adequately consider "the desire of other member agencies to absorb additional units that cannot be accommodated in jurisdictions like Coronado." (City's Appeal, p. 6).

At its September 14, 2018, meeting, the Board expressed a desire to take a different approach than the methodology used in the 5th Cycle by not relying on existing housing capacities as a starting point. Notwithstanding, members of the RHNA Subcommittee and the Board discussed the concept of trading housing units among jurisdictions at the following noticed public meetings:

- June 14, 2019, RHNA Subcommittee Meeting – Three Board members discussed trading housing units among jurisdictions
- November 22, 2019, Board Meeting – One Board member discussed taking on housing units from other jurisdictions.

As one RHNA Subcommittee member noted, "[i]n the perfect world, where we didn't need to have a methodology that made sense, I would say 'Sure, I'll take 500 of your units […] because Coronado's unique' but we can't do that because it would ruin the integrity of our methodology."(RHNA Subcommittee meeting on June 14, 2019 (0:54:29 in meeting audio)).

Furthermore, the City has not provided adequate documentation supporting this request. SANDAG cannot determine whether it is based upon comparable data available for all affected jurisdictions or accepted planning methodology. The City has also failed to demonstrate that an adjustment to the allocation to accommodate other jurisdictions' willingness to "absorb additional units" is necessary to further the intent of the statutory objectives.

In support of its assertions above, the City also cites to the increase in units proposed to be allocated in the 6th Cycle compared to the 5th Cycle as evidence of a defective draft allocation; however, the increase is a direct reflection of the refocused state priorities in the area of housing. In 2018 and 2019, the Legislature enacted major changes to the housing laws affecting RHNA. Specifically, the Legislature determined that "insufficient housing in job centers hinders the state's environmental quality and runs counter to the state's environmental goals. In particular, when Californians seeking affordable housing are forced to drive longer distances to work, an increased amount of greenhouse gases and other pollutants is released and puts in jeopardy the achievement of the state's climate goals, as established pursuant to Section 38566 of the Health and Safety Code, and clean air goals." *See* Section 65584(a)(3). The final methodology does just that by prioritizing access to transit and jobs as determinants of the draft allocation.

In an attachment to the City's appeal, it also states that it supports the small cities adjustment as proposed by the City of Solana Beach at the September 6, 2019, meeting of the Board. To the extent the City is also requesting that the draft allocation be modified consistent with the small cities adjustment, SANDAG adequately considered the request from the City of Solana Beach. Several SANDAG Board members requested staff apply a methodology that recognizes challenges for small cities by potentially reducing the number of housing units based on the population of the jurisdiction. The proposed small cities adjustment was considered in several comment letters during the public comment period and also discussed at the following public meetings:

(1) July 26, 2019, Board Meeting – Two board members discussed the potential for a small cities adjustment.
(2) September 6, 2019, Board Meeting – Eight board members discussed the potential for a small cities adjustment.

SANDAG staff also consulted with HCD[13] on the potential for small cities to receive a reduced allocation. HCD did not support an adjustment based on the population of a city rather than based on the objectives in state law. Ultimately, the Board voted not to include the small cities adjustment in the final methodology.

B. Statutory Objectives Under Section 65584(d)

1. Section 65584(d)(1): Increasing the Housing Supply

Section 65584(d)(1) states:

> The regional housing needs allocation plan shall further all of the following objectives:

[13] Section 65584.04(h) states that the methodology must be published on SANDAG's website and submitted to HCD after making revisions resulting from comments received during the public comment period and "as a result of consultation with [HCD]."

> (1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households. . . .

The City argues that the draft allocation does not assign housing units in an equitable manner because the significant increase in the City's housing unit allocation through the 5th Cycle as compared to the 6th Cycle is disproportionately higher than the increase in housing unit allocation for other jurisdictions in the region. The 5th Cycle, however, used a completely different methodology based on general plan capacities. In contrast, the 6th Cycle methodology and its draft allocation address the statutory objectives set forth by the Legislature by encouraging housing development near jobs and transit, which will provide the region's residents with opportunities to live where they work and readily access transit.

Consistent with this statutory objective, the draft allocation distributes housing units in all four income categories to each of the region's 19 jurisdictions. The draft allocation does so equitably by ensuring each jurisdiction receives an allocation for low- and very low income units, and further, allocating a higher share of low- and very low income units to jurisdictions that currently have a smaller share of low- and very low income households than the regional share. Because state law requires jurisdictions to zone at higher densities to accommodate their low- and very low income housing unit allocations, the mix of housing types will also increase.

The City also asserts that the draft allocation erroneously assigns all jobs associated with NASNI to the City of Coronado. As discussed in more detail above, the City's total jobs count is being reduced and the allocation in the proposed final RHNA Plan corrected accordingly.

2. Section 65584(d)(3): Intraregional Jobs-Housing Relationship

Section 65584(d)(3) requires that the RHNA Plan further the following objective:

> (3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.

The City asserts that "most active duty military personnel already have government funded housing." (City's Appeal, p. 6). The revised jobs data, as described above, indicates there are 11,132 active duty military jobs in the City. Based on data from NAVFAC Southwest, there are 5,806 barracks units and 54 family housing units on NASNI and 43 family housing units on Naval Amphibious Base Coronado for a total of 5,903 military housing units located in the City. If one active duty military job were attributed to one on-base housing unit, this still leaves more than half (53%) of the active duty military personnel without available housing on-base. The City has not provided differing military jobs or housing data.

The City also asserts that "construction of new housing in Coronado will not promote an improved intraregional relationship between jobs and housing" because "people who enlist in the Navy cannot choose where they wish to be stationed or deployed." (City's Appeal, p. 6). It is unclear how this contention supports the City's assertion. Active duty personnel stationed at a Coronado installation who do not benefit from on-base housing must choose to live somewhere else. Even the City's representative on the RHNA Subcommittee identified the issue of housing for military personnel: "If our objective is to really provide workforce-type housing, and you look at those military jobs . . . if you're looking at Coronado or Imperial Beach . . . you could add 2,000 more homes to Coronado, the average sailor is not going to be able to afford those."(RHNA Subcommittee Meeting on May 24, 2019 (0:46:27 in meeting audio). It is for that

very reason that construction of new very low, low, and moderate income housing to accommodate those jobs would increase the housing supply and promote an improved intraregional relationship between jobs and housing, thereby reducing the need to drive longer distances to work in furtherance of the state's environmental goals. As such, the City has failed to demonstrate that adjusting the allocation by excluding active duty military jobs from the total jobs data is necessary to further the intent of the statutory objectives.

C. Significant and Unforeseen Change in Circumstances

The City also submitted letters during the appeals comment period requesting that SANDAG consider a new California Department of Finance (DOF) population projection released in January 2020. A prior DOF population projection was used by HCD in developing the RHNA Determination. On February 6, 2020, SANDAG staff discussed the new DOF population projection with HCD to determine how it might affect the 6th Cycle RHNA. HCD stated that the RHNA statutes do not provide a process for revising a RHNA Determination once it is final. Section 65584.01(a) provides that "[t]he department's determination shall be based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments." The RHNA Determination is produced by HCD based on the data available during the consultation process pursuant to Section 65584.01 and is not revised for either increased or decreased population estimates subsequently released. As such, SANDAG finds that the new DOF population projection does not constitute a "significant or unforeseen change in circumstances [that] has occurred in the local jurisdiction or jurisdictions . . ." *See* Section 65584.05(b)(3).

V. Conclusion

The City requests that SANDAG modify the draft allocation by excluding active duty military jobs in the City's jobs count and either (1) redistribute the units allocated to those jobs on a regional basis, or (2) redistribute the units allocated to those jobs to other member cities that have unmet housing capacity from past housing element update cycles[14]. While not specifically included in the paragraph titled "The City's Allocation Request" on page 7 of the City's appeal, SANDAG also has considered the City's requests to (a) exclude housed military from the jobs data, (b) reassign jobs attributed to the City of Coronado to the City of San Diego, (c) adjust the allocation to accommodate the City's existing zoning and Local Coastal Program, (d) adjust the allocation to accommodate units for cities with college and university campuses, and (e) adjust the allocation to reflect other jurisdictions' willingness to absorb additional units.

Based on the discussion above, SANDAG (1) modifies the City's allocation based on a correction to the jobs data attributed to NASNI and the SSTC finding that the revision is necessary to further the objectives listed in Section 65584(d), and (2) finds that the remaining revisions requested are not necessary to further the objectives listed in Section 65584(d) and rejects the remaining requests for a revised share of the regional housing need in the City's appeal. Based on the reduction of 2,445 jobs from the City's total jobs count, the City's allocation is adjusted as follows:

	Very Low	Low	Moderate	Above Moderate	Total Allocation
Coronado	312	169	159	272	912

[14] It is important to note that Section 65584.04(g) prohibits SANDAG from considering prior underproduction of housing in a city or county from the previous regional housing need allocation in determining a jurisdiction's share of the regional housing need.

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San Diego Association of Governments Regional Housing Needs Assessment Appeals Determination: City of Imperial Beach

The City of Imperial Beach (City) has appealed its draft Regional Housing Needs Assessment (RHNA) allocation. The following constitutes the final determination of the San Diego Association of Governments (SANDAG) Board of Directors regarding the City's appeal. This final determination is based on the information and methodology described in California Government Code Section 65584.04,[1] the information presented in the appeal, all comments received regarding the appeal, and information received during the public hearing.

I. Statutory Background

The California Legislature developed the RHNA process in 1977 to address the affordable housing shortage in California. The RHNA process is codified in state law at Section 65580, et seq. Over the years the housing element laws, including the RHNA process, have been revised to address the changing housing needs in California. As of the last revision, the Legislature has declared that:

> (a) The availability of housing is of vital statewide importance, and the early attainment of decent housing and a suitable living environment for every Californian, including farmworkers, is a priority of the highest order.
> (b) The early attainment of this goal requires the cooperative participation of government and the private sector in an effort to expand housing opportunities and accommodate the housing needs of Californians of all economic levels.
> (c) The provision of housing affordable to low- and moderate-income households requires the cooperation of all levels of government.
> (d) Local and state governments have a responsibility to use the powers vested in them to facilitate the improvement and development of housing to make adequate provision for the housing needs of all economic segments of the community.
> (e) The Legislature recognizes that in carrying out this responsibility, each local government also has the responsibility to consider economic, environmental, and fiscal factors and community goals set forth in the general plan and to cooperate with other local governments and the state in addressing regional housing needs.
> (f) Designating and maintaining a supply of land and adequate sites suitable, feasible, and available for the development of housing sufficient to meet the locality's housing need for all income levels is essential to achieving the state's housing goals and the purposes of this article.

See Section 65580.

[1] All statutory references are to the California Government Code unless otherwise noted.

To carry out the policy goals above, the Legislature also codified the intent of the housing element laws:

> (a) To assure that counties and cities recognize their responsibilities in contributing to the attainment of the state housing goal.
> (b) To assure that counties and cities will prepare and implement housing elements which, along with federal and state programs, will move toward attainment of the state housing goal.
> (c) To recognize that each locality is best capable of determining what efforts are required by it to contribute to the attainment of the state housing goal, provided such a determination is compatible with the state housing goal and regional housing needs.
> (d) To ensure that each local government cooperates with other local governments in order to address regional housing needs.

See Section 65581.

The housing element laws exist within a larger planning framework which requires each city and county in California to develop and adopt a comprehensive, long-term general plan for the physical development of the jurisdiction (See Section 65300). A general plan consists of many planning elements, including an element for housing (See Section 65302). In addition to identifying and analyzing the existing and projected housing needs, the housing element must also include a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. Consistent with Section 65583, adequate provision must be made for the existing and projected housing needs of all economic segments of the community.

A. RHNA Determination by HCD

Each cycle of the RHNA process begins with the California Department of Housing and Community Development's (HCD) determination of the existing and projected housing need for each region in the state (Section 65584(a)). HCD's determination must be based on population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments. (See Section 65584.01(a)). The RHNA Determination allocates the regional housing need among four income categories: very low, low, moderate, and above moderate.

Within 30 days of receiving the final RHNA Determination from HCD, the council of governments may file an objection to the determination with HCD. The objection must be based on HCD's failure to base its determination on either the population projection for the region established under Section 65584.01(a), or a reasonable application of the methodology and assumptions determined under Section 65584.01(b). Within 45 days of receiving the council of governments objection, HCD must "make a final written determination of the region's existing and projected housing need that includes an explanation of the information upon which the determination was made." (See Section 65584.01).

B. Development of RHNA Methodology

Each council of governments is required to develop a methodology for allocating the regional housing need to local governments within the region. The methodology must further the following objectives:

> (1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households.

DRAFT

(2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.
(3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.
(4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.
(5) Affirmatively furthering fair housing.

See Section 65584(b).

To the extent that sufficient data is available, the council of government must also include the following factors in development of the methodology consistent with Section 65884.04(e):

(1) Each member jurisdiction's existing and projected jobs and housing relationship. This shall include an estimate based on readily available data on the number of low-wage jobs within the jurisdiction and how many housing units within the jurisdiction are affordable to low-wage workers as well as an estimate based on readily available data, of projected job growth and projected household growth by income level within each member jurisdiction during the planning period.
(2) The opportunities and constraints to development of additional housing in each member jurisdiction, including all of the following:
    (A) Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.
    (B) The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities. The council of governments may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions. The determination of available land suitable for urban development may exclude lands where the Federal Emergency Management Agency (FEMA) or the Department of Water Resources has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding.
    (C) Lands preserved or protected from urban development under existing federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis, including land zoned or designated for agricultural protection or preservation that is subject to a local ballot measure that was approved by the voters of that jurisdiction that prohibits or restricts conversion to nonagricultural uses.
    (D) County policies to preserve prime agricultural land, as defined pursuant to Section 56064, within an unincorporated area and land within an unincorporated area zoned or designated for agricultural protection or

DRAFT

preservation that is subject to a local ballot measure that was approved by the voters of that jurisdiction that prohibits or restricts its conversion to nonagricultural uses.

(3) The distribution of household growth assumed for purposes of a comparable period of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure.
(4) Agreements between a county and cities in a county to direct growth toward incorporated areas of the county and land within an unincorporated area zoned or designated for agricultural protection or preservation that is subject to a local ballot measure that was approved by the voters of the jurisdiction that prohibits or restricts conversion to nonagricultural uses.
(5) The loss of units contained in assisted housing developments, as defined in paragraph (9) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions.
(6) The percentage of existing households at each of the income levels listed in subdivision (e) of Section 65584 that are paying more than 30 percent and more than 50 percent of their income in rent.
(7) The rate of overcrowding.
(8) The housing needs of farmworkers.
(9) The housing needs generated by the presence of a private university or a campus of the California State University or the University of California within any member jurisdiction.
(10) The housing needs of individuals and families experiencing homelessness. If a council of governments has surveyed each of its member jurisdictions pursuant to subdivision (b) on or before January 1, 2020, this paragraph shall apply only to the development of methodologies for the seventh and subsequent revisions of the housing element.
(11) The loss of units during a state of emergency that was declared by the Governor pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2), during the planning period immediately preceding the relevant revision pursuant to Section 65588 that have yet to be rebuilt or replaced at the time of the analysis.
(12) The region's greenhouse gas emissions targets provided by the State Air Resources Board pursuant to Section 65080.
(13) Any other factors adopted by the council of governments, that further the objectives listed in subdivision (d) of Section 65584, provided that the council of governments specifies which of the objectives each additional factor is necessary to further. The council of governments may include additional factors unrelated to furthering the objectives listed in subdivision (d) of Section 65584 so long as the additional factors do not undermine the objectives listed in subdivision (d) of Section 65584 and are applied equally across all household income levels as described in subdivision (f) of Section 65584 and the council of governments makes a finding that the factor is necessary to address significant health and safety conditions.

To guide development of the methodology, each council of governments surveys its member jurisdictions to request, at a minimum, information regarding the factors listed above (See Section 65584.04(b)). If a survey is not conducted, however, a jurisdiction may submit information related to the factors to the council of governments before the public comment period for the draft methodology begins ((See Section 65584.04(b)(5)).

Housing element law also explicitly prohibits consideration of the following criteria in determining, or reducing, a jurisdiction's share of the regional housing need:

(1) Any ordinance, policy, voter-approved measure, or standard of a city or county that directly or indirectly limits the number of residential building permits issued by a city or county.

DRAFT

(2) Prior underproduction of housing in a city or county from the previous regional housing need allocation, as determined by each jurisdiction's annual production report.
(3) Stable population numbers in a city or county from the previous regional housing needs cycle.

See Section 65584.04(g).

Finally, Section 65584.04(m) requires that the final RHNA Plan, which includes both the methodology and the allocation, is consistent with the development pattern included in the region's sustainable communities strategy, distributes the entire regional housing need determined under Section 65584, distributes units for low- and very low income households to each jurisdiction in the region, and furthers the five objectives listed in Section 65584(d).

C. Public Participation

Government Code Section 65584.04(d) states that "public participation and access shall be required in the development of the methodology." The council of governments is required to "explain in writing how each of the factors described in subdivision (e) was incorporated into the methodology and how the methodology furthers the objectives listed in subdivision (d) of Section 65584" (See Section 65584.04(f)) as well as explain "how information about local government conditions gathered pursuant to subdivision (b) has been used to develop the proposed methodology" (See Section 65584.04(d)). The proposed methodology, "this information, and any other supporting materials used in determining the methodology, shall be posted on the council of governments' or delegate subregion's, internet website." (See Section 65584.04(f)).

The council of governments is required to open the proposed methodology to public comment and "conduct at least one public hearing to receive oral and written comments on the proposed methodology." (See Section 65584.04(d)). Following the conclusion of the public comment period and after making any revisions deemed appropriate by the council of governments as a result of comments received during the public comment period and consultation with the HCD, the council of governments publishes the proposed methodology on its website and submits it, along with the supporting materials, to HCD. (See Section 65584.04(h)).

D. HCD Review of Methodology and Adoption by Council of Governments

HCD has 60 days to review the proposed methodology and report its written findings to the council of governments. The written findings must include a determination by HCD as to "whether the methodology furthers the objectives listed in subdivision (d) of Section 65584." (See Section 65584.04(i)). If HCD finds that the proposed methodology is not consistent with the statutory objectives, the council of governments must take one of the following actions: (1) revise the methodology to further the objectives in state law and adopt a final methodology; or (2) adopt the methodology without revisions "and include within its resolution of adoption findings, supported by substantial evidence, as to why the council of governments, or delegate subregion, believes that the methodology furthers the objectives listed in subdivision (d) of Section 65584 despite the findings of [HCD]." (See Section 65584.04(i)). Upon adoption of the final methodology, the council of governments "shall provide notice of the adoption of the methodology to the jurisdictions within the region, or delegate subregion, as applicable, and to HCD, and shall publish the adopted allocation methodology, along with its resolution and any adopted written findings, on its internet website." (See Section 65584.04(k)).

DRAFT

E. RHNA Draft Allocation, Appeals, and Adoption of Final RHNA Plan

Based on the adopted methodology, each council of governments shall distribute a draft allocation of regional housing needs to each local government in the region and HCD, and shall publish the draft allocation on its website. (See Section 65584.05(a)). Upon completion of the appeals process, discussed in more detail below, each council of governments must adopt a final regional housing need allocation plan and submit it to HCD (See Section 65584.05(g)). HCD has 30 days to review the final allocation plan and determine if it is consistent with the regional housing need developed pursuant to Section 65584.01. The resolution approving the final housing need allocation plan shall demonstrate that the plan is consistent with the SCS and furthers the objectives listed in Section 65584(d) as discussed above. (See Section 65584.04(m)(3); Section 65584.045).

II. SANDAG Oversight of the 6th Cycle RHNA Process

A. RHNA Determination

SANDAG began consultation with HCD for the 6th Cycle RHNA process in April 2017. The consultation process included a review of HCD's calculations and data sources and presentations to the Regional Planning Technical Working Group (TWG)[2], Regional Planning Committee (RPC)[3], and the Board[4].

In March 2018, SANDAG received a draft RHNA Determination from HCD. Consistent with Section 65584.01, HCD used the following data to prepare the draft RHNA Determination for the San Diego region:

- Population forecast from the California Department of Finance (DOF)
- Projected number of new households formed
- Vacancy rate in existing housing stock
- Percentage of renter's households that are overcrowded, defined as more than one person per room per dwelling unit
- Housing replacement needs

At its meeting on May 4, 2018, the RPC considered potential changes to the draft RHNA Determination that could be proposed to HCD reflecting factors unique to housing in the San Diego region. The RPC recommended that the Board accept the draft RHNA Determination without modifications.

At its May 11, 2018, meeting, the Board authorized the Executive Director to submit comments to HCD outlining suggested revisions to the RHNA Determination. Then on May 25, 2018, the Board voted to place this item on a future agenda for further discussion before submitting comments to HCD. On June 8, 2018, the Board amended its May 11, 2018, action and directed staff to submit a letter to HCD accepting the draft RHNA Determination. Following SANDAG's acceptance of the draft RHNA Determination, the consultation process concluded when HCD submitted the final RHNA Determination in a letter to SANDAG dated July 5, 2018.

[2] SANDAG staff presented information related to the RHNA Determination to the TWG at its March 26, 2018, and April 12, 2018, meetings.
[3] SANDAG staff presented information related to the RHNA Determination to the RPC at its April 6, 2018, and May 4, 2018, meetings.
[4] SANDAG staff presented information related to the RHNA Determination to the Board at its March 9, 2018, May 11, 2018, and June 8, 2018, meetings.

The final RHNA Determination requires SANDAG and its member agencies to plan for 171,685 total housing units through the 2021-2029 planning period to address the region's housing needs.

B. RHNA Methodology and Public Participation

At its September 14, 2018 meeting the Board was surveyed to determine each jurisdiction's priorities for the upcoming RHNA cycle, including which RHNA objectives and factors would be most important when determining the distribution of housing units in the region. The Board expressed a desire to take a different approach than what had been used in previous housing element cycles and wanted to play a bigger role in the development of the methodology. This culminated in the formation of the RHNA Subcommittee in December 2018, which included members of the Board from each SANDAG subregion to reflect the diversity of geography, jurisdiction size, and other attributes of member jurisdictions. The Board also requested that their initial set of priorities be further discussed by the Regional Planning Technical Working Group (TWG), which consists of the planning or community development director from each jurisdiction, among other members.

The RHNA Subcommittee began meeting in early 2019. To develop its recommendation to the Board, the RHNA Subcommittee explored options for how to build consensus around a RHNA methodology that complies with state law while best achieving the goals of the Board. The RHNA Subcommittee held six meetings[5] in spring and summer 2019, prior to the Board's release of the draft methodology for public comment. All meetings were noticed and open to the public.

SANDAG staff also solicited input on the development of the methodology from the TWG, whose membership is described above. The TWG advises the RPC and Board on the development and implementation of San Diego Forward: the Regional Plan, which includes the RHNA Plan. The TWG discussed and provided input on the development of the methodology over 12 meetings[6] from August 2018 to November 2019, including two workshops specifically focused on RHNA.

Attendees at the meetings of the Board, RHNA Subcommittee, RPC, and TWG provided information regarding the types of data SANDAG should use, assumptions that should be made, as well as information regarding conditions in individual jurisdictions that should be taken into consideration. Jurisdictions and stakeholders also provided written comments during the outreach process. In addition to addressing comments at public meetings, SANDAG staff responded to comments and questions related to the development of the methodology via phone calls and emails, which led to the creation of Frequently Asked Questions that were posted to the SANDAG website. Staff also presented at city council meetings upon request.

On July 26, 2019, the Board released the draft methodology for public comment. At the end of a 42-day public comment period, SANDAG conducted a public hearing on September 6, 2019. SANDAG received nearly 2,200 public comments. During the public comment period, SANDAG compiled and posted on its website supplemental information requested by Board members, a list of Frequently Asked Questions (FAQs), and a response to comments received during the public comment period.

On September 6, 2019, the Board authorized staff to submit the draft methodology to HCD for review. In a letter dated November 1, 2019, HCD found that the draft methodology furthers the objectives in state law. At its November 22, 2019, meeting, the Board adopted by resolution the final

[5] The RHNA Subcommittee met on February 8, 2019, February 22, 2019, March 22, 2019, April 26, 2019, May 24, 2019, and June 14, 2019.

[6] The TWG discussed RHNA at the following meetings: August 9, 2018, October 11, 2018, December 13, 2018, January 10, 2019, February 14, 2019, March 14, 2019, April 3, 2019, May 9, 2019, June 6, 2019, June 13, 2019, June 27, 2019, and November 14, 2019.

methodology and released the draft allocation. Following the Board meeting, the draft allocation was posted on the SANDAG website and distributed to each jurisdiction and HCD.

III. RHNA Appeal Process

A. Statutory Background

Under Section 65584.05(b), a local government or HCD may appeal the council of governments within 45 days following receipt of the draft allocation "for a revision of the share of the regional housing need proposed to be allocated to one or more local governments." Appeals "shall be based upon comparable data available for all affected jurisdictions and accepted planning methodology, and supported by adequate documentation, and shall include a statement as to why the revision is necessary to further the intent of the objectives listed in subdivision (d) of Section 65584." Appeals also shall be consistent with the sustainable communities strategy included in the regional transportation plan (*See* Section 65584.05(b)). In accordance with Section 65584.05(b), appeals are limited to the following circumstances:

(1) The council of governments or delegate subregion, as applicable, failed to adequately consider the information submitted pursuant to subdivision (b) of Section 65584.04.
(2) The council of governments or delegate subregion, as applicable, failed to determine the share of the regional housing need in accordance with the information described in, and the methodology established pursuant to, Section 65584.04, and in a manner that furthers, and does not undermine, the intent of the objectives listed in subdivision (d) of Section 65584.
(3) A significant and unforeseen change in circumstances has occurred in the local jurisdiction or jurisdictions that merits a revision of the information submitted pursuant to subdivision (b) of Section 65584.04. Appeals on this basis shall only be made by the jurisdiction or jurisdictions where the change in circumstances has occurred.

Following the 45-day period for filing an appeal, the council of governments "shall notify all other local governments within the region or delegate subregion and the department of all appeals and shall make all materials submitted in support of each appeal available on a publicly available internet website." (*See* Section 65584.05(c)). Local governments and HCD may, within 45 days, comment on one or more appeals.

Within 30 days of the end of the appeals comment period, and with at least 21 days prior notice, the council of governments "shall conduct one public hearing to consider all appeals filed pursuant to subdivision (b) and all comments received pursuant to subdivision (c)." (*See* Section 65584.05(d)). Within 45 days of the public hearing to consider appeals, the council of governments is required to make a written final determination for each appeal filed that either accepts, rejects, or modifies the appeal and issue a proposed final allocation plan (*See* Section 65584.05(e)). The written finding(s) must describe how the determination is consistent with Section 65584.05.

If a final determination on an appeal requires the council of governments to adjust the allocation to one or more local governments that are not the subject of an appeal, Section 65584.05(f) provides: (1) if the adjustment totals 7 percent or less of the regional housing need, the council of governments must redistribute those housing units proportionally to all local jurisdictions; or (2) if the adjustment totals more than 7 percent of the regional housing need, then the council of governments shall develop a methodology to distribute the amount greater than the 7 percent to local governments. The total distribution of housing need shall not equal less than the regional housing need established under Section 65584.01. (*See* Section 65584.05(f))

DRAFT

Within 45 days after issuing the proposed final allocation plan, the council of governments "shall hold a public hearing to adopt a final allocation plan." The council of governments must then submit the final allocation plan to HCD within 3 days of adoption. HCD has 30 days to determine if the final allocation plan is consistent with the regional housing need. (*See* Section 65584.05(g)). The council of governments has final authority to determine the distribution of the region's housing needs "[t]o the extent that the final allocation plan fully allocates the regional share of statewide housing need, as determined pursuant to Section 65584.01 and has taken into account all appeals." (*See* Section 65584.05(g)). HCD may revise the determination of the council of governments to obtain consistency with the existing and projected housing need for the region. (*See* Section 65584.05(g)).

B. SANDAG Appeal Process

SANDAG received four appeals during the appeals period of November 22, 2019 to January 6, 2020. Following close of business on January 6, 2020, the appeals were posted on SANDAG's website and distributed to the planning or community development directors of each local jurisdiction and the Board consistent with Section 65584.05(c).

SANDAG received five comment letters on the appeals during the appeals comment period from January 7, 2020 to February 21, 2020.

On February 7, 2020, SANDAG issued a notice of public hearing to consider appeals and comments on appeals at a meeting of the Board on February 28, 2020, pursuant to Section 65584.05(d), which was posted on the SANDAG website and published in two local newspapers. The Executive Committee, a committee of the Board responsible for setting Board agendas and providing direction to staff in preparing items for Board consideration, was scheduled to consider proposed RHNA Appeals Hearing Procedures at its meeting on February 14, 2020. Prior to the Executive Committee meeting, three of the appealing jurisdictions submitted letters to SANDAG stating that individual notice of the proposed public hearing was not received 21 days in advance of the February 28, 2020, public hearing date. To ensure compliance with the requirements of Section 65584.05(d), at its February 14, 2020, meeting, the Executive Committee approved continuing the public hearing to March 27, 2020, in addition to approving the RHNA Appeals Hearing Procedures with modifications. At its meeting on February 28, 2020, the Board ratified the Executive Committee's actions.

On March 3, 2020, SANDAG issued a notice of the public hearing to consider appeals and comments on appeals on March 27, 2020, pursuant to Section 65584.05(d), which was provided to each jurisdiction, posted on SANDAG's website, and published in two local newspapers.

The Board conducted the public hearing at its meeting on March 27, 2020.

IV. The City's Appeal

In a letter dated December 12, 2019, the City appealed the draft allocation. The grounds for appeal[7] are as follows:

[7] Jurisdictions may also appeal on the ground that a significant and unforeseen change in circumstances in the jurisdiction merits a revision to the information submitted pursuant to Section 65584.04(b). *See* Section 65584.05(b)(3). SANDAG received multiple letters during the appeals comment period requesting that SANDAG consider a new California Department of Finance (DOF) population projection released in January 2020. A prior DOF population projection was used by HCD in developing the RHNA Determination. On February 6, 2020, staff discussed the new DOF population projection with HCD to determine how it might affect the 6th Cycle RHNA. HCD stated that the RHNA statutes do not provide a process for revising a RHNA

(1) SANDAG failed to adequately consider the information submitted pursuant to subdivision (b) of Section 65584.04.

(2) SANDAG failed to determine the share of the regional housing need in accordance with the information described in, and the methodology established pursuant to, Section 65584.04, and in a manner that furthers, and does not undermine, the intent of the objectives listed in subdivision (d) of Section 65584.

A. Statutory Objectives Under Section 65584(d)

1. Section 65584(d)(1): Increasing the Housing Supply

Section 65584(d)(1) states:

> The regional housing needs allocation plan shall further all of the following objectives:
>
> (1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households. . . .

The City asserts that 95% of housing units allocated based on a jurisdiction's share of major transit stops are allocated south of Interstate 8 (I-8), "which comprises only about 25% of the County," while only 5% of housing units are allocated north of I-8. (City's Appeal, p. 1). The City also asserts that given there are only 4 of the County's 18 incorporated cities located south of I-8 (Imperial Beach, National City, Chula Vista and portions of San Diego), the methodology exacerbates the concentration of low income housing in communities that already have more affordable housing than the regional average. However, the City is focusing on a subcomponent of the methodology that would allocate only 16% of the entire regional housing need. Jurisdictions' share of regional transit services accounts for 65% of the total draft allocation of housing units. Of these units, 25% are allocated based on major transit stops within a jurisdiction (65% x 25% = 16%) and 75% are allocated based on rail and *Rapid* stations within a jurisdiction. When looking at the transit component as a whole, the cities of Chula Vista, Imperial Beach, and National City, and portions of the City of San Diego south of I-8, would receive about 57%[8] of the housing units allocated based on transit, not a staggering 95%.

Moreover, the claim that using major transit stops "exacerbates the concentration of low-income housing in communities that currently already have more affordable housing than average" (City's Appeal, p. 1) is not supported in the appeal by

Determination once it is final. Section 65584.01(a) provides that "[t]he department's determination shall be based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments." The final RHNA Determination is produced by HCD based on the data available during the consultation process pursuant to Section 65584.01 and is not revised for either increased or decreased population estimates subsequently released. As such, SANDAG finds that the new DOF estimates do not constitute a "significant or unforeseen change in circumstances [that] has occurred in the local jurisdiction or jurisdictions . . ." See Section 65584.05(b)(3).

[8] This is based on visual confirmation of the location of rail and *Rapid* stations and major transit stops on a map relative to the I-8. North of the I-8, there are 86 rail & *Rapid* stations and 5 major transit stops. South of the I-8, there are 68 rail & *Rapid* stations and 135 major transit stops.

documentation or additional data. In fact, about 26% of the City's proposed allocation would be in the very low and low income range compared with the regional proportion of about 40%[9].

Consistent with this statutory objective, the draft allocation distributes housing units in all four income categories to each of the region's 19 jurisdictions. The draft allocation does so equitably, ensuring each jurisdiction receives an allocation for low- and very low income units, and further, allocating a higher share of low- and very low units to jurisdictions that currently have a smaller share of low- and very low income households than the regional share. Because state law requires jurisdictions to zone at higher densities to accommodate their low- and very low income housing allocations, the mix of housing types will also increase.

2. Section 65584(d)(2): Promote Infill Development

Section 65584(d)(2) requires that the RHNA Plan further the following objective:

> (2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.

The City states that "the major job centers in San Diego County [are] located north of Interstate 8" (City's Appeal, p. 2), therefore the vehicle miles traveled (VMT) by residents south of I-8 will be disproportionately increased by the draft allocation. The City fails to recognize, however, that the draft allocation distributes housing units based on the City's share of jobs in the region. As such, the City would be allocated housing units based on the number of jobs *within its own boundaries*. Other jurisdictions with "major job centers" would also be allocated housing units based on the number of jobs within their boundaries. As such, it is unclear how the draft allocation would result in a disproportional allocation to the City based on the major job centers in the region.

The City again states that 95% of housing units are distributed among 4 communities south of I-8 based on major transit stops. The transit component, however, includes both rail and *Rapid* stations in addition to major transit stops. When looking at the transit component as a whole, housing units are allocated to 16 of the 19 jurisdictions based on transit and, as discussed above, the cities of Chula Vista, Imperial Beach, and National City, and portions of the City of San Diego south of I-8, would receive about 57% of the housing units allocated based on transit.

Consistent with this statutory objective, by prioritizing transit (and jobs), the methodology encourages efficient development patterns and reduces greenhouse gas (GHG) emissions. An allocation based on transit and jobs will lead to more infill development while protecting natural resources and open space (*See* Final Methodology, p. 11). More specifically, placing residents near jobs and transit is consistent with the California Air Resource's Board's (CARB's) identified policy goals and guidance detailed in the 2017 Climate Change Scoping Plan (Scoping Plan). The Scoping Plan proposes to strengthen major programs related to climate impacts and further integrate efforts to reduce both GHG emissions and air pollution. Among CARB's Vibrant

[9] HCD's July 5, 2018, letter containing SANDAG' 6th Cycle Final Regional Housing Need Determination.

Communities and Landscapes / VMT Reduction Goals identified to reduce GHG emissions from the transportation sector are the following:

- Promote all feasible policies to reduce VMT, including:
    - Land use and community design that reduce VMT,
    - Transit oriented development,
    - Complete street design policies that prioritize transit, biking, and walking, and
    - Increasing low carbon mobility choices, including improved access to viable and affordable public transportation and active transportation opportunities.
- Increase the number, safety, connectivity, and attractiveness of biking and walking facilities to increase use.
- Promote shared-use mobility, such as bike sharing, car sharing and ride-sourcing services to bridge the "first mile, last mile" gap between commuters' transit stops and their destinations.
- Continue research and development on transportation system infrastructure, including:
    - Integrate frameworks for lifecycle analysis of GHG emissions with life-cycle costs for pavement and large infrastructure projects, and
    - Health benefits and costs savings from shifting from driving to walking, bicycling, and transit use.
- Quadruple the proportion of trips taken by foot by 2030 (from a baseline of the 2010–2012 California Household Travel Survey).
- Strive for a nine-fold increase in the proportion of trips taken by bicycle by 2030 (from a baseline of the 2010–2012 California Household Travel Survey).
- Strive, in passenger rail hubs, for a transit mode share of between 10 percent and 50 percent, and for a walk and bike mode share of between 10 percent and 15 percent (Scoping Plan, p.76).

The Scoping Plan goes on to state that "compact, lower-VMT future development patterns are essential to achieving public health, equity, economic, and conservation goals, which are [] not modeled but are important co-benefits of the overall transportation sector strategy" (Scoping Plan, p. 77). Because the draft allocation encourages the development of housing near jobs and transit, it will provide the region's residents with opportunities to live where they work and readily access transit, which can facilitate shorter commutes, reduce VMT, and increase trip-taking by transit or alternative modes.

3. Section 65584(d)(3): Promote Jobs- Housing Relationship

Section 65584(d)(3) requires that the RHNA Plan further the following objective:

> (3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.

Again, the City states that the draft allocation disproportionately allocates housing units because major job centers are located in other jurisdictions. As discussed above, the draft allocation distributes housing units to the City based on the City's share of jobs in the region. Jobs associated with major job centers are allocated to jurisdictions where the major job centers are located. The City also argues that the major transit stops subcomponent results in a disproportional allocation, however, the transit component as a whole allocates about 57% of the associated housing units to the cities of Chula Vista, Imperial Beach, and National City, and

DRAFT

portions of the City of San Diego south of I-8. It is not clear how this distribution is disproportional.

Consistent with the statutory objective, SANDAG conducted an analysis of the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction. The analysis showed that the number of low-wage jobs far exceeds the number of existing housing units affordable to low-wage workers in every jurisdiction in the region. Therefore, allocation of low- and very low income housing units to all jurisdictions in the region would improve the balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers.

4. Section 65584(d)(4): Allocation based on Income Categories

Section 65584(d)(4) requires that the RHNA Plan further the following objective:

> (4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.

The City again points to the "inflated and disproportionate allocation resulting from the Major Transit Stop distribution," which "negates any meaningful impact"(City's Appeal, p. 2). Then the City points to its 5th Cycle housing unit allocation asserting that the 6th Cycle draft allocation is contrary to this statutory objective because it has significantly increased. The 5th Cycle, however, used a completely different methodology based on general plan capacities. In contrast, the 6th Cycle methodology and its draft allocation address the statutory objectives set forth by the Legislature by encouraging housing development near jobs and transit, which will provide the region's residents with opportunities to live where they work and readily access transit.

Moreover, Section 65584(d)(4) does not require the allocation of fewer total housing units when a jurisdiction has a high share of households in a particular income category; it requires that a lower proportion of housing need be allocated to that income category. Consistent with this statutory objective, the draft allocation results in a jurisdiction receiving a lower proportion of its total housing units within an income category when it has a higher share of households within that income category compared to the region.

5. Section 65584(d)(5): Affirmatively Furthering Fair Housing

Section 65584(d)(5) requires that the RHNA Plan "[a]ffirmatively further fair housing.[10]" The City argues that the draft allocation is contrary to advancing fair housing principles based on the resulting allocation from the major transit stops subcomponent. As mentioned above, only 16% of the regional housing need is allocated based on major transit stops. The City has not

[10] For purposes of this section, "affirmatively furthering fair housing" means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.

demonstrated how the inclusion of the major transit stops subcomponent, by itself, undermines the statutory objective to affirmatively further fair housing.

During development of the methodology, SANDAG reviewed the California Tax Credit Allocation Committee (TCAC) 2019 Opportunity Map for the San Diego region to address this statutory objective. (*See* Final Methodology, p. 12-13). The TCAC map demonstrates how public and private resources are spatially distributed within the region; it is part of a larger study that shows how communities with better air quality, higher educational attainment, and better economic indicators are communities that have higher "opportunity", or pathways that offer low-income children and adults the best chance at economic advancement. The study finds that historically communities with higher opportunity – through plans, policies, and practices – may have systematically denied equal opportunity to low socioeconomic and minority populations.

Areas of "low resource" and "high segregation & poverty" on the TCAC maps are also many of the same areas with a high concentration of low-income households in the San Diego region. The draft allocation assists in overcoming patterns of discrimination and transforming racially and ethnically concentrated areas of poverty into areas of opportunity by allocating a higher proportion of low-income housing units to jurisdictions with a lower share of low-income households, which tend to be jurisdictions with a high concentration of resource-rich areas. The six jurisdictions that will receive the highest percentage of low- and very low- income housing units under the draft allocation also do not contain areas of high segregation and poverty or low resource census tracts, and compared to other jurisdictions in the region have the highest percentage of area in high or highest resource census tracts (76-100% of the jurisdiction). Conversely, the jurisdictions that currently have more area in low resource census tracts or census tracts that demonstrate high segregation and concentrations of poverty, generally receive a lower percentage of low- and very low-income housing units than the regional percentage.

B. Statutory Factors Under 65584.04(e)

1. Section 65584.04(e)(1): Jobs-Housing Relationship

Section 65584.04(e)(1) states:

> To the extent that sufficient data is available from local governments pursuant to subdivision (b) or other sources, each council of governments, or delegate subregion as applicable, shall include the following factors to develop the methodology that allocates regional housing needs:
>
> (1) Each member jurisdiction's existing and projected jobs and housing relationship. This shall include an estimate based on readily available data on the number of low-wage jobs within the jurisdiction and how many housing units within the jurisdiction are affordable to low-wage workers as well as an estimate based on readily available data, of projected job growth and projected household growth by income level within each member jurisdiction during the planning period.

As described above, pursuant to Section 65584.04, SANDAG has been charged with developing the RHNA methodology in consultation with HCD. SANDAG has the discretion to develop this methodology so long as it meets all the procedural requirements of state law and the methodology furthers the objectives in Section 65584(d) as ultimately determined by HCD. SANDAG carefully developed its methodology with input from HCD and local jurisdictions.

The City argues that the use of major transit stops does not "procure [*sic*] development opportunities because it is easily moved" (City's Appeal, p. 3). State law, however, incentivizes

development near a major transit stop by providing a qualifying project with the option for CEQA streamlining.[11] Contrary to the City's claim, projects near major transit stops are specifically encouraged as infill opportunities. This distinguishes major transit stops from other definitions of transit in a way that furthers the statutory objective to promote infill development and was a primary reason in recommending the use of major transit stops to the Board. The definitions used in the transit component of the methodology, including major transit stop, were also discussed at length in the following public meetings:

- March 22, 2019, RHNA Subcommittee Meeting – Five subcommittee members discussed definitions used in the transit component for nearly 1 hour
- April 3, 2019, TWG Meeting – Three working group member discussed definitions used in the transit component
- April 26, 2019, RHNA Subcommittee Meeting – Four subcommittee members discussed definitions used in the transit component
- May 24, 2019, RHNA Subcommittee Meeting – Three subcommittee members discussed definitions used in the transit component. In addition, one public speaker discussed definitions used in the transit component
- June 6, 2019, TWG Meeting – Three working group member discussed definitions used in the transit component
- June 27, 2019, TWG Meeting – Three working group member discussed definitions used in the transit component
- July 26, 2019, Board Meeting – Two public speakers and four Board members discussed definitions used in the transit component. A Board member requested that staff provide information on an estimated allocation based on exchanging the major transit stops dataset with the high-frequency dataset. This supplemental information was provided directly to the Board and made available on the SANDAG website.
- September 6, 2019, Board Meeting – Three public speakers and three Board members discussed definitions used in the transit component. The Board rejected a motion to exchange the major transit stops dataset used in the draft methodology with the high-frequency transit dataset.

As demonstrated above, substantive discussion took place concerning the use of major transit stops. Ultimately, the major transit stop definition was recommended by both the RHNA Subcommittee and the TWG because it captured two high frequency, peak-service bus routes at a single stop and was recognized under state law for potential CEQA streamlining. In addition to the recommendation of the RHNA Subcommittee and TWG, the SANDAG Board also considered public comments and supplemental information concerning the definitions of regional transit services in the development of the draft methodology.

At the close of its appeal, the City requests to assign affordable units to all bus stops in the region equally. It is unclear how assigning affordable units based on the total number of bus stops within a jurisdiction would address the City's concern that bus stops are "easily moved, and may be moved without City consent" (City's Appeal, p. 3). Also, the City has not shown how allocating housing units based on the total number of all bus stops – as opposed to major transit stops - is necessary to further the statutory objectives.

The City also states that the allocation "is not balanced relative to existing and projected jobs and housing" (City's Appeal, p. 3). To the extent that the City also argues that more emphasis

[11] Public Resources Code 21099 and California Code of Regulations 15064.3(b)(1), 15182(b)(1)(A), and Appendix M.

should have been placed on jobs as a determinant of the draft allocation, the relative weighting of jobs and transit was also discussed at length in the following public meetings:

- April 3, 2019, TWG Meeting – Working group members and public attendees broke out into small groups and used laptops provided by staff to test different weightings of the components in the methodology. Following the breakout, two working group members specifically discussed giving equal or greater weight to the jobs component.
- April 26, 2019, RHNA Subcommittee Meeting – Six subcommittee members and an additional elected official discussed the relative weighting of the jobs and transit component. The RHNA Subcommittee received comments from three TWG working group members about the relative weighting of the jobs and transit component – one of these comments specifically discussed giving equal or greater weight to the jobs component. These comments were included in the meeting agenda and discussed aloud at the meeting.
- May 9, 2019, TWG Meeting - Three working group members discussed the relative weighting of the jobs and transit component. One of these members specifically discussed giving equal or greater weight to the jobs component.
- May 24, 2019, RHNA Subcommittee Meeting – One public speaker discussed the relative weighting of the jobs and transit component.
- June 6, 2019, TWG Meeting – Four working group members discussed the relative weighting of the jobs and transit component. Two of these members specifically discussed giving equal or greater weight to the jobs component.
- June 27, 2019, TWG Meeting – One working group member specifically discussed giving equal or greater weight to the jobs component.
- July 26, 2019, Board Meeting – One public speaker and two Board members specifically discussed giving equal or greater weight to the jobs component. These two Board members requested that staff provide information on an estimated allocation based on equal weighting (50-50) to the transit and jobs component. This supplemental information was provided directly to the Board and made available on the SANDAG website.
- September 6, 2019, Board Meeting – Four public speakers and three Board members specifically discussed giving equal or greater weight to the jobs component.

As such, SANDAG adequately considered the relative weighting of jobs and transit in the final methodology and the resulting draft allocation.

2. Section 65584.04(e)(2): Opportunities and Constraints to Development

Section 65584.04(e)(2) states:

> To the extent that sufficient data is available from local governments pursuant to subdivision (b) or other sources, each council of governments, or delegate subregion as applicable, shall include the following factors to develop the methodology that allocates regional housing needs:
>
> (2) The opportunities and constraints to development of additional housing in each member jurisdiction . . .

The City argues that SANDAG did not adequately consider that the City is "built-out" with effectively non-existent greenfield development opportunities. However, SANDAG "may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for

DRAFT

increased residential development under the alternative zoning ordinances and land use restrictions." *See* Section 65584.04 (e)(2)(B). In fact, HCD noted in its letter dated November 1, 2019, that "[p]articularly relevant to supporting infill development and climate change goals is the fact that this methodology does not consider land capacity or vacant land as a determinant of RHNA, and instead focuses on where housing is needed to encourage transit ridership and reduced commutes." Because consideration of existing zoning ordinances and land use restrictions is specifically prohibited by state law, the facts raised by the City do not support this ground for appeal.

Nevertheless, SANDAG did specifically discuss land availability and jurisdictional capacity during development of the methodology at the following public meetings:

- April 3, 2019, TWG Meeting – Seven working group members and SANDAG staff discussed jurisdictional capacity at length
- April 26, 2019, RHNA Subcommittee Meeting – Five subcommittee members and an additional elected official discussed land availability and jurisdictional capacity. The Subcommittee received comments from four TWG working group members and one public member about land availability and jurisdictional capacity
- May 24, 2019, RHNA Subcommittee Meeting – One public speaker discussed land availability and jurisdictional capacity
- May 10, 2019, Board Meeting – In response to a question by a Board member, the Board received information from staff on the difference between the methodology used in the 5th Cycle RHNA, which considered a jurisdiction's capacity, and the approach taken in developing the methodology for the 6th Cycle, which does not consider a jurisdiction's capacity. Following receipt of this information, one Board member discussed jurisdictional capacity
- June 27, 2019, TWG Meeting – Two working group members discussed jurisdictional capacity
- July 26, 2019, Board Meeting – Three public speakers and six Board members discussed land availability and jurisdictional capacity
- September 6, 2019, Board Meeting – Three public speakers and nine Board members discussed land availability and jurisdictional capacity.
- November 22, 2019, Board Meeting – One public speaker and five Board members discussed land availability and jurisdictional capacity. The Board rejected two motions that considered jurisdictional capacity among other revisions to the draft methodology.

In addition, the City notes that "based upon development trends and economics, the ability to realize the allocated units appears unrealistic" and that "a funding mechanism to assist achievement of the housing allocation is needed as a way to incentivize housing development" (City's Appeal, p. 4). Neither development trends and economics nor financial incentives are considerations in allocating the regional housing need under state law. In fact, state legislation in 2018 removed "[t]he market demand for housing" as a factor for consideration, and beginning in 2018, HCD introduced state funding programs to assist local jurisdictions with housing production in recognition of challenges arising from the statewide housing crisis. Notwithstanding, the economic arguments raised by the City do not support a ground for appeal.

3. Section 65584.04(e)(3): Public Transportation & Existing Transportation Infrastructure

Section 65584.04(e)(3) states:

DRAFT

> To the extent that sufficient data is available from local governments pursuant to subdivision (b) or other sources, each council of governments, or delegate subregion as applicable, shall include the following factors to develop the methodology that allocates regional housing needs:
>
> (3) The distribution of household growth assumed for purposes of a comparable period of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure.

In addition to the arguments described above, the City raises additional concerns regarding the use of major transit stops in the methodology related to Section 65584.04(e)(3). The City asserts: (a) only four cities have major transit stops, (b) placement of bus stops is outside the control of SANDAG and local jurisdictions, and (c) the Affordable Housing and Sustainable Communities (AHSC) Guidelines identify a preference for high quality transit, such as dedicated bus lanes, bus rapid transit, and rail.

a. The Impact of Transit on the Draft Allocation

The City again states that the impact of transit is disproportional when compressed into four cities. As discussed above, the transit component is not compressed into four jurisdictions; rather, it allocates housing units to 16 of the 19 jurisdictions. The City also mentions an estimated allocation based on high frequency transit that was considered during the development of the methodology. In fact, at its September 6, 2019, meeting, the Board rejected a motion to substitute high frequency transit for major transit stops in the transit component of the methodology. In any event, SANDAG adequately considered information related to the definition of transit, including the consideration of the high frequency transit definition, as described in more detail above. Moreover, the City has not demonstrated that the requested revision to use another transit definition is necessary to further the intent of the statutory objectives.

b. Planning for Bus Stops

The City states that placement of bus stops "is subject to change at any time without the approval of SANDAG or a local municipality" (City's Appeal, p. 4). In fact, the Metropolitan Transit System (MTS) has a robust process for evaluating and adjusting existing transit services to improve performance. Specific to major service changes, including the significant realignment of a route, changes in scheduled headways, and subarea restructuring, MTS requires a public hearing and a Title VI analysis prior to the MTS Board of Directors making a final implementation decision.[12] Most notably, the City is a member of the MTS Board of Directors, where these decisions would take place.[13]

c. AHSC Guidelines' Transit Preference

The City notes that the AHSC Guidelines states a preference for high quality transit "such as dedicated bus lanes, bus rapid transit, and rail" (City's Appeal, p. 4). Rail and *Rapid* stations are in fact prioritized over the major transit stops subcomponent: only 25% of the transit

[12] MTS Policies and Procedures, No. 42 (https://www.sdmts.com/sites/default/files/policy.42.transit_service_eval_and_adjustment.pdf).
[13] MTS Policies and Procedures, No. 22 (https://www.sdmts.com/sites/default/files/policy.22.rules_of_procedure_for_the_mts_board_of_directors_0.pdf).

component is based on major transit stops, while 75% is based on rail and *Rapid* stations in the region.

4. Section 65584.04(e)(12)[14]: The Region's Greenhouse Gas Emissions Targets

Section 65584.04(e)(12) states:

> To the extent that sufficient data is available from local governments pursuant to subdivision (b) or other sources, each council of governments, or delegate subregion as applicable, shall include the following factors to develop the methodology that allocates regional housing needs:
>
> (12) The region's greenhouse gas emissions targets provided by the State Air Resources Board pursuant to Section 65080.

The City asserts that SANDAG did not adequately consider the City's lack of high-quality transit, such as rail, bus rapid transit, and dedicated bus lanes, in determining the draft allocation. In fact, SANDAG specifically considered where rail and *Rapid* stations are located in developing the methodology. As described above, the draft allocation prioritizes allocation of the housing units in jurisdictions with rail and *Rapid* stations, with a smaller proportion of housing units allocated based on major transit stops. Because the City does not have rail or *Rapid* stations, it would receive zero housing units for that subcomponent.

Jurisdiction	**Rail & *Rapid* Stations**		**Major Transit Stops**	
	Count	Regional Share (%)	Count	Regional Share (%)
Carlsbad	2	1.3%	0	0.0%
Chula Vista	9	5.8%	18	12.9%
Coronado	0	0.0%	0	0.0%
Del Mar	0	0.0%	0	0.0%
El Cajon	3	1.9%	0	0.0%
Encinitas	1	0.6%	0	0.0%
Escondido	14	9.1%	0	0.0%
Imperial Beach	**0**	**0.0%**	6	4.3%
La Mesa	5	3.2%	0	0.0%
Lemon Grove	2	1.3%	0	0.0%
National City	2	1.3%	15	10.7%
Oceanside	7	4.5%	0	0.0%
Poway	0	0.0%	0	0.0%
San Diego	100	64.9%	101	72.1%
San Marcos	3	1.9%	0	0.0%
Santee	1	0.6%	0	0.0%
Solana Beach	1	0.6%	0	0.0%
Unincorporated County	2	1.3%	0	0.0%
Vista	2	1.3%	0	0.0%
Region	**154**	**100.0%**	**140**	**100.0%**

Sources:R&R Stations - SANDAG ABM, Forecast Year 2025 No Build; Major Transit Stops - SANDAG ABM, Forecast Year 2020

[14] This subsection was renumbered to (12) from (11) effective January 1, 2020.

As such, SANDAG adequately considered the impact, and priority, of rail and *Rapid* transit services both regionwide, and specifically within the City.

The City goes on to argue that because major job centers are located outside of Imperial Beach, VMT will increase due to the trips generated by new housing units. However, given the state mandates to allocate the regional housing need and reduce GHG emissions, the draft allocation encourages housing growth near transit to provide residents with improved access to transit options, lowering VMT, and reducing GHG emissions. It also encourages housing growth near jobs to provide opportunities for more residents to live near their place of employment in furtherance of the statutory objectives.

C. The City's Additional Unaddressed Concern

The City states that the units allocated would result in a land use form that is contrary to the City's Mission Statement. During development of the methodology, SANDAG also considered a number of comments concerning the housing unit allocation jeopardizing community character. Community character is not included among the objectives and factors in state law that must be considered in the development of a methodology. Following the allocation of housing units in the RHNA Plan, individual jurisdictions will undergo the process of updating the housing elements in their general plan to accommodate the housing need. It is during this local planning process that jurisdictions may consider community characteristics when planning for housing. As such, the City's additional unaddressed concern does not support a ground for appeal.

V. Conclusion

The City requests that SANDAG modify the allocation to assign affordable units to all bus stops equally, not just those that serve two different bus routes with a minimum peak frequency of 15 minutes. While not specifically included in the paragraph titled "Imperial Beach's Request" on page 5 of City's appeal, SANDAG also has considered the City's requests to (a) adjust the allocation to more heavily emphasize jobs over transit, (b) adjust the allocation to accommodate the City's existing zoning, and (c) adjust the allocation to account for the City's community character. Based on the discussion above, SANDAG finds that the revisions requested are not necessary to further the objectives listed in Section 65584(d) and rejects the requests for a revised share of the regional housing need in the City's appeal.[15]

[15] During a discussion with Naval Facilities Engineering Command (NAVFAC) Southwest in February 2020, it became clear that the jobs data for the Naval Outlying Landing Field (NOLF) in Imperial Beach was not aligned with the Demographics report published by DMDC used to develop the SANDAG Employment Estimates. NOLF has at most 99 active duty military jobs according to the DMDC data. Similarly, the Silver Strand Training Complex (SSTC) in the City of Coronado also has at most 99 active duty military jobs. The total jobs data had erroneously treated both the SSTC and NOLF as remote stations of Naval Base San Diego 32nd Street and redistributed a portion of the jobs at the 32nd Street base located in the City of San Diego to SSTC and NOLF. As such, the jobs previously assigned to these two installations will be properly attributed to the City of San Diego as part of the 32nd Street base. For this reason, the City's total jobs figure is reduced by 1,270 jobs and the allocation corrected as follows:

Jurisdiction	Very Low	Low	Moderate	Above Moderate	Total Allocation
Imperial Beach	225	123	183	798	1,329

San Diego Association of Governments Regional Housing Needs Assessment Appeals Determination: City of Lemon Grove

The City of Lemon Grove (City) has appealed its draft Regional Housing Needs Assessment (RHNA) allocation. The following constitutes the final determination of the San Diego Association of Governments (SANDAG) Board of Directors regarding the City's appeal. This final determination is based on the information and methodology described in California Government Code Section 65584.04,[1] the information presented in the appeal, all comments received regarding the appeal, and information received during the public hearing.

I. Statutory Background

The California Legislature developed the RHNA process in 1977 to address the affordable housing shortage in California. The RHNA process is codified in state law at California Government Code Section 65580, *et seq.* Over the years the housing element laws, including the RHNA process, have been revised to address the changing housing needs in California. As of the last revision, the Legislature has declared that:

> (a) The availability of housing is of vital statewide importance, and the early attainment of decent housing and a suitable living environment for every Californian, including farmworkers, is a priority of the highest order.
> (b) The early attainment of this goal requires the cooperative participation of government and the private sector in an effort to expand housing opportunities and accommodate the housing needs of Californians of all economic levels.
> (c) The provision of housing affordable to low- and moderate-income households requires the cooperation of all levels of government.
> (d) Local and state governments have a responsibility to use the powers vested in them to facilitate the improvement and development of housing to make adequate provision for the housing needs of all economic segments of the community.
> (e) The Legislature recognizes that in carrying out this responsibility, each local government also has the responsibility to consider economic, environmental, and fiscal factors and community goals set forth in the general plan and to cooperate with other local governments and the state in addressing regional housing needs.
> (f) Designating and maintaining a supply of land and adequate sites suitable, feasible, and available for the development of housing sufficient to meet the locality's housing need for all income levels is essential to achieving the state's housing goals and the purposes of this article.

See Section 65580.

To carry out the policy goals above, the Legislature also codified the intent of the housing element laws:

[1] All statutory references are to the California Government Code unless otherwise noted.

(a) To assure that counties and cities recognize their responsibilities in contributing to the attainment of the state housing goal.
(b) To assure that counties and cities will prepare and implement housing elements which, along with federal and state programs, will move toward attainment of the state housing goal.
(c) To recognize that each locality is best capable of determining what efforts are required by it to contribute to the attainment of the state housing goal, provided such a determination is compatible with the state housing goal and regional housing needs.
(d) To ensure that each local government cooperates with other local governments in order to address regional housing needs.

See Section 65581.

The housing element laws exist within a larger planning framework which requires each city and county in California to develop and adopt a comprehensive, long-term general plan for the physical development of the jurisdiction (*See* Section 65300). A general plan consists of many planning elements, including an element for housing (*See* Section 65302). In addition to identifying and analyzing the existing and projected housing needs, the housing element must also include a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. Consistent with Section 65583, adequate provision must be made for the existing and projected housing needs of all economic segments of the community.

A. RHNA Determination by HCD

Each cycle of the RHNA process begins with the California Department of Housing and Community Development's (HCD) determination of the existing and projected housing need for each region in the state (Section 65584(a)). HCD's determination must be based on population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments. (*See Section* 65584.01(a)). The RHNA Determination allocates the regional housing need among four income categories: very low, low, moderate, and above moderate.

Within 30 days of receiving the final RHNA Determination from HCD, the council of governments may file an objection to the determination with HCD. The objection must be based on HCD's failure to base its determination on either the population projection for the region established under Section 65584.01(a), or a reasonable application of the methodology and assumptions determined under Section 65584.01(b). Within 45 days of receiving the council of governments objection, HCD must "make a final written determination of the region's existing and projected housing need that includes an explanation of the information upon which the determination was made." (*See* Section 65584.01).

B. Development of RHNA Methodology

Each council of governments is required to develop a methodology for allocating the regional housing need to local governments within the region. The methodology must further the following objectives:

(1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households.
(2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development

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patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.

(3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.

(4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.

(5) Affirmatively furthering fair housing.

See Section 65584(b).

To the extent that sufficient data is available, the council of government must also include the following factors in development of the methodology consistent with Section 65884.04(e):

(1) Each member jurisdiction's existing and projected jobs and housing relationship. This shall include an estimate based on readily available data on the number of low-wage jobs within the jurisdiction and how many housing units within the jurisdiction are affordable to low-wage workers as well as an estimate based on readily available data, of projected job growth and projected household growth by income level within each member jurisdiction during the planning period.

(2) The opportunities and constraints to development of additional housing in each member jurisdiction, including all of the following:

(A) Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.

(B) The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities. The council of governments may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions. The determination of available land suitable for urban development may exclude lands where the Federal Emergency Management Agency (FEMA) or the Department of Water Resources has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding.

(C) Lands preserved or protected from urban development under existing federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis, including land zoned or designated for agricultural protection or preservation that is subject to a local ballot measure that was approved by the voters of that jurisdiction that prohibits or restricts conversion to nonagricultural uses.

(D) County policies to preserve prime agricultural land, as defined pursuant to Section 56064, within an unincorporated area and land within an unincorporated area zoned or designated for agricultural protection or preservation that is subject to a local ballot measure that was approved by

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the voters of that jurisdiction that prohibits or restricts its conversion to nonagricultural uses.

(3) The distribution of household growth assumed for purposes of a comparable period of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure.
(4) Agreements between a county and cities in a county to direct growth toward incorporated areas of the county and land within an unincorporated area zoned or designated for agricultural protection or preservation that is subject to a local ballot measure that was approved by the voters of the jurisdiction that prohibits or restricts conversion to nonagricultural uses.
(5) The loss of units contained in assisted housing developments, as defined in paragraph (9) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions.
(6) The percentage of existing households at each of the income levels listed in subdivision (e) of Section 65584 that are paying more than 30 percent and more than 50 percent of their income in rent.
(7) The rate of overcrowding.
(8) The housing needs of farmworkers.
(9) The housing needs generated by the presence of a private university or a campus of the California State University or the University of California within any member jurisdiction.
(10) The housing needs of individuals and families experiencing homelessness. If a council of governments has surveyed each of its member jurisdictions pursuant to subdivision (b) on or before January 1, 2020, this paragraph shall apply only to the development of methodologies for the seventh and subsequent revisions of the housing element.
(11) The loss of units during a state of emergency that was declared by the Governor pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2), during the planning period immediately preceding the relevant revision pursuant to Section 65588 that have yet to be rebuilt or replaced at the time of the analysis.
(12) The region's greenhouse gas emissions targets provided by the State Air Resources Board pursuant to Section 65080.
(13) Any other factors adopted by the council of governments, that further the objectives listed in subdivision (d) of Section 65584, provided that the council of governments specifies which of the objectives each additional factor is necessary to further. The council of governments may include additional factors unrelated to furthering the objectives listed in subdivision (d) of Section 65584 so long as the additional factors do not undermine the objectives listed in subdivision (d) of Section 65584 and are applied equally across all household income levels as described in subdivision (f) of Section 65584 and the council of governments makes a finding that the factor is necessary to address significant health and safety conditions.

To guide development of the methodology, each council of governments surveys its member jurisdictions to request, at a minimum, information regarding the factors listed above (*See* Section 65584.04(b)). If a survey is not conducted, however, a jurisdiction may submit information related to the factors to the council of governments before the public comment period for the draft methodology begins ((*See* Section 65584.04(b)(5)).

Housing element law also explicitly prohibits consideration of the following criteria in determining, or reducing, a jurisdiction's share of the regional housing need:

(1) Any ordinance, policy, voter-approved measure, or standard of a city or county that directly or indirectly limits the number of residential building permits issued by a city or county.

(2) Prior underproduction of housing in a city or county from the previous regional housing need allocation, as determined by each jurisdiction's annual production report.
(3) Stable population numbers in a city or county from the previous regional housing needs cycle.

See Section 65584.04(g).

Finally, Section 65584.04(m) requires that the final RHNA Plan, which includes both the methodology and the allocation, is consistent with the development pattern included in the region's sustainable communities strategy, distributes the entire regional housing need determined under Section 65584, distributes units for low- and very low income households to each jurisdiction in the region, and furthers the five objectives listed in Section 65584(d).

C. Public Participation

Government Code Section 65584.04(d) states that "public participation and access shall be required in the development of the methodology." The council of governments is required to "explain in writing how each of the factors described in subdivision (e) was incorporated into the methodology and how the methodology furthers the objectives listed in subdivision (d) of Section 65584" (*See* Section 65584.04(f)) as well as explain "how information about local government conditions gathered pursuant to subdivision (b) has been used to develop the proposed methodology" (*See* Section 65584.04(d)). The proposed methodology, "this information, and any other supporting materials used in determining the methodology, shall be posted on the council of governments' or delegate subregion's, internet website." (*See* Section 65584.04(f)).

The council of governments is required to open the proposed methodology to public comment and "conduct at least one public hearing to receive oral and written comments on the proposed methodology." (*See* Section 65584.04(d)). Following the conclusion of the public comment period and after making any revisions deemed appropriate by the council of governments as a result of comments received during the public comment period and consultation with the HCD, the council of governments publishes the proposed methodology on its website and submits it, along with the supporting materials, to HCD. (*See* Section 65584.04(h)).

D. HCD Review of Methodology and Adoption by Council of Governments

HCD has 60 days to review the proposed methodology and report its written findings to the council of governments. The written findings must include a determination by HCD as to "whether the methodology furthers the objectives listed in subdivision (d) of Section 65584." (*See* Section 65584.04(i)). If HCD finds that the proposed methodology is not consistent with the statutory objectives, the council of governments must take one of the following actions: (1) revise the methodology to further the objectives in state law and adopt a final methodology; or (2) adopt the methodology without revisions "and include within its resolution of adoption findings, supported by substantial evidence, as to why the council of governments, or delegate subregion, believes that the methodology furthers the objectives listed in subdivision (d) of Section 65584 despite the findings of [HCD]." (*See* Section 65584.04(i)). Upon adoption of the final methodology, the council of governments "shall provide notice of the adoption of the methodology to the jurisdictions within the region, or delegate subregion, as applicable, and to HCD, and shall publish the adopted allocation methodology, along with its resolution and any adopted written findings, on its internet website." (*See* Section 65584.04(k)).

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E. RHNA Draft Allocation, Appeals, and Adoption of Final RHNA Plan

Based on the adopted methodology, each council of governments shall distribute a draft allocation of regional housing needs to each local government in the region and HCD, and shall publish the draft allocation on its website. (*See* Section 65584.05(a)). Upon completion of the appeals process, discussed in more detail below, each council of governments must adopt a final regional housing need allocation plan and submit it to HCD (*See* Section 65584.05(g)). HCD has 30 days to review the final allocation plan and determine if it is consistent with the regional housing need developed pursuant to Section 65584.01. The resolution approving the final housing need allocation plan shall demonstrate that the plan is consistent with the SCS and furthers the objectives listed in Section 65584(d) as discussed above. (*See* Section 65584.04(m)(3); Section 65584.045).

II. SANDAG Oversight of the 6th Cycle RHNA Process

A. RHNA Determination

SANDAG began consultation with HCD for the 6th Cycle RHNA process in April 2017. The consultation process included a review of HCD's calculations and data sources and presentations to the Regional Planning Technical Working Group (TWG)[2], Regional Planning Committee (RPC)[3], and the Board[4].

In March 2018, SANDAG received a draft RHNA Determination from HCD. Consistent with Section 65584.01, HCD used the following data to prepare the draft RHNA Determination for the San Diego region:

- Population forecast from the California Department of Finance (DOF)
- Projected number of new households formed
- Vacancy rate in existing housing stock
- Percentage of renter's households that are overcrowded, defined as more than one person per room per dwelling unit
- Housing replacement needs

At its meeting on May 4, 2018, the RPC considered potential changes to the draft RHNA Determination that could be proposed to HCD reflecting factors unique to housing in the San Diego region. The RPC recommended that the Board accept the draft RHNA Determination without modifications.

At its May 11, 2018, meeting, the Board authorized the Executive Director to submit comments to HCD outlining suggested revisions to the RHNA Determination. Then on May 25, 2018, the Board voted to place this item on a future agenda for further discussion before submitting comments to HCD. On June 8, 2018, the Board amended its May 11, 2018, action and directed staff to submit a letter to HCD accepting the draft RHNA Determination. Following SANDAG's acceptance of the draft RHNA Determination, the consultation process concluded when HCD submitted the final RHNA Determination in a letter to SANDAG dated July 5, 2018.

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[2] SANDAG staff presented information related to the RHNA Determination to the TWG at its March 26, 2018, and April 12, 2018, meetings.
[3] SANDAG staff presented information related to the RHNA Determination to the RPC at its April 6, 2018, and May 4, 2018, meetings.
[4] SANDAG staff presented information related to the RHNA Determination to the Board at its March 9, 2018, May 11, 2018, and June 8, 2018, meetings.

The final RHNA Determination requires SANDAG and its member agencies to plan for 171,685 total housing units through the 2021-2029 planning period to address the region's housing needs.

B. RHNA Methodology and Public Participation

At its September 14, 2018 meeting the Board was surveyed to determine each jurisdiction's priorities for the upcoming RHNA cycle, including which RHNA objectives and factors would be most important when determining the distribution of housing units in the region. The Board expressed a desire to take a different approach than what had been used in previous housing element cycles and wanted to play a bigger role in the development of the methodology. This culminated in the formation of the RHNA Subcommittee in December 2018, which included members of the Board from each SANDAG subregion to reflect the diversity of geography, jurisdiction size, and other attributes of member jurisdictions. The Board also requested that their initial set of priorities be further discussed by the Regional Planning Technical Working Group (TWG), which consists of the planning or community development director from each jurisdiction, among other members.

The RHNA Subcommittee began meeting in early 2019. To develop its recommendation to the Board, the RHNA Subcommittee explored options for how to build consensus around a methodology that complies with state law while best achieving the goals of the Board. The RHNA Subcommittee held six meetings[5] in spring and summer 2019, prior to the Board's release of the draft methodology for public comment. All meetings were noticed and open to the public.

SANDAG staff also solicited input on the development of the methodology from the TWG, whose membership is described above. The TWG advises the RPC and Board on the development and implementation of San Diego Forward: the Regional Plan, which includes the RHNA Plan. The TWG discussed and provided input on the development of the methodology over 12 meetings[6] from August 2018 to November 2019, including two workshops specifically focused on RHNA.

Attendees at the meetings of the Board, RHNA Subcommittee, RPC, and TWG provided information regarding the types of data SANDAG should use, assumptions that should be made, as well as information regarding conditions in individual jurisdictions that should be taken into consideration. Jurisdictions and stakeholders also provided written comments during the outreach process. In addition to addressing comments at public meetings, SANDAG staff responded to comments and questions related to the development of the methodology via phone calls and emails, which led to the creation of Frequently Asked Questions that were posted to the SANDAG website. Staff also presented at city council meetings upon request.

On July 26, 2019, the Board released the draft methodology for public comment. At the end of a 42-day public comment period, SANDAG conducted a public hearing on September 6, 2019. SANDAG received nearly 2,200 public comments. During the public comment period, SANDAG compiled and posted on its website supplemental information requested by Board members, a list of Frequently Asked Questions (FAQs), and a response to comments received during the public comment period.

On September 6, 2019, the Board authorized staff to submit the draft methodology to HCD for review. In a letter dated November 1, 2019, HCD found that the draft methodology furthers the objectives in state law. At its November 22, 2019, meeting, the Board adopted by resolution the final

[5] The RHNA Subcommittee met on February 8, 2019, February 22, 2019, March 22, 2019, April 26, 2019, May 24, 2019, and June 14, 2019.

[6] The TWG discussed RHNA at the following meetings: August 9, 2018, October 11, 2018, December 13, 2018, January 10, 2019, February 14, 2019, March 14, 2019, April 3, 2019, May 9, 2019, June 6, 2019, June 13, 2019, June 27, 2019, and November 14, 2019.

methodology and released the draft allocation. Following the Board meeting, the draft allocation was posted on the SANDAG website and distributed to each jurisdiction and HCD.

III. RHNA Appeal Process

A. Statutory Background

Under Section 65584.05(b), a local government or HCD may appeal the council of governments within 45 days following receipt of the draft allocation "for a revision of the share of the regional housing need proposed to be allocated to one or more local governments." Appeals "shall be based upon comparable data available for all affected jurisdictions and accepted planning methodology, and supported by adequate documentation, and shall include a statement as to why the revision is necessary to further the intent of the objectives listed in subdivision (d) of Section 65584." Appeals also shall be consistent with the sustainable communities strategy included in the regional transportation plan (*See* Section 65584.05(b)). In accordance with Section 65584.05(b), appeals are limited to the following circumstances:

(1) The council of governments or delegate subregion, as applicable, failed to adequately consider the information submitted pursuant to subdivision (b) of Section 65584.04.
(2) The council of governments or delegate subregion, as applicable, failed to determine the share of the regional housing need in accordance with the information described in, and the methodology established pursuant to, Section 65584.04, and in a manner that furthers, and does not undermine, the intent of the objectives listed in subdivision (d) of Section 65584.
(3) A significant and unforeseen change in circumstances has occurred in the local jurisdiction or jurisdictions that merits a revision of the information submitted pursuant to subdivision (b) of Section 65584.04. Appeals on this basis shall only be made by the jurisdiction or jurisdictions where the change in circumstances has occurred.

Following the 45-day period for filing an appeal, the council of governments "shall notify all other local governments within the region or delegate subregion and the department of all appeals and shall make all materials submitted in support of each appeal available on a publicly available internet website." (*See* Section 65584.05(c)). Local governments and HCD may, within 45 days, comment on one or more appeals.

Within 30 days of the end of the appeals comment period, and with at least 21 days prior notice, the council of governments "shall conduct one public hearing to consider all appeals filed pursuant to subdivision (b) and all comments received pursuant to subdivision (c)." (*See* Section 65584.05(d)). Within 45 days of the public hearing to consider appeals, the council of governments is required to make a written final determination for each appeal filed that either accepts, rejects, or modifies the appeal and issue a proposed final allocation plan (*See* Section 65584.05(e)). The written finding(s) must describe how the determination is consistent with Section 65584.05.

If a final determination on an appeal requires the council of governments to adjust the allocation to one or more local governments that are not the subject of an appeal, Section 65584.05(f) provides: (1) if the adjustment totals 7 percent or less of the regional housing need, the council of governments must redistribute those housing units proportionally to all local jurisdictions; or (2) if the adjustment totals more than 7 percent of the regional housing need, then the council of governments shall develop a methodology to distribute the amount greater than the 7 percent to local governments. The total distribution of housing need shall not equal less than the regional housing need established under Section 65584.01. (*See* Section 65584.05(f))

DRAFT

Within 45 days after issuing the proposed final allocation plan, the council of governments "shall hold a public hearing to adopt a final allocation plan." The council of governments must then submit the final allocation plan to HCD within 3 days of adoption. HCD has 30 days to determine if the final allocation plan is consistent with the regional housing need. (*See* Section 65584.05(g)). The council of governments has final authority to determine the distribution of the region's housing needs "[t]o the extent that the final allocation plan fully allocates the regional share of statewide housing need, as determined pursuant to Section 65584.01 and has taken into account all appeals." (*See* Section 65584.05(g)). HCD may revise the determination of the council of governments to obtain consistency with the existing and projected housing need for the region. (*See* Section 65584.05(g)).

B. SANDAG Appeal Process

SANDAG received four appeals during the appeals period of November 22, 2019 to January 6, 2020. Following close of business on January 6, 2020, the appeals were posted on SANDAG's website and distributed to the planning or community development directors of each local jurisdiction and the Board consistent with Section 65584.05(c).

SANDAG received five comment letters on the appeals during the appeals comment period from January 7, 2020 to February 21, 2020.

On February 7, 2020, SANDAG issued a notice of public hearing to consider appeals and comments on appeals at a meeting of the Board on February 28, 2020, pursuant to Section 65584.05(d), which was posted on the SANDAG website and published in two local newspapers. The Executive Committee, a committee of the Board responsible for setting Board agendas and providing direction to staff in preparing items for Board consideration, was scheduled to consider proposed RHNA Appeals Hearing Procedures at its meeting on February 14, 2020. Prior to the Executive Committee meeting, three of the appealing jurisdictions submitted letters to SANDAG stating that individual notice of the proposed public hearing was not received 21 days in advance of the February 28, 2020, public hearing date. To ensure compliance with the requirements of Section 65584.05(d), at its February 14, 2020, meeting, the Executive Committee approved continuing the public hearing to March 27, 2020, in addition to approving the RHNA Appeals Hearing Procedures with modifications. At its meeting on February 28, 2020, the Board ratified the Executive Committee's actions.

On March 3, 2020, SANDAG issued a notice of the public hearing to consider appeals and comments on appeals on March 27, 2020, pursuant to Section 65584.05(d), which was provided to each jurisdiction, posted on SANDAG's website, and published in two local newspapers.

The Board conducted the public hearing at its meeting on March 27, 2020.

IV. The City's Appeal

In a letter dated January 6, 2020, the City appealed the draft allocation. The ground for appeal is as follows:

(1) Govt. Code § 65584.05(b)(2): SANDAG failed to determine the share of the regional housing need in accordance with the information described in, and the methodology established pursuant to, Section 65584.04, and in a manner that furthers, and does not undermine, the intent of the objectives listed in Section 65584(d).

A. Transit Stations

The City argues that the draft allocation undermines the statutory objectives set forth at Section 65584(d) by disproportionately allocating housing units to jurisdictions based on the existence of transit stations within their boundaries regardless of whether those stations are used by residents of neighboring jurisdictions. The City describes a half-mile radius around each transit station that could be used to determine which nearby jurisdictions benefit from the respective station.

DRAFT

Notably, the area surrounding transit and rail stations, and the related conversation around land availability, was discussed at the following public meetings:

- April 3, 2019, TWG Meeting – One working group member commented that there should be consideration of building capacity around transit and rail stations; two working group members stated that they don't support using existing capacities of any kind. In total, seven working group members and SANDAG staff discussed jurisdictional capacity at length.
- April 26, 2019, RHNA Subcommittee Meeting – Five subcommittee members and an additional elected official participated in a discussion of the land availability and jurisdictional capacity. The RHNA Subcommittee received comments from four TWG working group members and one public member about land availability and jurisdictional capacity. One of these comments included consideration of building capacity around transit and rail stations
- May 24, 2019, RHNA Subcommittee Meeting – One public speaker discussed land availability and jurisdictional capacity.
- May 10, 2019, Board Meeting – In response to a question by a Board member, the Board received information from staff on the difference between the methodology used in the 5th Cycle RHNA, which considered a jurisdiction's capacity, and the approach taken in developing the methodology for the 6th Cycle, which does not consider a jurisdiction's capacity. Following receipt of this information, one Board member discussed jurisdictional capacity.
- June 27, 2019, TWG Meeting – Two working group members discussed jurisdictional capacity.
- July 26, 2019, Board Meeting – One Board member commented that there is no capacity to build around one of the trolley stations in their jurisdiction; another Board member commented that the train station in their jurisdiction serves four jurisdictions. In total, three public speakers and six Board members discussed land availability and jurisdictional capacity in general.
- September 6, 2019, Board Meeting – One Board member discussed the area surrounding transit and rail stations. Three public speakers and nine Board members discussed land availability and jurisdictional capacity in general.
- November 22, 2019, Board Meeting – One public speaker and five Board members discussed land availability and jurisdictional capacity. The Board rejected two motions that considered jurisdictional capacity among other revisions to the draft methodology.

In considering the land surrounding a rail station, *Rapid* station, or major transit stop, the discussion at the public meetings revolved around existing land use restrictions and jurisdictions' ability to build within any radius or shed identified around the station. However, SANDAG "may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under the alternative zoning ordinances and land use restrictions." *See* Section 65584.04 (e)(2)(B). For this reason, information regarding the area surrounding rail and *Rapid* stations and major transit stops, after being considered at multiple public meetings and in comments to the Board, was not ultimately incorporated into the methodology.

With respect to the weighting of 75% of the transit units to rail and *Rapid* stations, as set forth in the final methodology, SANDAG has prioritized housing units with rail and *Rapid* stations because of

> "the significant investment the region has made to building and improve rail lines and *Rapid* routes, as well as the permanency of rail lines relative to local bus service. Additionally, rail and *Rapid* routes have higher capacities and are among the more popular transportation services in the region." (Final Methodology, p. 4).

The goal of the emphasis on rail and *Rapid* stations is to ensure that future growth is located near transit. Moreover, by prioritizing transit (and jobs), the methodology encourages efficient development patterns and reduces greenhouse gas (GHG) emissions. An allocation based on transit and jobs will lead to more infill development while protecting natural resources and open space consistent with Section 65584(d)(2). (*See* Final Methodology, p. 11). More specifically, placing residents near jobs and transit is consistent with California Air Resources Board's (CARB's) identified policy goals and guidance detailed in the 2017 Climate Change Scoping Plan (Scoping Plan). The Scoping Plan proposes to strengthen major programs related to climate impacts and further integrate efforts to reduce both GHG emissions and air pollution. Among CARB's Vibrant Communities and Landscapes / Vehicle Miles Traveled (VMT) Reduction Goals identified to reduce GHG emissions from the transportation sector are the following:

- Promote all feasible policies to reduce VMT, including:
    - Land use and community design that reduce VMT,
    - Transit oriented development,
    - Complete street design policies that prioritize transit, biking, and walking, and
    - Increasing low carbon mobility choices, including improved access to viable and affordable public transportation and active transportation opportunities.
- Increase the number, safety, connectivity, and attractiveness of biking and walking facilities to increase use.
- Promote shared-use mobility, such as bike sharing, car sharing and ride-sourcing services to bridge the "first mile, last mile" gap between commuters' transit stops and their destinations.
- Continue research and development on transportation system infrastructure, including:
    - Integrate frameworks for lifecycle analysis of GHG emissions with life-cycle costs for pavement and large infrastructure projects, and
    - Health benefits and costs savings from shifting from driving to walking, bicycling, and transit use.
- Quadruple the proportion of trips taken by foot by 2030 (from a baseline of the 2010–2012 California Household Travel Survey).
- Strive for a nine-fold increase in the proportion of trips taken by bicycle by 2030 (from a baseline of the 2010–2012 California Household Travel Survey).
- Strive, in passenger rail hubs, for a transit mode share of between 10 percent and 50 percent, and for a walk and bike mode share of between 10 percent and 15 percent (Scoping Plan, p.76).

The Scoping Plan goes on to state that "compact, lower-VMT future development patterns are essential to achieving public health, equity, economic, and conservation goals, which are [] not modeled but are important co-benefits of the overall transportation sector strategy" (Scoping Plan, p. 77). Because the draft allocation encourages the development of housing near jobs and transit, it will provide the region's residents with opportunities to live where they work and readily access transit, which can facilitate shorter commutes, reduce VMT, and increase trip-taking by transit or alternative modes.

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B. Socioeconomic Equity

Section 65584(d)(5) requires that the RHNA Plan "[a]ffirmatively further fair housing.[7]" The City asserts that the draft allocation will "only serve to displace lower income households" that rely on transit (City's Appeal, p. 8). The CIty goes on to argue that emphasizing transit "compounds segregated living patterns" by allocating low income housing in existing low-income communities near transit (City's Appeal, p. 8). Other than generally referencing SANDAG's Regional Housing Progress Report, the City does not present data or other evidence to support these contentions. With respect to both issues, jurisdictions must work closely with HCD in updating their housing elements to address unique community characteristics.

Notwithstanding the housing element consultation process with HCD, the draft allocation specifically addresses Section 65584(d)(5). During development of the methodology, SANDAG reviewed the California Tax Credit Allocation Committee (TCAC) 2019 Opportunity Map for the San Diego region. (*See* Final Methodology, p. 12-13). The TCAC map demonstrates how public and private resources are spatially distributed within the region. It is part of a larger study that shows how communities with better air quality, higher educational attainment, and better economic indicators are communities that have higher "opportunity", or pathways that offer low-income children and adults the best chance at economic advancement. The study finds that historically communities with higher opportunity – through plans, policies, and practices – may have systematically denied equal opportunity to low socioeconomic and minority populations.

Areas of "low resource" and "high segregation & poverty" on the TCAC maps are also many of the same areas with a high concentration of low-income households in the San Diego region. The draft allocation assists in overcoming patterns of discrimination and transforming racially and ethnically concentrated areas of poverty into areas of opportunity by allocating a higher proportion of low-income housing units to jurisdictions with a lower share of low-income households, which tend to be jurisdictions with a high concentration of resource-rich areas. The six jurisdictions that will receive the highest percentage of low- and very low income housing units under the draft allocation also do not contain areas of high segregation and poverty or low resource census tracts, and compared to other jurisdictions in the region have the highest percentage of area in high or highest resource census tracts (76-100% of the jurisdiction). Conversely, the jurisdictions that currently have more area in low resource census tracts or census tracts that demonstrate high segregation and concentrations of poverty, generally receive a lower percentage of low- and very low income housing units than the regional percentage.

The draft allocation also furthers the objective set forth in Section 65584(d)(1), which requires that the draft allocation further the objective of "[i]ncreasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households. . . ." The draft allocation distributes housing units in all four income categories to each of the region's 19 jurisdictions, and does so equitably by ensuring each jurisdiction receives an allocation for low- and very low income units, and further, allocating a higher share of low- and very

[7] For purposes of this section, "affirmatively furthering fair housing" means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.

low income units to jurisdictions that currently have a smaller share of low- and very low income households than the regional share. Because state law requires jurisdictions to zone at higher densities to accommodate their low- and very low income housing allocations, the mix of housing types will also increase.

Notably, SANDAG also conducted an analysis of the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction. The analysis showed that the number of low-wage jobs far exceeds the number of existing housing units affordable to low-wage workers in every jurisdiction in the region. Therefore, the draft allocation distributes low and very low income housing units to all jurisdictions in the region to improve the balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers consistent with Section 65584.04(d)(3).

Moreover, Section 65584(d)(4), which addresses distributing the allocation among income categories, does not require the allocation of fewer total housing units when a jurisdiction has a high share of households in a particular income category; it requires that a lower proportion of housing need be allocated to that income category. Consistent with this statutory objective, the draft allocation results in a jurisdiction receiving a lower proportion of its total housing units within an income category when it has a higher share of households within that income category compared to the region.

The City also argues that it "lacks sufficient vacant land to accommodate the Draft Allocation" (City's Appeal, p. 8). As mentioned above, SANDAG "may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under the alternative zoning ordinances and land use restrictions." (*See* Section 65584.04 (e)(2)(B)). HCD also noted in its letter dated November 1, 2019, that "[p]articularly relevant to supporting infill development and climate change goals is the fact that this methodology does not consider land capacity or vacant land as a determinant of RHNA, and instead focuses on where housing is needed to encourage transit ridership and reduced commutes." Because consideration of existing zoning ordinances and land use restrictions is specifically prohibited by state law, the facts raised by the City do not support this ground for appeal.

Ultimately, the City requests that SANDAG modify the allocation based on each jurisdiction's land area falling within a half-mile transit shed. It has not, however, shown how the use of a half-mile transit shed around each transit station would address its equity concerns any differently than using the exact location of a transit station. As such, it has also failed to demonstrate that its requested revision to the draft allocation is necessary to further the intent of the statutory objectives.

C. Significant and Unforeseen Change in Circumstances

The City also submitted a letter during the comment period requesting that SANDAG consider a new California Department of Finance (DOF) population projection released in January 2020. A prior DOF population projection was used by HCD in developing the RHNA Determination. On February 6, 2020, SANDAG staff discussed the new DOF population projection with HCD to determine how it might affect the 6th Cycle RHNA. HCD stated that the RHNA statutes do not provide a process for revising a RHNA Determination once it is final. Section 65584.01(a) provides that "[t]he department's determination shall be based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments." The final RHNA Determination is produced by HCD based on the data available during the consultation process pursuant to Section 65584.01 and is not revised for either increased or decreased population estimates subsequently released. As such, SANDAG finds

that the new DOF population projection does not constitute a "significant or unforeseen change in circumstances [that] has occurred in the local jurisdiction or jurisdictions . . ." *See* Section 65584.05(b)(3).

V. Conclusion

The City requests that the draft allocation be "reworked in a manner that better fulfills the objectives outlined in the Government Code." (City's Appeal, p. 9). In its appeal, the City also provides an analysis of each jurisdiction's land area falling within a half-mile transit shed of three rail stations in the region. While not specifically requested, SANDAG has considered the adjustment to the allocation described by the City for a half-mile transit shed as a request to revise the draft allocation. Based on the discussion above, SANDAG finds that the revisions requested are not necessary to further the objectives listed in Section 65584(d) and rejects the requests for a revised share of the regional housing need in the City's appeal.

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San Diego Association of Governments Regional Housing Needs Assessment Appeals Determination: City of Solana Beach

The City of Solana Beach (City) has appealed its draft Regional Housing Needs Assessment (RHNA) allocation. The following constitutes the final determination of the San Diego Association of Governments (SANDAG) Board of Directors regarding the City's appeal. This final determination is based on the information and methodology described in California Government Code Section 65584.04,[1] the information presented in the appeal, all comments received regarding the appeal, and information received during the public hearing.

I. Statutory Background

The California Legislature developed the RHNA process in 1977 to address the affordable housing shortage in California. The RHNA process is codified in state law at Section 65580, *et seq.* Over the years the housing element laws, including the RHNA process, have been revised to address the changing housing needs in California. As of the last revision, the Legislature has declared that:

> (a) The availability of housing is of vital statewide importance, and the early attainment of decent housing and a suitable living environment for every Californian, including farmworkers, is a priority of the highest order.
> (b) The early attainment of this goal requires the cooperative participation of government and the private sector in an effort to expand housing opportunities and accommodate the housing needs of Californians of all economic levels.
> (c) The provision of housing affordable to low- and moderate-income households requires the cooperation of all levels of government.
> (d) Local and state governments have a responsibility to use the powers vested in them to facilitate the improvement and development of housing to make adequate provision for the housing needs of all economic segments of the community.
> (e) The Legislature recognizes that in carrying out this responsibility, each local government also has the responsibility to consider economic, environmental, and fiscal factors and community goals set forth in the general plan and to cooperate with other local governments and the state in addressing regional housing needs.
> (f) Designating and maintaining a supply of land and adequate sites suitable, feasible, and available for the development of housing sufficient to meet the locality's housing need for all income levels is essential to achieving the state's housing goals and the purposes of this article.

See Section 65580.

To carry out the policy goals above, the Legislature also codified the intent of the housing element laws:

[1] All statutory references are to the California Government Code unless otherwise noted.

(a) To assure that counties and cities recognize their responsibilities in contributing to the attainment of the state housing goal.
(b) To assure that counties and cities will prepare and implement housing elements which, along with federal and state programs, will move toward attainment of the state housing goal.
(c) To recognize that each locality is best capable of determining what efforts are required by it to contribute to the attainment of the state housing goal, provided such a determination is compatible with the state housing goal and regional housing needs.
(d) To ensure that each local government cooperates with other local governments in order to address regional housing needs.

See Section 65581.

The housing element laws exist within a larger planning framework which requires each city and county in California to develop and adopt a comprehensive, long-term general plan for the physical development of the jurisdiction (*See* Section 65300). A general plan consists of many planning elements, including an element for housing (*See* Section 65302). In addition to identifying and analyzing the existing and projected housing needs, the housing element must also include a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. Consistent with Section 65583, adequate provision must be made for the existing and projected housing needs of all economic segments of the community.

A. RHNA Determination by HCD

Each cycle of the RHNA process begins with the California Department of Housing and Community Development's (HCD) determination of the existing and projected housing need for each region in the state (Section 65584(a)). HCD's determination must be based on population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments. (*See Section* 65584.01(a)). The RHNA Determination allocates the regional housing need among four income categories: very low, low, moderate, and above moderate.

Within 30 days of receiving the final RHNA Determination from HCD, the council of governments may file an objection to the determination with HCD. The objection must be based on HCD's failure to base its determination on either the population projection for the region established under Section 65584.01(a), or a reasonable application of the methodology and assumptions determined under Section 65584.01(b). Within 45 days of receiving the council of governments objection, HCD must "make a final written determination of the region's existing and projected housing need that includes an explanation of the information upon which the determination was made." (*See* Section 65584.01).

B. Development of RHNA Methodology

Each council of governments is required to develop a methodology for allocating the regional housing need to local governments within the region. The methodology must further the following objectives:

(1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households.
(2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development

DRAFT

patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.

(3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.

(4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.

(5) Affirmatively furthering fair housing.

See Section 65584(b).

To the extent that sufficient data is available, the council of government must also include the following factors in development of the methodology consistent with Section 65884.04(e):

(1) Each member jurisdiction's existing and projected jobs and housing relationship. This shall include an estimate based on readily available data on the number of low-wage jobs within the jurisdiction and how many housing units within the jurisdiction are affordable to low-wage workers as well as an estimate based on readily available data, of projected job growth and projected household growth by income level within each member jurisdiction during the planning period.

(2) The opportunities and constraints to development of additional housing in each member jurisdiction, including all of the following:

(A) Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.

(B) The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities. The council of governments may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions. The determination of available land suitable for urban development may exclude lands where the Federal Emergency Management Agency (FEMA) or the Department of Water Resources has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding.

(C) Lands preserved or protected from urban development under existing federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis, including land zoned or designated for agricultural protection or preservation that is subject to a local ballot measure that was approved by the voters of that jurisdiction that prohibits or restricts conversion to nonagricultural uses.

(D) County policies to preserve prime agricultural land, as defined pursuant to Section 56064, within an unincorporated area and land within an unincorporated area zoned or designated for agricultural protection or preservation that is subject to a local ballot measure that was approved by

DRAFT

the voters of that jurisdiction that prohibits or restricts its conversion to nonagricultural uses.

(3) The distribution of household growth assumed for purposes of a comparable period of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure.
(4) Agreements between a county and cities in a county to direct growth toward incorporated areas of the county and land within an unincorporated area zoned or designated for agricultural protection or preservation that is subject to a local ballot measure that was approved by the voters of the jurisdiction that prohibits or restricts conversion to nonagricultural uses.
(5) The loss of units contained in assisted housing developments, as defined in paragraph (9) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions.
(6) The percentage of existing households at each of the income levels listed in subdivision (e) of Section 65584 that are paying more than 30 percent and more than 50 percent of their income in rent.
(7) The rate of overcrowding.
(8) The housing needs of farmworkers.
(9) The housing needs generated by the presence of a private university or a campus of the California State University or the University of California within any member jurisdiction.
(10) The housing needs of individuals and families experiencing homelessness. If a council of governments has surveyed each of its member jurisdictions pursuant to subdivision (b) on or before January 1, 2020, this paragraph shall apply only to the development of methodologies for the seventh and subsequent revisions of the housing element.
(11) The loss of units during a state of emergency that was declared by the Governor pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2), during the planning period immediately preceding the relevant revision pursuant to Section 65588 that have yet to be rebuilt or replaced at the time of the analysis.
(12) The region's greenhouse gas emissions targets provided by the State Air Resources Board pursuant to Section 65080.
(13) Any other factors adopted by the council of governments, that further the objectives listed in subdivision (d) of Section 65584, provided that the council of governments specifies which of the objectives each additional factor is necessary to further. The council of governments may include additional factors unrelated to furthering the objectives listed in subdivision (d) of Section 65584 so long as the additional factors do not undermine the objectives listed in subdivision (d) of Section 65584 and are applied equally across all household income levels as described in subdivision (f) of Section 65584 and the council of governments makes a finding that the factor is necessary to address significant health and safety conditions.

To guide development of the methodology, each council of governments surveys its member jurisdictions to request, at a minimum, information regarding the factors listed above (*See* Section 65584.04(b)). If a survey is not conducted, however, a jurisdiction may submit information related to the factors to the council of governments before the public comment period for the draft methodology begins ((*See* Section 65584.04(b)(5)).

Housing element law also explicitly prohibits consideration of the following criteria in determining, or reducing, a jurisdiction's share of the regional housing need:

(1) Any ordinance, policy, voter-approved measure, or standard of a city or county that directly or indirectly limits the number of residential building permits issued by a city or county.

(2) Prior underproduction of housing in a city or county from the previous regional housing need allocation, as determined by each jurisdiction's annual production report.
(3) Stable population numbers in a city or county from the previous regional housing needs cycle.

See Section 65584.04(g).

Finally, Section 65584.04(m) requires that the final RHNA Plan, which includes both the methodology and the allocation, is consistent with the development pattern included in the region's sustainable communities strategy, distributes the entire regional housing need determined under Section 65584, distributes units for low- and very low income households to each jurisdiction in the region, and furthers the five objectives listed in Section 65584(d).

C. Public Participation

Government Code Section 65584.04(d) states that "public participation and access shall be required in the development of the methodology." The council of governments is required to "explain in writing how each of the factors described in subdivision (e) was incorporated into the methodology and how the methodology furthers the objectives listed in subdivision (d) of Section 65584" (*See* Section 65584.04(f)) as well as explain "how information about local government conditions gathered pursuant to subdivision (b) has been used to develop the proposed methodology" (*See* Section 65584.04(d)). The proposed methodology, "this information, and any other supporting materials used in determining the methodology, shall be posted on the council of governments' or delegate subregion's, internet website." (*See* Section 65584.04(f)).

The council of governments is required to open the proposed methodology to public comment and "conduct at least one public hearing to receive oral and written comments on the proposed methodology." (*See* Section 65584.04(d)). Following the conclusion of the public comment period and after making any revisions deemed appropriate by the council of governments as a result of comments received during the public comment period and consultation with the HCD, the council of governments publishes the proposed methodology on its website and submits it, along with the supporting materials, to HCD. (*See* Section 65584.04(h)).

D. HCD Review of Methodology and Adoption by Council of Governments

HCD has 60 days to review the proposed methodology and report its written findings to the council of governments. The written findings must include a determination by HCD as to "whether the methodology furthers the objectives listed in subdivision (d) of Section 65584." (*See* Section 65584.04(i)). If HCD finds that the proposed methodology is not consistent with the statutory objectives, the council of governments must take one of the following actions: (1) revise the methodology to further the objectives in state law and adopt a final methodology; or (2) adopt the methodology without revisions "and include within its resolution of adoption findings, supported by substantial evidence, as to why the council of governments, or delegate subregion, believes that the methodology furthers the objectives listed in subdivision (d) of Section 65584 despite the findings of [HCD]." (*See* Section 65584.04(i)). Upon adoption of the final methodology, the council of governments "shall provide notice of the adoption of the methodology to the jurisdictions within the region, or delegate subregion, as applicable, and to HCD, and shall publish the adopted allocation methodology, along with its resolution and any adopted written findings, on its internet website." (*See* Section 65584.04(k)).

DRAFT

E. RHNA Draft Allocation, Appeals, and Adoption of Final RHNA Plan

Based on the adopted methodology, each council of governments shall distribute a draft allocation of regional housing needs to each local government in the region and HCD, and shall publish the draft allocation on its website. (*See* Section 65584.05(a)). Upon completion of the appeals process, discussed in more detail below, each council of governments must adopt a final regional housing need allocation plan and submit it to HCD (*See* Section 65584.05(g)). HCD has 30 days to review the final allocation plan and determine if it is consistent with the regional housing need developed pursuant to Section 65584.01. The resolution approving the final housing need allocation plan shall demonstrate that the plan is consistent with the SCS and furthers the objectives listed in Section 65584(d) as discussed above. (*See* Section 65584.04(m)(3); Section 65584.045).

II. SANDAG Oversight of the 6th Cycle RHNA Process

A. RHNA Determination

SANDAG began consultation with HCD for the 6th Cycle RHNA process in April 2017. The consultation process included a review of HCD's calculations and data sources and presentations to the Regional Planning Technical Working Group (TWG)[2], Regional Planning Committee (RPC)[3], and the Board[4].

In March 2018, SANDAG received a draft RHNA Determination from HCD. Consistent with Section 65584.01, HCD used the following data to prepare the draft RHNA Determination for the San Diego region:

- Population forecast from the California Department of Finance (DOF)
- Projected number of new households formed
- Vacancy rate in existing housing stock
- Percentage of renter's households that are overcrowded, defined as more than one person per room per dwelling unit
- Housing replacement needs

At its meeting on May 4, 2018, the RPC considered potential changes to the draft RHNA Determination that could be proposed to HCD reflecting factors unique to housing in the San Diego region. The RPC recommended that the Board accept the draft RHNA Determination without modifications.

At its May 11, 2018, meeting, the Board authorized the Executive Director to submit comments to HCD outlining suggested revisions to the RHNA Determination. Then on May 25, 2018, the Board voted to place this item on a future agenda for further discussion before submitting comments to HCD. On June 8, 2018, the Board amended its May 11, 2018, action and directed staff to submit a letter to HCD accepting the draft RHNA Determination. Following SANDAG's acceptance of the draft RHNA Determination, the consultation process concluded when HCD submitted the final RHNA Determination in a letter to SANDAG dated July 5, 2018.

[2] SANDAG staff presented information related to the RHNA Determination to the TWG at its March 26, 2018, and April 12, 2018, meetings.
[3] SANDAG staff presented information related to the RHNA Determination to the RPC at its April 6, 2018, and May 4, 2018, meetings.
[4] SANDAG staff presented information related to the RHNA Determination to the Board at its March 9, 2018, May 11, 2018, and June 8, 2018, meetings.

The final RHNA Determination requires SANDAG and its member agencies to plan for 171,685 total housing units through the 2021-2029 planning period to address the region's housing needs.

B. RHNA Methodology and Public Participation

At its September 14, 2018 meeting the Board was surveyed to determine each jurisdiction's priorities for the upcoming RHNA cycle, including which RHNA objectives and factors would be most important when determining the distribution of housing units in the region. The Board expressed a desire to take a different approach than what had been used in previous housing element cycles and wanted to play a bigger role in the development of the methodology. This culminated in the formation of the RHNA Subcommittee in December 2018, which included members of the Board from each SANDAG subregion to reflect the diversity of geography, jurisdiction size, and other attributes of member jurisdictions. The Board also requested that their initial set of priorities be further discussed by the Regional Planning Technical Working Group (TWG), which consists of the planning or community development director from each jurisdiction, among other members.

The RHNA Subcommittee began meeting in early 2019. To develop its recommendation to the Board, the RHNA Subcommittee explored options for how to build consensus around a methodology that complies with state law while best achieving the goals of the Board. The RHNA Subcommittee held six meetings[5] in spring and summer 2019, prior to the Board's release of the draft methodology for public comment. All meetings were noticed and open to the public.

SANDAG staff also solicited input on the development of the methodology from the TWG, whose membership is described above. The TWG advises the RPC and Board on the development and implementation of San Diego Forward: the Regional Plan, which includes the RHNA Plan. The TWG discussed and provided input on the development of the methodology over 12 meetings[6] from August 2018 to November 2019, including two workshops specifically focused on RHNA.

Attendees at the meetings of the Board, RHNA Subcommittee, RPC, and TWG provided information regarding the types of data SANDAG should use, assumptions that should be made, as well as information regarding conditions in individual jurisdictions that should be taken into consideration. Jurisdictions and stakeholders also provided written comments during the outreach process. In addition to addressing comments at public meetings, SANDAG staff responded to comments and questions related to the development of the methodology via phone calls and emails, which led to the creation of Frequently Asked Questions that were posted to the SANDAG website. Staff also presented at city council meetings upon request.

On July 26, 2019, the Board released the draft methodology for public comment. At the end of a 42-day public comment period, SANDAG conducted a public hearing on September 6, 2019. SANDAG received nearly 2,200 public comments. During the public comment period, SANDAG compiled and posted on its website supplemental information requested by Board members, a list of Frequently Asked Questions (FAQs), and a response to comments received during the public comment period.

On September 6, 2019, the Board authorized staff to submit the draft methodology to HCD for review. In a letter dated November 1, 2019, HCD found that the draft methodology furthers the objectives in state law. At its November 22, 2019, meeting, the Board adopted by resolution the final

[5] The RHNA Subcommittee met on February 8, 2019, February 22, 2019, March 22, 2019, April 26, 2019, May 24, 2019, and June 14, 2019.

[6] The TWG discussed RHNA at the following meetings: August 9, 2018, October 11, 2018, December 13, 2018, January 10, 2019, February 14, 2019, March 14, 2019, April 3, 2019, May 9, 2019, June 6, 2019, June 13, 2019, June 27, 2019, and November 14, 2019.

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methodology and released the draft allocation. Following the Board meeting, the draft allocation was posted on the SANDAG website and distributed to each jurisdiction and HCD.

III. RHNA Appeal Process

A. Statutory Background

Under Section 65584.05(b), a local government or HCD may appeal the council of governments within 45 days following receipt of the draft allocation "for a revision of the share of the regional housing need proposed to be allocated to one or more local governments." Appeals "shall be based upon comparable data available for all affected jurisdictions and accepted planning methodology, and supported by adequate documentation, and shall include a statement as to why the revision is necessary to further the intent of the objectives listed in subdivision (d) of Section 65584." Appeals also shall be consistent with the sustainable communities strategy included in the regional transportation plan (*See* Section 65584.05(b)). In accordance with Section 65584.05(b), appeals are limited to the following circumstances:

> The council of governments or delegate subregion, as applicable, failed to adequately consider the information submitted pursuant to subdivision (b) of Section 65584.04.
>
> (1) The council of governments or delegate subregion, as applicable, failed to determine the share of the regional housing need in accordance with the information described in, and the methodology established pursuant to, Section 65584.04, and in a manner that furthers, and does not undermine, the intent of the objectives listed in subdivision (d) of Section 65584.
> (2) A significant and unforeseen change in circumstances has occurred in the local jurisdiction or jurisdictions that merits a revision of the information submitted pursuant to subdivision (b) of Section 65584.04. Appeals on this basis shall only be made by the jurisdiction or jurisdictions where the change in circumstances has occurred.

Following the 45-day period for filing an appeal, the council of governments "shall notify all other local governments within the region or delegate subregion and the department of all appeals and shall make all materials submitted in support of each appeal available on a publicly available internet website." (*See* Section 65584.05(c)). Local governments and HCD may, within 45 days, comment on one or more appeals.

Within 30 days of the end of the appeals comment period, and with at least 21 days prior notice, the council of governments "shall conduct one public hearing to consider all appeals filed pursuant to subdivision (b) and all comments received pursuant to subdivision (c)." (*See* Section 65584.05(d)). Within 45 days of the public hearing to consider appeals, the council of governments is required to make a written final determination for each appeal filed that either accepts, rejects, or modifies the appeal and issue a proposed final allocation plan (*See* Section 65584.05(e)). The written finding(s) must describe how the determination is consistent with Section 65584.05.

If a final determination on an appeal requires the council of governments to adjust the allocation to one or more local governments that are not the subject of an appeal, Section 65584.05(f) provides: (1) if the adjustment totals 7 percent or less of the regional housing need, the council of governments must redistribute those housing units proportionally to all local jurisdictions; or (2) if the adjustment totals more than 7 percent of the regional housing need, then the council of governments shall develop a methodology to distribute the amount greater than the 7 percent to local governments. The total distribution of housing need shall not equal less than the regional housing need established under Section 65584.01. (*See* Section 65584.05(f))

Within 45 days after issuing the proposed final allocation plan, the council of governments "shall hold a public hearing to adopt a final allocation plan." The council of governments must then submit the final allocation plan to HCD within 3 days of adoption. HCD has 30 days to determine if the final allocation plan is consistent with the regional housing need. (*See* Section 65584.05(g)). The council of governments has final authority to determine the distribution of the region's housing needs "[t]o the extent that the final allocation plan fully allocates the regional share of statewide housing need, as determined pursuant to Section 65584.01 and has taken into account all appeals." (*See* Section 65584.05(g)). HCD may revise the determination of the council of governments to obtain consistency with the existing and projected housing need for the region. (*See* Section 65584.05(g)).

B. SANDAG Appeal Process

SANDAG received four appeals during the appeals period of November 22, 2019 to January 6, 2020. Following close of business on January 6, 2020, the appeals were posted on SANDAG's website and distributed to the planning or community development directors of each local jurisdiction and the Board consistent with Section 65584.05(c).

SANDAG received five comment letters on the appeals during the appeals comment period from January 7, 2020 to February 21, 2020.

On February 7, 2020, SANDAG issued a notice of public hearing to consider appeals and comments on appeals at a meeting of the Board on February 28, 2020, pursuant to Section 65584.05(d), which was posted on the SANDAG website and published in two local newspapers. The Executive Committee, a committee of the Board responsible for setting Board agendas and providing direction to staff in preparing items for Board consideration, was scheduled to consider proposed RHNA Appeals Hearing Procedures at its meeting on February 14, 2020. Prior to the Executive Committee meeting, three of the appealing jurisdictions submitted letters to SANDAG stating that individual notice of the proposed public hearing was not received 21 days in advance of the February 28, 2020, public hearing date. To ensure compliance with the requirements of Section 65584.05(d), at its February 14, 2020, meeting, the Executive Committee approved continuing the public hearing to March 27, 2020, in addition to approving the RHNA Appeals Hearing Procedures with modifications. At its meeting on February 28, 2020, the Board ratified the Executive Committee's actions.

On March 3, 2020, SANDAG issued a notice of the public hearing to consider appeals and comments on appeals on March 27, 2020, pursuant to Section 65584.05(d), which was provided to each jurisdiction, posted on SANDAG's website, and published in two local newspapers.

The Board conducted the public hearing at its meeting on March 27, 2020.

IV. The City's Appeal

In a letter dated January 3, 2020, the City appealed the draft allocation. The grounds for appeal are as follows:

(1) SANDAG failed to adequately consider the information submitted pursuant to Government Code Section 65584.04(b).

(2) SANDAG failed to determine the share of the regional housing need in accordance with the information described in Section 65584.04, and in a manner that furthers, and does not undermine, the intent of the objectives listed in Government Code Section 65584(d).

A. Statutory Factors Under 65584.04(e)

1. Section 65584.04(e)(1): Jobs-Housing Relationship

Section 65584.04(e)(1) states:

> To the extent that sufficient data is available from local governments pursuant to subdivision (b) or other sources, each council of governments, or delegate subregion as applicable, shall include the following factors to develop the methodology that allocates regional housing needs:
>
> (1) Each member jurisdiction's existing and projected jobs and housing relationship. This shall include an estimate based on readily available data on the number of low-wage jobs within the jurisdiction and how many housing units within the jurisdiction are affordable to low-wage workers as well as an estimate based on readily available data, of projected job growth and projected household growth by income level within each member jurisdiction during the planning period.

As described above, pursuant to Section 65584.04, SANDAG has been charged with developing the RHNA methodology in consultation with HCD. SANDAG has the discretion to develop this methodology so long as it meets all the procedural requirements under Section 65584, *et seq.*, and the methodology furthers the objectives in Section 65584(d) as ultimately determined by HCD. In compliance with the RHNA statute, SANDAG carefully developed its methodology with input from HCD and local jurisdictions.

The City argues that "[t]he employment data SANDAG used is inconsistent with data available by and from other jurisdictions to verify its accuracy and is even inconsistent with numbers shared by SANDAG staff." (City's Appeal, p. 2). It is unclear which jurisdictional data or SANDAG numbers the City is referring to.

The City also asserts that "[f]ailure to use independently verifiable jobs data sources and failure to allow each jurisdiction to understand how these numbers were generated or selected was arbitrary and without adequate support in facts." (City's Appeal, p. 2).

In fact, SANDAG performed extensive stakeholder outreach in defining the data sources available during the development of the methodology to ensure adequate opportunity for jurisdictions to comment. SANDAG made multiple presentations on the jobs data and sources , including presentations at the following public meetings:

- April 3, 2019, TWG Meeting
- April 26, 2019, RHNA Subcommittee Meeting
- May 9, 2019, TWG Meeting
- June 6, 2019, TWG Meeting
- May 24, 2019, RHNA Subcommittee Meeting

Additionally, SANDAG staff responded to the individual questions asked by jurisdiction staff about jobs data and data sources. SANDAG also presented the jobs data at city council meetings upon request. SANDAG included information about underlying data and assumptions used in the methodology in a Frequently Asked Questions document as well as the Draft Methodology document, which were both made available online.

The data source for the jobs component of the methodology is the SANDAG Employment Estimates, which are also being used to develop the latest Regional Growth Forecast. SANDAG Employment Estimates are derived from Quarterly Census of Employment and Wages (QCEW) data from the Economic Development Department (EDD) and the Longitudinal Employer-Household Dynamics Origin-Destination Employment Statistics (LODES) data from the Center for Economic Studies at the U.S. Census Bureau.

The LODES data combines federal, state, and Census Bureau survey data on employers and employees and SANDAG uses the QCEW dataset for its detailed geographic information on businesses to geolocate "job spaces" throughout the region. The LODES data (average of the last five years), which are available at the census block level, are used to fill the job spaces to determine total jobs within various geographies. SANDAG Employment Estimates are also supplemented by other data sources including the San Diego Military Advisory Council (SDMAC) and Defense Manpower Data Center (DMDC). Finally, the jobs data are validated against published job totals for the County from the EDD Labor Market Information's yearly data.

Importantly, the City has failed to submit with its appeal a specific revision to the allocation or any supporting documentation or alternative data concerning the jobs component. Because a specific revision was not requested and no documentation was submitted, SANDAG cannot determine whether this request is based on comparable data for all affected jurisdictions and accepted planning methodology, and cannot determine whether the revision is necessary to further the statutory objectives.

2. Section 65584.04(e)(2): Opportunities and Constraints to Development

The City argues that the draft allocation fails to adequately account for the amount of land available for development in a jurisdiction. The City asserts that the lot size of the available land in the City averages less than the HCD-preferred one- to ten-acre lot size for residential development. However, SANDAG "may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under the alternative zoning ordinances and land use restrictions." (See Section 65584.04 (e)(2)(B)). In fact, HCD noted in its letter dated November 1, 2019, that "[p]articularly relevant to supporting infill development and climate change goals is the fact that this methodology does not consider land capacity or vacant land as a determinant of RHNA, and instead focuses on where housing is needed to encourage transit ridership and reduced commutes." With respect to specific lot sizes of parcels, this is not a factor for consideration in determining the regional housing need allocation under state law. Jurisdictions must work closely with HCD in updating their housing elements to address unique community characteristics. Based on the above, the facts raised by the City do not support this ground for appeal.

Nevertheless, SANDAG did specifically discuss the availability of land or jurisdictional capacity in development of the methodology at the following public meetings:

- April 3, 2019, TWG Meeting – Seven working group members and SANDAG staff discussed jurisdictional capacity at length
- April 26, 2019, RHNA Subcommittee Meeting – Five subcommittee members and an additional elected official participated in a discussion of the land availability and jurisdictional capacity. The RHNA Subcommittee received comments from four TWG working group members and one public member about land availability and jurisdictional capacity
- May 24, 2019, RHNA Subcommittee Meeting – One public speaker discussed land availability and jurisdictional capacity
- May 10, 2019, Board Meeting – In response to a question by a Board member, the Board received information from staff on the difference between the methodology used in the 5th Cycle, which considered a jurisdiction's capacity, and the approach taken in developing the methodology for the 6th Cycle, which does not consider a jurisdiction's capacity. Following receipt of this information, one Board member further discussed jurisdictional capacity

DRAFT

- June 27, 2019, TWG Meeting – Two working group members discussed jurisdictional capacity
- July 26, 2019, Board Meeting – Three public speakers and six Board members discussed land availability and jurisdictional capacity
- September 6, 2019, Board Meeting – Three public speakers and nine Board members discussed land availability and jurisdictional capacity.
- November 22, 2019, Board Meeting – One public speaker and five Board members discussed land availability and jurisdictional capacity. The Board rejected two motions that considered jurisdictional capacity among other revisions to the draft methodology.

Discussions around availability of land culminated in a proposal from the City for a small cities adjustment at the July 26, 2019, and September 6, 2019, meetings of the Board. Several SANDAG Board members requested staff apply a methodology that recognizes challenges for small cities by potentially reducing the number of housing units based on the population of the jurisdiction. The proposed small cities adjustment was considered in several comment letters during the public comment period and also discussed at the following public meetings:

(1) July 26, 2019, Board Meeting – Two board members discussed the potential for a small cities adjustment.
(2) September 6, 2019, Board Meeting – Eight board members discussed the potential for a small cities adjustment.

SANDAG staff also consulted with HCD[7] on the potential for small cities to receive a reduced allocation. HCD did not support an adjustment based on the population of a city rather than based on the objectives in state law. HCD's position was reported to the Board at its September 6, 2019, meeting. Ultimately, the Board voted not to include the small cities adjustment in the final RHNA methodology.

The City also asserts that SANDAG did not adequately consider the City's small jurisdictional size or the restrictions imposed by the Coastal Act. As mentioned above, SANDAG "may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under the alternative zoning ordinances and land use restrictions." (*See* Section 65584.04 (e)(2)(B)).

Additionally, the Coastal Commission recently commented on a similar statement from another jurisdiction in the San Diego Union Tribune[8]:

> In a statement, Coastal Commission Executive Director Jack Ainsworth said that while there are some constraints in the coastal zone related to increases in housing density around areas vulnerable to sea level rise and erosion, that doesn't mean that there are not areas within the coastal zone where significant increases in housing density are possible.

[7] Section 65584.04(h) states that the methodology must be published on SANDAG's website and submitted to HCD after making revisions resulting from comments received during the public comment period and "as a result of consultation with [HCD]."
[8] "San Diego County cities push back on state-mandated housing goals." San Diego Union Tribune, January 14, 2020 (https://www.sandiegouniontribune.com/business/growth-development/story/2020-01-14/sandag-housing).

> "To make a blanket statement that the Coastal Commission would not approve increases in housing density is simply not accurate," he wrote. "Over the past year or so, the Commission has demonstrated our commitment to increasing housing density through individual permitting actions and our local coastal program planning efforts with local governments."

While the legislative priorities under the Coastal Act may be different from the state law governing RHNA, this can be said about other statutory schemes affecting local land use. Consistent with past cycles of RHNA, a jurisdiction wholly or partly in the coastal zone must work with the Coastal Commission when updating the housing element in its general plan.

Finally, the City has failed to submit a specific revision to the allocation based on their Local Coastal Program. Because a specific revision was not submitted, SANDAG cannot determine whether this request is based on comparable data for all affected jurisdictions and accepted planning methodology, or whether the revision would be necessary to further the intent of the statutory objectives.

3. Section 65584.04(e)(3): Public Transportation and Existing Transportation Infrastructure

Section 65584.04(e)(3) states:

> To the extent that sufficient data is available from local governments pursuant to subdivision (b) or other sources, each council of governments, or delegate subregion as applicable, shall include the following factors to develop the methodology that allocates regional housing needs:
>
> (3) The distribution of household growth assumed for purposes of a comparable period of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure.

The City argues that SANDAG did not adequately consider a broader population and geographic area served by rail stations; however, the area surrounding rail stations was discussed at the following public meetings:

- April 3, 2019, TWG Meeting – One working group member commented that there should be consideration of building capacity around rail stations; two working group members state that they don't support using existing capacities of any kind. In total, seven working group members and SANDAG staff discussed jurisdictional capacity at length.
- April 26, 2019, RHNA Subcommittee Meeting – Five subcommittee members and an additional elected official participated in a discussion of the land availability and jurisdictional capacity. The Subcommittee received comments from four TWG working group members and one public member about land availability and jurisdictional capacity. One of these comments included consideration of building capacity around rail stations
- May 24, 2019, RHNA Subcommittee Meeting – One public speaker discussed land availability and jurisdictional capacity.
- May 10, 2019, Board Meeting – In response to a question by a Board member, the Board received information from staff on the difference between the methodology used in the 5th Cycle RHNA, which considered a jurisdiction's capacity, and the approach taken in developing the methodology for the 6th Cycle, which does not consider a jurisdiction's capacity. Following receipt of this information, one Board member discussed jurisdictional capacity.

DRAFT

- June 27, 2019, TWG Meeting – Two working group members discussed jurisdictional capacity.
- July 26, 2019, Board Meeting – One Board member commented that there is no capacity to build around one of the trolley stations in their jurisdiction; another Board member commented that the train station in their jurisdiction serves four jurisdictions. In total, three public speakers and six Board members discussed land availability and jurisdictional capacity in general.
- September 6, 2019, Board Meeting – One Board member discussed the area surrounding rail stations. Three public speakers and nine Board members discussed land availability and jurisdictional capacity in general.
- November 22, 2019, Board Meeting – One public speaker and five Board members discussed land availability and jurisdictional capacity. The Board rejected two motions that considered jurisdictional capacity among other revisions to the draft methodology.

In considering the land surrounding a rail station, *Rapid* station, or major transit stop, the discussion at the above public meetings revolved around existing land use restrictions and jurisdictions' ability to build within any radius or shed identified around the station. However, SANDAG "may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under the alternative zoning ordinances and land use restrictions." *See* Section 65584.04 (e)(2)(B). For this reason, information regarding the area surrounding rail and *Rapid* stations and major transit stops, after being considered at multiple public meetings, was not ultimately incorporated into the methodology.

In addition, the Board considered several comments received during the draft methodology public comment period discussing the same topic, including an August 8, 2019, letter from the City. In its letter, the City cites the same 2018 NCTD COASTER Survey described in its appeal, but also notes that only 42% of COASTER passengers reported traveling by car to the COASTER Station, while 13% reported traveling by rideshare or taxi and 7% by carpool or vanpool. This leaves 38% of the passengers without a known mode of travel. However, in calculating the distances cited in its appeal, the City makes an assumption that "the passengers' average travel speed to the COASTER Station was 10 miles per hour." The City does not present data/ evidence to support this assumption. As such, SANDAG cannot determine whether the analysis presented is based on accepted planning methodology.

Finally, the City has failed to submit a specific revision to the allocation concerning the area surrounding transit and rail stations. Because a specific revision was not requested, SANDAG cannot determine whether the revision is necessary to further the statutory objectives.

4. Section 65584.04(e)(9): Housing Needs of Universities and Colleges

Section 65584.04(e)(9) states:

> (e) To the extent that sufficient data is available from local governments pursuant to subdivision (b) or other sources, each council of governments, or delegate subregion as applicable, shall include the following factors to develop the methodology that allocates regional housing needs:
>
> . . .

DRAFT

> (9) The housing needs generated by the presence of a private university or a campus of the California State University or the University of California within any member jurisdiction.

The City asserts that SANDAG did not adequately consider this factor and assumed that transit "would somehow automatically cover the housing needs of campuses." (City's Appeal, p. 5). However, the major universities and colleges in the region are also key employers. Therefore, jobs associated with those institutions are specifically considered in the methodology. Additionally, the major universities and community colleges in the San Diego region are in fact located in urban areas served by the existing transportation network. Prioritizing transit in the methodology encourages housing development near existing transit facilities serving these key destinations. As such, both the transit and jobs components address the housing needs generated by students, faculty, and staff at private universities and campuses of the California State University or the University of California within each affected jurisdiction.

Importantly, the City has failed to submit a specific revision to the allocation or any supporting documentation or alternative data concerning the housing needs of universities and colleges within the region. Because a specific revision was not requested and no documentation was submitted, SANDAG cannot determine whether this request is based on comparable data for all affected jurisdictions and accepted planning methodology, and cannot determine whether the revision is necessary to further the statutory objectives.

5. Section 65584.04(e)(8): Housing Needs of Farmworkers

The City argues that the housing needs of farmworkers were "completely ignored" (City's Appeal, p. 5). This is false. The final methodology accounts for all jobs in the region, farmworker jobs included, in allocating the regional housing needs. Notwithstanding, the City has failed to submit a specific revision to the allocation or any supporting documentation or alternative data concerning the housing needs of farmworkers within the region. Because a specific revision was not requested and no documentation was submitted, SANDAG cannot determine whether this request is based on comparable data for all affected jurisdictions and accepted planning methodology, and cannot determine whether the revision is necessary to further the statutory objectives.

6. Section 65584.04(e)(12): The Region's Greenhouse Gas Emissions Targets

The City argues that information related to the region's greenhouse gas (GHG) emissions targets provided by the California Air Resource's Board (CARB) has not been adequately considered. In late 2017, CARB published California's 2017 Climate Change Scoping Plan (Scoping Plan) which proposes to strengthen major programs related to climate impacts and further integrate efforts to reduce both GHG emissions and air pollution. Building on Senate Bill 743, the Scoping Plan outlines high-level objectives and goals to reduce GHG emissions in the transportation sector, including land use changes and reduction in vehicle miles traveled (VMT). The Scoping Plan notes:

> "While most of the GHG reductions from the transportation sector in this Scoping Plan will come from technologies and low carbon fuels, a reduction in the growth of VMT is also needed. *VMT reductions are necessary to achieve the 2030 target and must be part of any strategy evaluated in this Plan.* Stronger SB 375 GHG reduction targets will enable the State to make significant progress toward this goal, but alone will not provide all of the VMT growth reductions that will be needed. There is a gap between what SB 375 can provide and what is needed to meet the State's 2030 and 2050 goals" (Scoping Plan, p. 75).

CARB's discussion addresses land use patterns and secondary emissions caused by the vehicle manufacturing industry, demand for new infrastructure, and demand for maintenance and upkeep of existing infrastructure related to population growth:

> "As California's population continues to increase, land use patterns will directly impact GHG emissions from the transportation sector, as well as those associated with the conversion and development of previously undeveloped land. Specifically, where and how the State population grows will have implications on distances traveled and tailpipe emissions; as well as on secondary emissions from the transportation sector, including emissions from vehicle manufacturing and distribution, fuel refining and distribution, demand for new infrastructure (including roads, transit, and active transportation infrastructure), demand for maintenance and upkeep of existing infrastructure. Conversion of natural and working lands further affects emissions, with the attendant impacts to food security, watershed health, and ecosystems. Less dense development also demands higher energy and water use. With the exception of VMT reductions, none of these secondary emissions are currently accounted for in the GHG models used in this Scoping Plan, but are nonetheless important considerations. Additionally, compact, lower-VMT future development patterns are essential to achieving public health, equity, economic, and conservation goals, which are also not modeled but are important co-benefits of the overall transportation sector strategy. For example, high-speed rail station locations were identified in downtown areas to reinforce existing city centers" (Scoping Plan, p. 77).

Among CARB's Vibrant Communities and Landscapes / VMT Reduction Goals identified to reduce GHG emissions from the transportation sector are the following:

- Promote all feasible policies to reduce VMT, including:
  - Land use and community design that reduce VMT,
  - Transit oriented development,
  - Complete street design policies that prioritize transit, biking, and walking, and
  - Increasing low carbon mobility choices, including improved access to viable and affordable public transportation and active transportation opportunities.
- Increase the number, safety, connectivity, and attractiveness of biking and walking facilities to increase use.
- Promote shared-use mobility, such as bike sharing, car sharing and ride-sourcing services to bridge the "first mile, last mile" gap between commuters' transit stops and their destinations.
- Continue research and development on transportation system infrastructure, including:
  - Integrate frameworks for lifecycle analysis of GHG emissions with life-cycle costs for pavement and large infrastructure projects, and
  - Health benefits and costs savings from shifting from driving to walking, bicycling, and transit use.
- Quadruple the proportion of trips taken by foot by 2030 (from a baseline of the 2010–2012 California Household Travel Survey).
- Strive for a nine-fold increase in the proportion of trips taken by bicycle by 2030 (from a baseline of the 2010–2012 California Household Travel Survey).
- Strive, in passenger rail hubs, for a transit mode share of between 10 percent and 50 percent, and for a walk and bike mode share of between 10 percent and 15 percent (Scoping Plan, p.76).

DRAFT

The Scoping Plan goes on to state that "compact, lower-VMT future development patterns are essential to achieving public health, equity, economic, and conservation goals, which are [] not modeled but are important co-benefits of the overall transportation sector strategy" (Scoping Plan, p. 77). Because the draft allocation encourages the development of housing near jobs and transit, it will provide the region's residents with opportunities to live where they work and readily access transit, which can facilitate shorter commutes, reduce vehicle miles traveled, and increase trip-taking by transit or alternative modes.

Furthermore, while the City has presented some 2010 Census data, the City has failed to submit a specific revision to the allocation or any supporting documentation or alternative data concerning GHG emissions targets. Because a specific revision was not requested and no documentation was submitted, SANDAG cannot determine whether this request is based on comparable data for all affected jurisdictions and accepted planning methodology, and cannot determine whether the revision is necessary to further the statutory objectives.

B. Statutory Objectives in Section 65584(d)

1. Section 65584(d)(1): Increase Housing Supply

Section 65584(d)(1) states:

> The regional housing needs allocation plan shall further all of the following objectives:
>
> (1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households.

In its appeal, the City notes that the methodology does not consider "financial viability" of land and states that "financial assistance is severely lacking to assist cities in offsetting development costs" (City Appeal, p. 7). Neither financial viability of land nor financial assistance are factors for consideration in allocating the regional housing need under state law. In fact, in 2018 state legislation removed "[t]he market demand for housing" as a factor for consideration, and beginning in 2018, HCD introduced state funding programs to assist local jurisdictions with housing production in recognition of challenges arising from the statewide housing crisis. Notwithstanding, the economic arguments raised by the City do not support a ground for appeal.

Consistent with this statutory objective, the draft allocation distributes housing units in all four income categories to each of the region's 19 jurisdictions. The draft allocation does so equitably, ensuring each jurisdiction receives an allocation for low- and very low income units, and further, allocating a higher share of low- and very low income units to jurisdictions that currently have a smaller share of low- and very low income households than the regional share. Because state law requires jurisdictions to zone at higher densities to accommodate their low- and very low income housing allocations, the mix of housing types will also increase.

2. Section 65584(d)(2): Promote Infill Development

Section 65584(d)(2) requires that the RHNA Plan further the following objective:

> (2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas

DRAFT

> reductions targets provided by the State Air Resources Board pursuant to Section 65080.

The City argues that the draft allocation would require violation of the Coastal Act. As mentioned above, Coastal Commission Executive Director Jack Ainsworth was recently quoted in a Union Tribune article stating that "[o]ver the past year or so, the Commission has demonstrated our commitment to increasing housing density through individual permitting actions and our local coastal program planning efforts with local governments." As such, it is unclear how the draft allocation would require the City to violate the Coastal Act.

Also, SANDAG "may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under the alternative zoning ordinances and land use restrictions." (*See* Section 65584.04 (e)(2)(B)). And as described above, HCD noted in its letter dated November 1, 2019 (p. 1-2) that "[p]articularly relevant to supporting infill development and climate change goals is the fact that this methodology does not consider land capacity or vacant land as a determinant of RHNA, and instead focuses on where housing is needed to encourage transit ridership and reduced commutes."

The City also argues that the draft allocation fails to promote infill development because "[u]nits should be allocated to jurisdictions that are not overly built out." (City's Appeal, p. 8). It asserts that "[b]y failing to consider the City's inability to absorb the units it was allocated, the allocation is flawed." (City's Appeal, p. 8). Again, SANDAG "may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under the alternative zoning ordinances and land use restrictions." *See* Section 65584.04 (e)(2)(B). To the extent the City may be referring to the 5th Cycle RHNA methodology, which was based on general plan capacities, it is important to note that the 6th Cycle used a completely different methodology. The 6th Cycle methodology and its draft allocation address the statutory objectives set forth by the Legislature by encouraging housing development near jobs and transit, which will provide the region's residents with opportunities to live where they work and readily access transit.

Consistent with this statutory objective, by prioritizing transit (and jobs), the methodology encourages efficient development patterns and reduces GHG emissions. An allocation based on transit and jobs will lead to more infill development while protecting natural resources and open space (*See* Final Methodology, p. 11). Additionally, placing residents near jobs and transit is consistent with CARB's identified policy goals and guidance detailed in the CARB's Scoping Plan, which is discussed in more detail above.

3. Section 65584(d)(3): Promote Jobs Housing Relationship

Section 65584(d)(3) requires that the regional housing needs allocation plan further the following objective:

> (3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.

The City argues that the draft allocation undermines this statutory objective because "the methodology fails to include the number of low-wage jobs in a jurisdiction and compare it to the ratio of low-wage housing." The statutory objective does not require this. In developing the

methodology, SANDAG conducted an analysis of the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction. The analysis showed that the number of low-wage jobs far exceeds the number of existing housing units affordable to low-wage workers in every jurisdiction in the region. Therefore, allocation of low and very low income housing units to all jurisdictions in the region would improve the balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers consistent with this statutory objective.

In addition, the City questions the percentages given as weighting to the jobs and transit components of the methodology and asserts that "the percentages appear to have been taken out of thin air" (City's Appeal, p. 9). However, members of the Board, the RHNA Subcommittee and the TWG participated in substantive discussion considering the relative weighting of jobs compared to transit at the following public meetings:

- April 3, 2019, TWG Meeting – Working group members and public attendees broke out into small groups and used laptops provided by staff to test different weightings of the components in the methodology. Following the breakout, two working group members specifically discussed giving equal or greater weight to the jobs component.
- April 26, 2019, RHNA Subcommittee Meeting – Six subcommittee members and an additional elected official participated in a discussion of the relative weighting of the jobs and transit component. The Subcommittee received comments from three TWG working group members about the relative weighting of the jobs and transit component. These comments were included in the meeting agenda and discussed aloud at the meeting.
- May 9, 2019, TWG Meeting - Three working group members discussed the relative weighting of the jobs and transit component.
- May 24, 2019, RHNA Subcommittee Meeting – One public speaker discussed the relative weighting of the jobs and transit component.
- June 6, 2019, TWG Meeting – Four working group members discussed the relative weighting of the jobs and transit component.
- June 27, 2019, TWG Meeting – One working group member discussed the relative weighting of the jobs and transit component.
- July 26, 2019, Board Meeting – One public speaker and two Board members discussed the relative weighting of the jobs and transit component. These two Board members requested that staff provide information on an estimated allocation based on equal weighting (50-50) to the transit and jobs component. This supplemental information was provided directly to the Board and made available on the SANDAG website.
- September 6, 2019, Board Meeting – Four public speakers and three Board members discussed the relative weighting of the jobs and transit component.

Again, the City has failed to submit with its appeal a specific revision to the allocation or any supporting documentation or alternative data concerning the jobs component or its weighting. Because a specific revision was not requested and no documentation was submitted, SANDAG cannot determine whether this request is based on comparable data for all affected jurisdictions and accepted planning methodology, and cannot determine whether the revision is necessary to further the statutory objectives.

DRAFT

The City also questions the priority given to rail and *Rapid* stations over major transit stops, and asserts that the methodology should assign housing units based on all bus stops[9] in the region, rather than major transit stops. The weighting of the transit subcomponents and the use of major transit stops as one of the subcomponents was not arbitrary; it is the direct result of substantive consideration at the following public meetings:

- March 22, 2019, RHNA Subcommittee Meeting – Five subcommittee members discussed definitions used in the transit component and the relative weighting of the transit subcomponents for nearly 1 hour
- April 3, 2019, TWG Meeting – Three working group member discussed definitions used in the transit component and the weighting of the transit subcomponents
- April 26, 2019, RHNA Subcommittee Meeting – Four subcommittee members discussed definitions used in the transit component. The Subcommittee received comments from three TWG working group members about the relative weighting of the transit subcomponents – one of these comments specifically discusses giving equal weight to the transit subcomponents. These comments were included in the meeting agenda and discussed aloud at the meeting.
- May 24, 2019, RHNA Subcommittee Meeting – Three subcommittee members discussed definitions used in the transit component
- June 6, 2019, TWG Meeting – Three working group member discussed definitions used in the transit component and one working group member discussed the relative weighting of the transit subcomponents
- June 27, 2019, TWG Meeting – Three working group member discussed definitions used in the transit component
- July 26, 2019, Board Meeting – Two public speakers and four Board members discussed definitions used in the transit component
- September 6, 2019, Board Meeting – Three public speakers and three Board members discussed definitions used in the transit component. The Board rejected a motion to exchange the major transit stops dataset used in the draft methodology with the high-frequency transit dataset.

Ultimately, rail and *Rapid* stations were more heavily weighted to reflect the significant investment the region has made to build and improve rail lines and *Rapid* routes, as well as the permanency of rail lines and *Rapid* routes relative to local bus service. Additionally, rail and *Rapid* routes have higher capacities and are among the more popular transportation services in the region.

Moreover, state law incentivizes development near a major transit stop by providing a qualifying project with the option for CEQA streamlining.[10] Contrary to the City's claim, projects near major transit stops are specifically encouraged as infill opportunities. This distinguishes major transit stops from other definitions of transit in a way that furthers the statutory objective to promote

[9] The City states that "minimizing changes in MTS locations would also help the region achieve GHG emission targets" (City's Appeal, p. 9). It is important to note that the Metropolitan Transit System (MTS) has a robust process for evaluating and adjusting existing transit services to improve performance. Specific to major service changes, including the significant realignment of a route, changes in scheduled headways, and subarea restructuring, MTS requires a public hearing and a Title VI analysis prior to the MTS Board of Directors making a final implementation decision. *See* MTS Policies and Procedures, No. 42 (https://www.sdmts.com/sites/default/files/policy.42.transit_service_eval_and_adjustment.pdf).

[10] Public Resources Code 21099 and California Code of Regulations 15064.3(b)(1), 15182(b)(1)(A), and Appendix M.

infill development and was a primary reason in recommending the use of major transit stops to the Board.

The City eventually states that a "better" regional balance could be achieved by allocating units in the transit component based on all bus stops, or alternatively, by 50% of the units being allocated to rail and *Rapid* and 50% to major transit stops. Its appeal, however, fails to demonstrate how either approach would be necessary to further the intent of the statutory objectives.

C. Significant and Unforeseen Change in Circumstances

The City also submitted letters during the comment period requesting that SANDAG consider a new California Department of Finance (DOF) population projection released in January 2020. A prior DOF population projection was used by HCD in developing the RHNA Determination. On February 6, 2020, SANDAG staff discussed the new DOF population projection with HCD to determine how it might affect the 6th Cycle RHNA. HCD stated that the RHNA statutes do not provide a process for revising a RHNA Determination once it is final. Section 65584.01(a) provides that "[t]he department's determination shall be based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments." The final RHNA Determination is produced by HCD based on the data available during the consultation process pursuant to Section 65584.01 and is not revised for either increased or decreased population estimates subsequently released. As such, SANDAG finds that the new DOF population projection does not constitute a "significant or unforeseen change in circumstances [that] has occurred in the local jurisdiction or jurisdictions . . ." *See* Section 65584.05(b)(3).

V. Conclusion

The City requests that SANDAG modify the draft allocation by reducing the allocation by 55% for small jurisdictions and reallocating those units to those jurisdictions whose proposed allocation is less than the Cycle 5 RHNA allocation[11]. While not specifically included in the paragraph titled "Solana Beach's Request for Modified Allocations" on page 10 of City's appeal, SANDAG also has considered City's requests to (a) adjust the allocation based on different jobs data or different jobs component weighting, (b) adjust the allocation based on a transit shed around train stations in the region, (c) adjust the allocation in the transit component based on all bus stops, or alternatively, by 50% of the units being allocated to rail and *Rapid* and 50% to major transit stops, (d) adjust the allocation to accommodate the City's existing zoning and Local Coastal Program, (e) adjust the allocation to accommodate units for cities with college and university campuses, and (f) adjust the allocation to accommodate units for cities with farmworker jobs.

Based on the discussion above, SANDAG finds that the revisions requested are not necessary to further the objectives listed in Section 65584(d) and rejects the requests for a revised share of the regional housing need in the City's appeal.

[11] It is important to note that Section 65584.04(g) prohibits SANDAG from considering prior underproduction of housing in a city or county from the previous regional housing need allocation in determining a jurisdiction's share of the regional housing need.

EXHIBIT P

JURISDICTION	VOTE	TALLY
Carlsbad	Yes	1
Chula Vista	Yes	1
Coronado	No	
County A	No	
Del Mar	Yes	1
El Cajon		
Encinitas	Yes	1
Escondido	No	
Imperial Beach	No	
La Mesa	No	
Lemon Grove	No	
National City	Yes	1
Oceanside	No	
Poway	No	
San Diego A	Yes	1
San Marcos	No	
Santee	No	
Solana Beach	No	
Vista	No	

Item 13
Issue the Proposed Final RHNA Plan

Action: APPROVE

Fail

	TALLY
	6
% Yes	33.33%
% No	66.67%

JURISDICTION	VOTE	WEIGHT
Carlsbad	Yes	3
Chula Vista	Yes	8
Coronado	No	
County A	No	
County B	No	
Del Mar	Yes	1
El Cajon		
Encinitas	Yes	2
Escondido	No	
Imperial Beach	No	
La Mesa	No	
Lemon Grove	No	
National City	Yes	2
Oceanside	No	
Poway	No	
San Diego A	Yes	21
San Diego B	Yes	21
San Marcos	No	
Santee	No	
Solana Beach	No	
Vista	No	

Item 13

Issue the Proposed Final RHNA Plan

****weighted vote****

Action: APPROVE

Pass

Jurisdiction Voting Yes: 6

WEIGHT

58

JURISDICTION	VOTE	TALLY
Carlsbad	No	
Chula Vista	Yes	1
Coronado	No	
County A	No	
Del Mar	Yes	1
El Cajon		
Encinitas	Yes	1
Escondido	No	
Imperial Beach	No	
La Mesa	No	
Lemon Grove	No	
National City	Yes	1
Oceanside	No	
Poway	No	
San Diego A	Yes	1
San Marcos	No	
Santee	No	
Solana Beach	No	
Vista	No	

Substitute Motion
Adopt the Staff Recommendation Draft Determinations Modifying the City of Coronado Appeal, and Rejecting the Appeals from the Cities of Imperial Beach, Lemon Grove and Solana Beach

Action: APPROVE

Fail

	TALLY
	5
% Yes	27.78%
% No	72.22%

0189

JURISDICTION	VOTE	WEIGHT
Carlsbad	No	
Chula Vista	Yes	8
Coronado	No	
County A	No	
County B	No	
Del Mar	Yes	1
El Cajon		
Encinitas	Yes	2
Escondido	No	
Imperial Beach	No	
La Mesa	No	
Lemon Grove	No	
National City	Yes	2
Oceanside	No	
Poway	No	
San Diego A	Yes	21
San Diego B	Yes	21
San Marcos	No	
Santee	No	
Solana Beach	No	
Vista	No	

Substitute Motion
Adopt the Staff Recommendation Draft Determinations Modifying the City of Coronado Appeal, and Rejecting the Appeals from the Cities of Imperial Beach, Lemon Grove and Solana Beach
****weighted vote****

Action: APPROVE

Pass

Jurisdiction Voting Yes: 5

WEIGHT

55

EXHIBIT Q

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT
2020 W. El Camino Ave
Sacramento, CA 95833-1829
(916) 263-2911 FAX: (916) 263-7453
www.hcd.ca.gov

July 21, 2020

Hasan Ikhrata, Executive Director
San Diego Association of Governments
401 B Street, Suite 800
San Diego, CA 92101

Dear Hasan Ikhrata:

RE: Review of Adopted 2021-2029 Regional Housing Need Allocation (RHNA) Plan

Thank you for submitting the adopted San Diego Association of Governments (SANDAG) Sixth Cycle Regional Housing Need Allocation (RHNA) Plan. Pursuant to Government Code Section 65584.05(g), the California Department of Housing and Community Development (HCD) is required to review RHNA plans for consistency with statutory requirements.

HCD completed its review and is pleased to approve SANDAG's adopted RHNA Plan, upon finding it consistent with HCD's July 5, 2018 RHNA determination of 171,685 housing unit need. Please distribute the RHNA Plan to inform all local governments of their share of new housing need to address their sixth cycle housing elements, due by April 15, 2021. In updating their housing elements, local governments may take RHNA credit for new units approved, permitted, and/or built since the start date of the RHNA projection period, June 30, 2020.

HCD is committed to assisting SANDAG's local governments prepare and implement updated housing elements to effectively address the region's housing need. Increasing the availability of affordable homes, ending homelessness, and meeting other housing goals continues to be a priority for the State of California.

To further these efforts, the 2019-20 Budget Act allocated $250 million for all regions and jurisdictions for planning activities through the Regional Early Action Planning (REAP) and Local Early Action Planning (LEAP) grant programs. SANDAG has $6,851,680 available through the REAP program and HCD applauds SANDAG's efforts to engage early on how best to utilize these funds and HCD looks forward to continuing this collaboration. All SANDAG jurisdictions are also eligible for LEAP grants and are encouraged to apply to support meeting and exceeding sixth cycle housing element goals. The deadline for that program was recently extended to January 31, 2021 so there is still time to apply and work

with HCD on an application. For more information, please contact HCD at *EarlyActionPlanning@hcd.ca.gov*. While the SB 2 Planning Grant deadline has passed, ongoing regionally tailored technical assistance is still available through that program as well.

HCD applauds SANDAG's completion of the RHNA allocation process and we look forward to continued partnership with SANDAG and its member jurisdictions to assist with planning efforts to accommodate the region's share of housing need.

If HCD can provide any additional assistance, or if you, or your staff, have any questions, please email me at *megan.kirkeby@hcd.ca.gov*; or Tom Brinkhuis, Housing Policy Specialist, at *tom.brinkhuis@hcd.ca.gov*.

Sincerely,



Megan Kirkeby
Acting Deputy Director