



**San Gabriel Valley Council of Governments
Capital Projects and Construction Committee**

Meeting Agenda

Monday, March 25, 2019 12:00PM

West Covina Community Center, 1st Floor

1444 West Garvey Avenue South, West Covina, CA 91791

Members of the public may comment on any item on the agenda at the time it is taken up by the Committee. We ask that members of the public come forward to be recognized by the Chair and keep their remarks brief. If several persons wish to address the Committee on a single item, the Chair may impose a three-minute time limit on individual remarks at the beginning of the discussion.

West Covina City Hall is accessible to persons using wheelchairs and with other disabilities. Informational material will be available in large print. Assistive listening devices, materials in other alternate formats, American Sign Language interpreters and other accommodations will be made available upon request. Requests should be made to Deanna Stanley at 626-962-9292 ext. 142 or dstanley@theaceproject.org
Providing at least 72-hour notice will help ensure availability.

- I. Pledge of Allegiance
- II. Roll Call and Introductions
- III. Public Comment
- IV. Approval of the Capital Projects and Construction Committee Meeting Minutes of February 25, 2019 Pages 1 – 4 Action
- V. Chairman’s Remarks
- VI. Member Comments
- VII. Chief Engineers Monthly Report Pages 5 – 6 Information
- VIII. Project Construction Progress Reports Information
- IX. Approval of Amendment No. 3 to the Waterline Relocation Agreement with Rowland Water District for the Fullerton Road Grade Separation Project Pages 7 – 9 Action

The SGVCOG’s Capital Project and Construction Committee consists of five (5) regional districts; Northeast, Southeast, Central, Southwest, Northwest, the County of Los Angeles and the San Gabriel Valley Council of Governments. Members of the former Alameda Corridor-East Construction Authority (ACE) Board shall maintain a seat on the Committee unless or until completion of all ACE Project(s) in their respective cities. Each member or alternate shall have one vote. A quorum is 50% of its membership. Action taken by the Committee shall be by simple majority of the members present. All disclosable public records related to this meeting are available at www.theaceproject.org and viewing at the Rivergrade Road office during normal business hours.

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| X. | Approval of Electrical Distribution Relocation Work Orders with Southern California Edison for the Durfee Avenue Grade Separation Project | Page 10 | Action |
| XI. | Presentation of Information on Quiet Zone Formation | Pages 11 – 12 | Action |
| XII. | Approval to Submit Section 190 Grant Application for Funds for the Fairway Drive, Fullerton Road and Durfee Avenue Grade Separation Projects | Pages 13 – 15 | Action |
| XIII. | Approval of Recommendation to SGVCOG Governing Board of Support Position for National Multimodal and Sustainable Freight Infrastructure Act | Pages 16 – 53 | Action |
| XIV. | Adjournment | | Action |



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SGVCOG Capital Projects & Construction Committee February 25, 2019 Meeting Minutes

Chair Muela called the meeting of the San Gabriel Valley Capital Projects and Construction Committee to order at 12:00 PM at the City of West Covina Community Center.

1. Pledge of Allegiance – Committee member Hilda Solis lead the pledge of allegiance.

2. Roll Call:

In attendance was:

Victoria Muela, Chair, El Monte
Tim Sandoval, Vice Chair, City of Pomona
Becky Shevlin, City of Monrovia
Cory Moss, City of Industry
Cynthia Sternquist, SGVCOG President
Hilda Solis, LA County Board of Supervisors
Jack Hadjinian, City of Montebello
Nancy Lyons, City of Diamond Bar
Diana Mahmud, South Pasadena
Tim Sandoval, City of Pomona

Staff:

Mark Christoffels, Chief Engineer
Gregory Murphy, Burke Williams & Sorensen, legal counsel
Deanna Stanley
Amy Hanson
Charles Tsang
Edward Villanueva
Paul Hubler

Guests:

Ricky Choi, Lee Andrews Group
Mark Mendoza, Paragon Partners
Ryan Leach, Gotcha Media Holdings, LLC
Charlie Nakamoto, Jacobs
Natasha De Benon, Ghirdelli Associates
Art Correa, LACDPW
Frank Lopez, Monterey Park
John Burton, LACDPW
Joshua Nelson, CNC Engineering

3. Public Comment – There were no public comments.

4. Approval of the Capital Projects & Construction Committee Meeting Minutes of January 28, 2019 – A motion was made by member Lyons to approve the minutes of January 28, 2019 and seconded by member Moss.

M/S/C/Lyons/Moss/Unanimous

Greg Murphy reviewed the requirements of the Brown Act and reminded the Committee that no actions should be taken on items not reflected on the published agenda. He indicated significant discussion was had at the prior meeting regarding a non-agendized item and discussions regarding non-agendized items should be brief and no directives or actions should be entertained during the brief discussion.

5. **Chairman Remarks** – Chair Muela indicated she attended her first Executive Committee meeting and she raised concerns about the Capital Projects Committee members travel to Washington, DC. She thanked staff for their support. She reminded the Committee of the upcoming Durfee Avenue grade separation groundbreaking ceremony. Chairperson also indicated there was a heightened interest in quiet zones in El Monte and suggested staff provide the Committee information at a future meeting.
6. **Member Comments** – Nancy Lyons and Cory Moss shared their excitement with the agreement the Cities of Industry, Diamond Bar and Chino Hills reached regarding the formation of the Tres Hermanos Ranch Conservancy.
7. **Chief Engineer’s Monthly Report** – Mr. Christoffels summarized his monthly report indicating it reflected all contractor change orders he approved over the past month under his authorization. He shared information on community outreach activities. He briefed the Committee an issue at the Fairway Drive project related to an unused spur track. He indicated the track has not been used since 2016, and previously serviced a warehousing business in the City of Industry. He indicated the Union Pacific Railroad has requested the project install a temporary track at this time when plans were to restore the permanent track closer toward the end of the project. He indicated installation of a temporary track was not in the plans and would be very costly. He reported that conversations would continue with the Union Pacific to try to resolve this matter. A question was raised about a \$441,996 change order reflected on the report. Mr. Christoffels indicated the costs were a result of unforeseen ground water contamination.
8. **Project Construction Progress Reports** – Charles Tsang, Senior Project Manager reviewed project progress photos for the Fairway Drive grade separation project. Mark Christoffels reviewed photos of progress for the Fullerton Road grade separation project.
9. **Approval of Revised Award of Contract with Gotcha Media Holdings, LLC for the San Gabriel Valley Bike Share Program** – Mr. Christoffels reminded the Committee that the prior procurement for the bikeshare program was revised which caused the process to be rebid. There were substantial changes to the program including requiring a docking system and that the bikes be battery-assisted. He indicated the grant will fund 15 cities and is in the amount of \$4.5M. He indicated Gotcha was selected and they would provide 840 bikes that were all pedal assisted. The Committee discussed the item at length. Member Mahmud asked several questions related to the contract including duration, requirements, indemnification, provisions. She indicated a preference that staff provide the Committee the actual contract when requesting the Committee for contract approvals. Mr. Christoffels indicated the contract was for three years and introduced Ryan Leach of Gotcha. Mr. Leach summarized Gotcha has been in business for 10 years and gave a brief background of the agency.

A motion was made by member Lyons and seconded by Chair Muela to approve the revised award of contract to Gotcha Media Holdings LLC for an amount not-to-exceed \$1,926,500 for the purchase of 840 e-bikes, additional parts, hubs, and related activities. Request a scope change from Caltrans and CTC to allow for the expansion of the regional bike share program to additional interested San Gabriel Valley communities and purchase of additional bicycles and hubs within the existing allocated grant funding amount of \$4,281,000.

M/S/C/Lyons/Muela/Unanimous

- 10. Approval of Amendment to Construction Management Services Contract with Jacobs Management Co for the San Gabriel Trench Project** – Mr. Christoffels indicated the San Gabriel Trench project was complete but there were open claims from Walsh Construction, the construction contractor of the project. Mr. Christoffels indicated if the claims are forced to extensive legal battles, the Capital Projects area will need assistance from Jacobs Management Co., the construction management firm that provided services during the project. He indicated the amount requested was not necessarily the cost the agency was expected to spend, nor would staff know if this effort would be needed at all but approval of the amendment would help staff be prepared should negotiations be unsuccessful.

A motion was made to by member Hadjinian and seconded by member Solis to authorize the Chief Engineer to amend the contract with Jacobs to add an amount of \$530,996 to Task Order No. 2 for construction management services associated with the San Gabriel Trench Project for a new not to exceed contract value of \$23,019,325.

M/S/C/Hadjinian/Solis/Unanimous

- 11. Approval to Receive and File Quarterly Financial, Audit, and Investment Reports** – Mr. Christoffels reported on the current projects progress and stages of construction. He highlighted the safety improvements underway in the City of Pomona, reporting the installation of pedestrian gates will be challenging due to right of way issues but the project was moving forward. He reported at the Fairway Drive project, anticipate \$30 million in excess properties that will be recorded until the funds are received.

A motion was made by member Mahmud and seconded by member Hepburn to receive and file the quarterly financial, audit, and investment reports.

M/S/C/Mahmud/Hepburn/Unanimous

- 12. Receive and File INFRA Grant Information** – Paul Hubler reviewed the INFRA grant program information. He indicated the SGVCOG was submitting an application with the Ports of Long Beach and Los Angeles for a total request of \$62.65 million. He indicated \$20 million was being sought for the Montebello Blvd. grade separation project. He reminded the committee that this program has been highly competitive and staff has previously submitted three applications that were not successful but is hopeful this year's application will be successful.

A motion was made by member Sternquist and seconded by Chair Muela to receive and file the INFRA Grant information.

M/S/C/Sternquist/Muela/Unanimous

- 13. Receive and File Current and Anticipated Projects** – Mr. Christoffels reviewed the existing capital projects and associated grant funding. He reminded the Committee that the funding was the driver for the level of staffing and that there are currently budgeted approximately 22 full time positions for the ACE projects. He indicated the ACE Program is expected to be wrapping up in 2023 but the SR 57/60 project would be the next major project expected to begin in FY 2025. The Committee discussed the need to use the expertise offered by the capital projects staff. He indicated that the SGVCOG will continue to offer capital projects and other services in the area of expertise that currently exist with the capital projects area.

A motion was made by member Mahmud and seconded by member Hadjinian to receive and file the current and anticipated projects report.

M/S/C/Mahmud/Hadjinian/Unanimous

- 14. Receive and File Clarification on Advocacy Travel Authorization for Committee Members** – Mr. Christoffels reviewed a summary of the Executive Committee's discussion regarding advocacy trips to Washington, DC and past travel practices of the ACE Board. He indicated Committee members may attend the annual trip if each member's City would absorb the cost. Member Hadjinian indicated the trips to Washington, DC were excellent learning opportunities for members. Mr. Christoffels reminded the Committee that other meetings may call for members' participation such as advocacy for support of the 57/60 project.

After discussion, a motion was made by member Lyons and seconded by member Hepburn to receive and file clarification on advocacy travel authorization for committee members.

M/S/C/Lyons/Hepburn/Unanimous

- 15. Adjournment** – The meeting was adjourned at 1:46PM. The next meeting will be held on March 25, 2019 at noon.

X 

Deanna Stanley
Committee Clerk



Memo to: Capital Projects and Construction Committee Members & Alternates

From: Mark Christoffels
Chief Engineer

Date: March 25, 2019

SUBJECT: Chief Engineer's Monthly Report

The following are items of note since the last meeting:

Freight Funding – Staff attended a funding program workshop convened by the California Transportation Commission on March 12 to seek stakeholder input as it considers programming five fiscal years of funding for key SB 1 discretionary grant programs. Of particular interest is the Trade Corridor Enhancement Program which provided funding in the initial round for the ACE, SR 71 and 57-60 projects, and which makes \$300 million available per year.

Support Services – Consistent public outreach and communication are critical to the success of any large-scale capital project. Since the formation of the ACE Project in 1999, ACE has contracted with the Lee Andrews Group and David Lang & Associates for public outreach, first as subconsultants to Bechtel-DMJM, which served as the project management firm for the project from 1999-2008, and then directly from 2008-present. Annual tasks orders were approved by the ACE Board (now Committee) as part of the annual budgeting process.

In 2017, the SGVCOG Governing Board approved an expansion of scope of ACE to become the Capital Projects and Construction Committee (CPCC) to allow it to manage a broader portfolio of capital projects. As a part of that process, staff determined the need to issue new solicitations for all ongoing professional services (e.g. public outreach, property acquisition and management, environmental clearance).

Staff anticipates completing the solicitation process for public outreach and communication by the end of FY 19-20. Given that a solicitation process has not occurred for these services since the beginning of the ACE Project, staff will be including in the scope of work the tasks associated with both the remaining ACE grade separations as well as other SGVCOG capital projects.

Contracting – The SGVCOG has delegated the Chief Engineer the authority to approve new contracts or change orders for previously approved contracts within certain limits, with a requirement that staff formally report such contract action. The following has been approved since the last Committee meeting:

Consultant/Vendor	Reason for Change	Change Amount	Total Contract Value
Walsh Construction	San Gabriel Trench Project - CCO#057: CN# 169 – Reimbursement for Radiograph Testing; CN# 170 – Unclassified Excavation; CN# 171 – Credit for Fencing at San Gabriel High School	(\$166,703.08)	\$170,745,841.70
Walsh Construction	San Gabriel Trench Project - CCO#058: CN# 120.1 – UPRR Track Soft Opening Celebration – Mission OH - Supplement	\$8,696.00	\$170,754,537.70
Walsh Construction	San Gabriel Trench Project - CCO#059: CN# 174 – Bid Item 16, 17, 117, 120 & 124 Changes	(\$402,902.86)	\$170,351,634.84
Walsh Construction	San Gabriel Trench Project - CCO#060: CN# 175 – DI-24: Decrease in Soil Disposal; CN# 176 - DI-27: Soil Removals; CN# 177 - DI-28: Trench Concrete Wall Finish Requirements; CN# 178 – Mediation Settlement Costs	\$2,311,280.00	\$172,662,914.84
OHL USA	Fairway Dr Grade Separation Project - CCO#017: CN# 036 – Asphalt Pavement Grind and Overlay on Lemon Avenue and Golden Springs Drive	\$233,843.05	\$106,656,267.75
Stantec	Budget Reallocation for FY2018-19 for ACE Grade Separation Projects	\$0.00	\$505,040.00
WSP	Fairway Drive Grade Separation Project Extend Task Order No. 4 term through August 31, 2019 for Construction of Cities of Industry and Diamond Bar Requested Betterments to State Route 60	\$0.00	\$1,292,120.00

Community Outreach Update – Staff conducted the following project outreach activities:

- Distributed construction alert notices regarding intermittent ramp and lane closures on State Route 60 between Fairway Dr and Lemon Avenue for the SR-60 Lemon Avenue Interchange project;
- Provided a presentation on community outreach procedures at a pre-construction conference for the Durfee Avenue project;
- Provided staff support for the Durfee Avenue project groundbreaking ceremony; and,
- Conducted ongoing community outreach and support activities for the Fairway Drive, Fullerton Road, Durfee Avenue, Turnull Canyon Road and Montebello Corridor grade separation projects.



MEMO TO: Capital Projects and Construction Committee Members & Alternates

FROM: Mark Christoffels
Chief Engineer

DATE: March 25, 2019

SUBJECT: Approval of Amendment No. 3 to the Waterline Relocation Agreement with Rowland Water District for the Fullerton Road Grade Separation Project.

RECOMMENDATION: Staff recommends that the Committee authorize the Chief Engineer to execute an Amendment to the Waterline Relocation Agreement with Rowland Water District for the design, construction and inspection of private water facilities as part of the Fullerton Road Grade Separation project for a total revised not to exceed amount of \$3,164,271.

BACKGROUND: The construction of the Fullerton Road grade separation project will impact existing water mains and service connections due to the project lowering streets adjacent to the railroad tracks. The Rowland Water District owns water lines within the streets that will be impacted by the project and several of the affected mains and service lines must be relocated in order to maintain service to the various customers.

To date the SGVCOG has approved an original agreement and two subsequent amendments with the Rowland Water District for a total amount not to exceed \$2,555,271 for the design, construction and inspection for relocation of these various waterlines. Reimbursement to Rowland Water District is to be based on actual expenditures after the relocation work is completed.

The City of Industry has requested additional betterment work for the reconstruction of the intersection of Fullerton Road and San Jose Avenue/Rowland Avenue which will affect existing water lines during the roadway reconstruction. SGVCOG will coordinate with the Rowland Water District to lower the affected waterlines. Additional actual expenditures, including 10% contingency, are in the amount of \$609,000. SGVCOG will amend the existing Betterment Agreement with the City of Industry to include this work.

BUDGET IMPACT: Funding for the Rowland Water District relocation work is betterment work on behalf of the City of Industry and will be paid using funding from the City of Industry.

ATTACHMENTS: Third Amendment to Joint Use Agreement and Agreement for Relocation of Waterlines

THIRD AMENDMENT TO JOINT USE AGREEMENT
AND AGREEMENT FOR RELOCATION OF WATERLINES

ALAMEDA CORRIDOR-EAST PROJECT
FULLERTON ROAD GRADE SEPARATION
(REFERENCE NO. 207.15-07)

THIS THIRD AMENDMENT is entered into on _____, 2019 by and between the SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS ("SGVCOG"), a joint powers agency, in furtherance of The ALAMEDA CORRIDOR-EAST PROJECT ("ACE"), and ROWLAND WATER DISTRICT, a county water district ("ROWLAND"), hereafter each identified as "Party" or jointly as "Parties".

RECITALS

- A. The Parties entered into a Joint Use Agreement and Agreement for Relocation of Waterlines dated May 10, 2016 for the relocation of waterlines ("Agreement").
- B. The Parties entered into the First Amendment to the Agreement on January 23, 2018 for the inclusion of additional work and modification of existing work.
- C. The Parties will enter into the Second Amendment to the Agreement on April 9, 2019 for the inclusion of additional work.
- D. The Parties desire to amend the Agreement to modify the Parties' obligations with respect to the increased scope of work on behalf of the City of Industry to be performed on portions of the water lines.

TERMS

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree to amend the Agreement as follows:

- 1. Amendment:

1.1.25 Job Number XXXX-XX Relocation of Waterline at Intersection of Fullerton Road and San Jose Avenue/Rowland Avenue

Added item 1: At the request of the City of Industry, the intersection of Fullerton Road and San Jose Avenue/Rowland Avenue will be reconstructed. The existing RWD facilities require relocation within the affected area. RWD will request W. A. Rasic Construction to perform said work based on a solution developed by RMC, SGVCOG and RWD. Note this work was not part of the original budget and is considered additional to our contract.

An overall budget increase, including 10% contingency, of \$609,000.00

Total of all change order requests listed above is \$ 609,000

2. Continuing Effect of Agreement. Except as amended by the Third Amendment, all other provisions of the Agreement remain in full force and effect. From and after the date of this Third Amendment, whenever the term “Agreement” appears in the Agreement, it shall mean the Agreement as amended by the Third Amendment.

3. Authority to enter into Third Amendment. Each Party represents to the other that the person executing this Third Amendment has the requisite power and authority to execute the Third Amendment and to bind each respective Party.

4. Execution in Counterparts. This Third Amendment may be executed in duplicate counterparts, each of which shall be deemed an original.

IN WITNESS WHEREOF, the Parties have duly executed this Third Amendment effective as of the date first written above.

ROWLAND WATER DISTRICT

**SAN GABRIEL VALLEY
COUNCIL OF GOVERNMENTS**

Tom Coleman, General Manager

Chief Engineer

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Joseph Byrne, Rowland Legal Counsel

SGVCOG General Counsel



MEMO TO: Capital Projects & Construction Committee Members and Alternates

FROM: Mark Christoffels
Chief Engineer

DATE: March 25, 2019

SUBJECT: Approval of Electrical Distribution Relocation Work Orders with Southern California Edison for the Durfee Avenue Grade Separation Project

RECOMMENDATION: Staff recommends that the Committee authorize the Chief Engineer to process Electrical Distribution Work Orders with Southern California Edison (SCE) for the design and construction of underground and aerial electrical facilities as part of the Durfee Avenue grade separation project.

BACKGROUND: The Durfee Avenue grade separation project requires the lowering of Durfee Avenue as well as modifications to streets intersecting Durfee Avenue in the vicinity of the rail road crossing. SCE owns electrical facilities within the areas affected by the project, including a substation, SCE telecom and distribution facilities. Several of the affected service lines must be relocated from their current location in order to maintain integrity to their system and to provide service to their various customers.

SCE has submitted to SGVCOG their estimate for the relocation work to be paid for by SGVCOG. Staff has reviewed the supporting documents and believes it is reasonable to proceed with the work orders for the portion of the relocation cost, as requested. The amount that SGVCOG would be responsible for is estimated at \$2,500,000. Final payment to SCE will be based on actual expenses incurred. To insure SGVCOG does not over compensate SCE, the utility will perform a final reconciliation at the end of their effort and gives SGVCOG the right to audit and verify the actual costs associated with this work.

BUDGET IMPACT: Funding for the Southern California Edison relocation work is budgeted and will be paid using Measure R funds.



Memo to: Capital Projects and Construction Committee Members & Alternates

From: Mark Christoffels
Chief Engineer

Date: March 25, 2019

SUBJECT: Quiet Zone Implementation

RECOMMENDATION: Receive and file a report on the steps required to establish a "quiet zone" in accordance with Federal Rail Regulations.

BACKGROUND: At the February 25, 2019 Capital Projects and Construction Committee, during the comment period by Committee Members, a request was made to have staff bring back a report on the steps required to establish a "quiet zone" in accordance with Federal Rail Regulations.

A typical quiet zone process consists of five common development phases including assessment, consensus, refinement, implementation and notification. Each step is briefly discussed below:

Assessment – Local agencies typically assess the feasibility of a quiet zone prior to commencing formal efforts to develop and implement a quiet zone. A quiet zone assessment determines the rail crossing improvements necessary to meet quiet zone eligibility in accordance with Federal Railroad Administration (FRA) guidelines. Improvements are evaluated based on two types of criteria, namely, FRA guidelines and local railroad "diagnostic" criteria which includes considerations such as adequate crossing protection, limited sight distance, trespassing, etc. The assessment outlines the necessary improvements including their cost and schedule for implementation.

Consensus – Following the determination that a quiet zone is feasible, a local agency may proceed to the next phase to obtain consensus by key stakeholders for the quiet zone project. The groups that commonly take part in this process are: local agencies, railroad entities, FRA, California Public Utilities Commission (CPUC) and the community. As part of this process, the lead agency (e.g., the City) meets with each stakeholder group to obtain feedback and verify that the quiet zone meets the necessary requirements. The schedule for implementation of the quiet zone is also presented to and confirmed by all entities. If the quiet zone project continues to be feasible, the lead agency submits the

formal notice of intent to the local railroad (e.g., Metrolink) as a formal commitment that a quiet zone will be developed.

Refinement – After consensus or consent is reached, the lead agency refines the original quiet zone assessment to include the input provided by the stakeholders groups involved in the consensus-building process. The end result is an updated list of improvements, refined cost and updated implementation schedule.

Implementation – The implementation of the proposed improvements consists of developing preliminary and final design plans, specifications and estimates for the proposed quiet zone related improvements. This step includes coordinating and processing the pertinent permits with local agencies and railroads as they apply. Licenses, easement and agreements are also prepared and finalized during this step. The final steps in this phase include advertising, bidding and construction activities. One key element of this phase will be to obtain an operating agreement with the railroad. This agreement typically requires the City to reimburse the railroad for ongoing maintenance costs and hold the railroad harmless should an accident occur. Also, consideration must be given to added exposure by a local agency, if any, and the possible need for higher insurance coverage to cover accidents.

Notification – At the completion of construction and verification that all improvements have been completed as required, the lead agency notifies the FRA and requests the FRA provide a 21-day notification to the local railroad to cease the routine blowing of horns at all crossings within the quiet zone. In response, the FRA notifies the local railroad(s) and requests that all horn blowing cease within 21-days. In reality the notification may take 1-2 months to allow railroad and CPUC to confirm the improvements.

The whole process can take up to three years to complete.

BUDGET REVIEW: For a single crossing, the estimated costs can run as high as \$1.2 million depending on the complexity. In addition to the initial construction cost, annual maintenance can run between \$25,000 to \$30,000 per year.

There currently is no source of grant funding for quiet zone implementation. Most agencies look for grant funding to construct crossing safety enhancements as a means to obtain the necessary improvements to allow for an application with the FRA for a quiet zone designation.



Memo to: Capital Projects and Construction Committee Members & Alternates

From: Mark Christoffels
Chief Engineer

Date: March 25, 2019

SUBJECT: Authorization to File Section 190 Grant Application for the Fairway Drive, Durfee Avenue and Fullerton Road grade separation projects

RECOMMENDATION: Staff recommends the Committee approve a Resolution (Attachment A) to authorize the filing of applications seeking Section 190 funds for the Fairway Drive, Durfee Avenue and Fullerton Road grade separation projects and the execution by the Chief Engineer of any and all agreements necessary if awarded funds.

BACKGROUND: The Section 190 Grade Separation Program is a competitive grant program that provides up to \$15 million each year to local agencies for the construction of grade separation projects to improve rail crossing safety and to reduce vehicle congestion at crossings. The program is jointly administered by the California Department of Transportation (Caltrans) and the California Public Utilities Commission (CPUC), which develops an annual priority list of grade separation projects based on applications submitted by local agencies. Out of 36 grade separation projects statewide included in the California Grade Separation Fund Priority List for Fiscal Year 2018-2019, the Fairway Drive project ranked no. 5, the Durfee Avenue project ranked no. 9 and the Fullerton Road project ranked no. 16.

Local agencies whose projects are included on the priority list may submit to Caltrans by no later than April 1, 2019 a request for an allocation of funds. Projects typically are awarded \$5 million. If awarded, SGVCOG will enter into funding agreements with Caltrans for reimbursement of costs to construct the grade separation. The program requires that applicants submit a resolution authorizing the filing of applications and which includes affirmative statements regarding the completion of all matters prerequisite to the awarding of a construction contract and that sufficient local funds will be made available as the work of the project progresses.

ATTACHMENTS: Resolution of the Capital Projects and Construction Committee of the San Gabriel Valley Council of Governments authorizing the filing of applications for Section 190 grade separations program funds

RESOLUTION NO. _____

**RESOLUTION OF THE CAPITAL PROJECTS AND CONSTRUCTION
COMMITTEE OF THE SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS
(SGVCOG) AUTHORIZING THE FILING OF APPLICATIONS FOR
SECTION 190 GRADE SEPARATION PROGRAM FUNDS**

WHEREAS, the Section 190 Grade Separation Program is authorized by Section 190 of the California Streets and Highways Code and is a competitive grant program that provides up to \$15 million each year to local agencies for the construction of grade separation projects, and

WHEREAS, the intent of the Section 190 Grade Separation Program is to improve safety and expedite the movement of vehicles by eliminating highway-rail crossing at grade with a grade separation, and

WHEREAS, the program is jointly administered by the California Department of Transportation (Caltrans) and the California Public Utilities Commission (CPUC) which develops a priority list of grade separation projects based on applications submitted by local agencies, and

WHEREAS, out of 36 grade separation projects statewide included in the California Grade Separation Fund Priority List for Fiscal Year 2018-2019 and prepared as required by Streets and Highways Code Section 2452, the Fairway Drive Grade Separation Project ranked no. 5, the Durfee Avenue Grade Separation Project ranked no. 9 and the Fullerton Road Grade Separation Project ranked no. 16.

WHEREAS, local agencies whose projects are included on the priority list may submit to Caltrans requests for an allocation of funds and, if awarded Section 190 funds, may enter into funding agreements with Caltrans for reimbursement of the cost to construct the grade separation; and

NOW THEREFORE, BE IT RESOLVED that the Capital Projects and Construction Committee of the San Gabriel Valley Council of Governments does hereby adopt a resolution authorizing the filing of an application for Section 190 Grade Separation Program funds for the Fairway Drive, Durfee Avenue and Fullerton Road grade separation projects and the execution by the chief engineer of any and all agreements necessary for the Section 190 funds and further affirms that all matters prerequisite to the awarding of a construction contract have either been accomplished or can be accomplished within two years after the allocation of funds by the California Transportation Commission, and that sufficient local funds will be made available as the work of the project progresses.

Attachment A

PASSED AND ADOPTED by the Capital Projects and Construction Committee of the San Gabriel Valley Council of Governments, County of Los Angeles, State of California, on the 25th day of March 2019.

Capital Projects and Construction Committee
San Gabriel Valley Council of Governments

Victoria Martinez Muela, Chair

Attest:

I, Deanna Stanley, Secretary, Capital Projects and Construction Committee of the San Gabriel Valley Council of Governments, do hereby certify that the foregoing Resolution was adopted at a regular meeting of the Committee held on the 25th day of March 2019, by the following roll call vote:

AYES:	
NOES:	
ABSTAIN:	
ABSENT:	

Deanna Stanley, Secretary



Memo to: Capital Projects and Construction Committee Members & Alternates

From: Mark Christoffels
Chief Engineer

Date: March 25, 2019

SUBJECT: Support Position for the National Multimodal and Sustainable Freight Infrastructure Act

RECOMMENDATION: Staff recommends the Committee recommend SGVCOG adoption of a resolution of support (Attachment A) for the National Multimodal and Sustainable Freight Infrastructure Act (NMSFIA) to be introduced this spring by Congressman Alan Lowenthal in the 116th Congress. The legislation was introduced in the 115th Congress as H.R. 3001 in June 2017, and was unanimously supported by the ACE Construction Authority. The bill would establish a dedicated and sustainable federal revenue source for funding surface freight infrastructure improvement projects, such as grade separations and highway improvements, funding which could become a key aspect of surface transportation initiatives that Congress may consider this year.

BACKGROUND: The bill would assess a 1% fee on the cost of moving goods domestically by train or truck, and is modeled on an existing domestic air freight excise tax which provides revenues for the Airport Trust Fund. This waybill fee would generate an estimated \$8 billion in revenues annually for a Freight Trust Fund. Half of the revenues would be apportioned to the States using formulas based on freight metrics; the other half would be distributed through a multimodal, freight-specific competitive grant program for local, regional and state governments. California's share of the freight formula funds was estimated to be approximately \$328 million per year or 8.24% of the total, according to Rep. Lowenthal's staff. Given Southern California's role as the nation's leading trade gateway and corridor, our region should compete well in the discretionary grant program. Eligible projects include highway and road improvements, rail projects, highway-rail grade separations, on-dock rail and landside infrastructure included in a State Freight Plan at ports and airports.

While the most recent federal surface transportation legislation included new discretionary grant and formula programs funded at about \$2 billion per year, the bill did not identify a revenue source specific to freight projects. The overall bill instead relied on the Highway Trust Fund which is underfunded and which has required general fund revenue transfers. The National Multimodal and Sustainable Freight Infrastructure Act seeks to respond to that funding deficiency for freight and highway projects.

H.R. 3001 was cosponsored by U.S. Reps. Nanette Barragan (D-CA), Earl Blumenauer (D-OR), Matt Cartwright (D-PA), Judy Chu (D-CA), Robin Kelly (D-IL), Mark Meadows (R-NC), Gwen Moore (D-WI), Grace Napolitano (D-CA), Mark Pocan (D-WI), Dana Rohrabacher (R-CA), and Mark Takano (D-CA). Rep. Lowenthal expects to seek similar support for reintroduction of his bill.

ATTACHMENTS:

Attachment A – Resolution of the San Gabriel Valley Council of Governments affirming support for the National Multimodal and Sustainable Freight Infrastructure Act

Attachment B – NMSFIA fact sheet, NMSFIA section-by-section summary, NMSFIA draft bill

RESOLUTION NO. ____

**RESOLUTION OF THE SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS
(SGVCOG) AFFIRMING SUPPORT FOR THE NATIONAL MULTIMODAL AND
SUSTAINABLE FREIGHT INFRASTRUCTURE ACT**

WHEREAS, the SGVCOG has long supported goods movement infrastructure improvements of regional and national significance in the San Gabriel Valley, including the State Route 57-60 Confluence Chokepoint Relief Project and the Alameda Corridor-East Project; and

WHEREAS, the federal Highway Trust Fund has long been oversubscribed and the SGVCOG desires to support establishment of a dedicated and sustainable federal revenue source for funding surface freight infrastructure projects, such as grade separations and highway improvements; and

WHEREAS, the National Multimodal and Sustainable Freight Infrastructure Act would generate an estimated \$8 billion in revenues annually to be deposited into a Freight Trust Fund from an assessment of a 1 percent fee on the cost of moving goods domestically by train or truck; and

WHEREAS, Freight Trust Fund revenues would be apportioned to the States using formulas based on freight metrics and through a multimodal, freight-specific discretionary grant program for local, regional and state governments; and

NOW THEREFORE, BE IT RESOLVED that the Governing Board does hereby adopt a position of support for the National Multimodal and Sustainable Freight Infrastructure Act to be introduced in the 116th Congress.

PASSED AND ADOPTED by the Governing Board of San Gabriel Valley Council of Governments, County of Los Angeles, State of California, on the ____ day of April 2019.

San Gabriel Valley Council of Governments

Cynthia Sternquist, President

Attest:

I, Marisa Creter, Executive Director and Secretary of the Board of Directors of the San Gabriel Valley Council of Governments, do hereby certify that the foregoing Resolution was adopted at a regular meeting of the Governing Board held on the ____ day of April 2019, by the following roll

Attachment A

call vote:

AYES:	
NOES:	
ABSTAIN:	
ABSENT:	

Marisa Creter, Secretary

“The National Multimodal and Sustainable Freight Infrastructure Act”

Congressman Alan Lowenthal

The movement of goods in our country is the engine that runs our economy. In order to maintain the standing of the United States as a global economic leader, we must invest in expanding the capacity, reliability, and efficiency of our nation’s goods movement system and freight infrastructure. In 2015, Congress passed the bipartisan Fixing America’s Surface Transportation (FAST) Act, which for the first time outlined a national freight policy and set up both formula and competitive programs to invest in these systems.

In order to build on the successes of the FAST Act and ensure continued investment in the backbone of the American economy, Congress should enact sustainable, dedicated funding for freight infrastructure. The National Multimodal Freight Infrastructure Act will create a reliable and renewable revenue source to fund multi-modal, freight-specific formula grants for states and a multi-modal, freight-specific competitive grant program for local, regional and state governments.

Creates a sustainable funding stream for freight projects:

- Establishes a Freight Trust Fund
- Funded at approximately \$8 billion annually through a 1% fee on the cost of goods movement, requiring the entity paying for the cargo to be shipped via ground transportation within the U.S. to pay a fee of 1% of the total cost of that transportation, modeled after the existing air freight tax
- Allows amounts in the Trust Fund to pay directly into freight infrastructure programs

Creates formula and competitive grant programs to fund freight projects:

- Equally funds formula and competitive grant programs
- The National Multimodal Freight Funding Formula Program would provide formula funds directly to states and encourage states to work together on multistate analysis of freight needs
- The National Freight Infrastructure Multimodal Competitive Grant Program would provide grants to states, regional, and local government entities
- Qualifying projects could include capital freight projects on roads, rail, intermodal connectors, including first and last mile connectors, rail grade separations, on-dock rail and landside infrastructure on ports and airports included in a State Freight Plan

Builds on the successes of the bipartisan FAST Act:

- Requires state freight advisory committees and state freight plans to be broadly representative of industry and community stakeholders, and consider environmental and community impacts of freight movement
- Requires formula and competitive grant program funds to reflect approved state freight plans and the National Freight Strategic Plan

For more information or to cosponsor, please contact **Chris Gorud in Rep. Lowenthal’s office at chris.gorud@mail.house.gov or (202) 225-7924.**

H.R. 3001: “The National Multimodal and Sustainable Freight Infrastructure Act”
Section-by-Section

Section 1, Short Title.

This section specifies that this act may be referred to as the “Economy in Motion: The National Multimodal and Sustainable Freight Infrastructure Act.”

Section 2, Freight Funding Programs.

This section establishes two new freight funding programs: the Multimodal Freight Funding Formula Program and the National Freight Infrastructure Competitive Grant Program.

Section 70104. Multimodal Freight Funding Formula Program.

Subsection a, In General. This section establishes a Multimodal Freight Funding Formula Program for the Secretary of Transportation to distribute fund to the states.

Subsection b, Formula Apportionment. This section establishes a formula by which the Secretary shall apportion funds based on existing freight infrastructure and needs within a state compared to all states.

Subsection c, Tier I Eligibility. The Secretary shall apportion 40% of the funds available to a state under the formula if the state has:

- An established freight advisory committee, in accordance with the FAST Act
- Developed any analyses or plans required for the completion of a state freight plan in accordance with the FAST Act
- An approved state freight plan
- Conducted a statewide analysis of freight needs and bottlenecks on all modes of transportation, including intermodal and last mile needs
- Demonstrated use of the statewide analysis of freight needs in prioritizing projects in the state freight plan
- Demonstrated it will use the funding for the highest priority projects identified in the freight investment plan described in accordance with the FAST Act
- Demonstrated that the collective projects will decrease greenhouse gas emissions, local air pollution, water runoff, and wildlife habitat loss.

Subsection d, Tier II Eligibility. The Secretary shall apportion 60% of the funds available to a state under the formula if the state has:

- Met the criteria for tier I eligibility, outlined in subsection c
- Conducted, in cooperation with one or more states, a multistate analysis of freight needs and bottlenecks on all modes of transportation, including intermodal and last mile needs along a multistate freight corridor

- Developed, with at least one other state or a relevant entity in Canada or Mexico, a regional freight investment plan that focuses on the end-to-end investment needs of critical multistate freight corridors

Subsection e, Redistribution of Funds. This section allows the Secretary to redistribute any funds to the National Freight Infrastructure Competitive Grant Program that were either:

- Available to a state but not provided
- Provided to a state but unobligated after three fiscal years

Subsection f, Eligible Uses. States may use formula funds under this section for:

- The development of corridor freight plans or regional freight plans
- One or more phases of capital projects, equipment, or operational improvements on roads, rails, landside infrastructure on ports and airports, and intermodal connectors included in a state freight plan for projects subject to certain conditions

Subsection g, EPA Report. States that receive formula funds shall report to the Secretary and the Administrator of the Environmental Protection Agency annually after the first year of project completion for 15 years on the progress made toward greenhouse gas emission reductions and local air pollution reductions.

Subsection h, Federal Share. This section caps the federal share of the cost of a project at 80%. However, the federal share of the cost of a project can be increased by 5% if the increase is used for the mitigation of diesel emissions from project construction.

Subsection i, Reservation of Funds for Territories. Prior to apportioning funds under the formula in subsection b, the Secretary shall withhold funds for the territories based on their freight infrastructure needs, as determined by the Secretary.

Subsection j, Authorization of Appropriations. This section authorizes 50% of the receipts from the Freight Trust Fund for each fiscal year to be appropriated to the formula program.

Subsection k, Administration and Oversight Costs. This section allows the Secretary to retain up to 0.5% of funds for administration and oversight.

Subsection l, Availability of Funds. The amount authorized under subsection j shall be available for use starting October 1 of the fiscal year and available until expended.

Subsection m, Application of Rate Requirements. This section applies the prevailing rate of wage requirements in section 113 of title 23.

Subsection n, Definitions. The section defines:

- States as the 50 states, the District of Columbia, and Puerto Rico
- Territories as American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the United States Virgin Islands

Section 70105, National Freight Infrastructure Competitive Grant Program.

Subsection a, Establishment. This section establishes a National Freight Infrastructure Competitive Grant Program.

Subsection b, Project Goals. The Secretary shall prioritize projects that:

- Improve the efficiency, reliability, cost and safety of freight transportation
- Relieve bottlenecks in the freight transportation system
- Improve the state of good repair of the freight transportation system
- Contribute to the environmental goals In the State freight plan, and reduce adverse impacts of freight transportation on communities traversed by freight.

Subsection c, Grant Applications. Applications should be submitted at such time, in such form, and contain such information as the Secretary may require.

Subsection d, Eligible Project. This section lays out requirements eligible projects must meet, including that a project must be:

- A capital investment project for a transportation infrastructure facility significantly used for the movement of freight
- Infrastructure necessary to mitigate the adverse impacts of freight transportation on communities traversed by freight

Subsection e, Grant Criteria. The Secretary shall select eligible projects based on:

- Extent to which the project is likely to advance the goals of the program
- Likely benefits of the project relative to its cost
- Demonstrated use of innovative technology, strategies and practices
- Use of onroad construction vehicles and nonroad construction equipment meet EPA emission standards
- Effective reductions in greenhouse gas emissions, local air pollution, water runoff, and wildlife habitat loss
- Its effect on increasing United States exports
- Extent to which the project leverages federal funds by matching state, territorial, local, tribal, or private funds, and
- Extent to which funds for the project are not available from other Federal sources

Subsection f, Special Rule. This section requires a minimum of 5% of funds are provided to zero-emission freight demonstration projects.

Subsection g, Retrospective Analysis. This section requires a grant recipient to collect data and report to the Secretary on:

- The actual cost of constructing the project
- The time required to complete the project and when it will be put into service
- The level of usage of the facility built or improved by the project

- The benefits of the project
- Any additional costs outside of construction

Subsection h, EPA Report. Grant recipients shall report to the Secretary and the Administrator of the Environmental Protection Agency annually after the first year of project completion for 15 years on the progress made toward greenhouse gas emission reductions and local air pollution reductions.

Subsection i, Period of Availability. Funds not obligated or expended before the last day of the third fiscal year following the fiscal year in which the funds were given will be transferred back to the Secretary.

Subsection j, Redistribution of Funds. This section states that if a recipient makes no obligation of funding by the end of the third fiscal year following the fiscal year in which the Secretary awarded the grant, the Secretary shall withdraw the grant and apply the funding to another grant under this section.

Subsection k, Federal Share. This section caps the federal share of the cost of a project at 80%. However, the federal share of the cost of a project can be increased by 5% if the increase is used for the mitigation of diesel emissions from project construction.

Subsection l, Administration and Oversight Costs. This section allows the Secretary to retain up to 0.5% of funds for administration and oversight.

Subsection m, Authorization and Availability of Funds. This section allows 50% of the receipts from the Freight Trust Fund for each fiscal year to be appropriated and available for obligation on October 1 of the fiscal year for which they are authorized until expended.

Subsection n, Application of Rate Requirements. This section applies the prevailing rate of wage requirements in section 113 of title 23.

Subsection o, Definitions. The section defines eligible grant recipients as:

- A State
- A unit of local government
- A metropolitan planning organization
- A public transportation authority
- A port authority
- A tribal government
- A consortium of these entities.

Section 3, National and State Freight Plans.

This section adds provisions from the 114th Congress version of this bill that were not included in the FAST Act's provisions on the national freight strategic plan, state freight advisory committees, and state freight plans.

Subsection a, National Freight Strategic Plan. This section adds best practices to reduce greenhouse gas emissions, local air pollution, water runoff, and wildlife habitat loss to the national freight strategic plan outlined in the FAST Act.

Subsection b, State Freight Advisory Committees. This section adds to provisions of the state freight advisory committees outlined in the FAST Act.

- Membership:
 - Committees should include ports, freight railroads, shippers, carriers, freight-related associations, third-party logistics providers, the freight industry workforce, state transportation department, metropolitan planning organizations, local governments, state environmental protection department, state air resources board
- Qualifications of Members:
 - Members should have experience with industry, freight, transportation planning, representing freight industry employees, or experience in state or local government.
- Role of Committee:
 - Adds to responsibilities in the FAST Act, including advising on the development of the freight investment plan, and approving the state freight plan, including the freight investment plan.

Subsection c, State Freight Plans. This section adds to provisions of the state freight plans outlined in the FAST Act.

- Plan Contents:
 - Adds strategies and goals to decrease negative environmental impacts and adverse impacts on communities traversed by freight railroads.
- Certification:
 - Adds approval by the Secretary of state freight plans consistent with the national freight strategic plan, including in consultation with the EPA Administrator on any environmental goals or strategies.

Section 4, Freight Trust Fund.

This section establishes a Freight Trust Fund consisting of funds raised from the ground transportation freight tax and paid out to the freight funding programs in section 2.

Subsection a, Creation of Trust Fund. This section establishes a Freight Trust Fund within the U.S. Treasury.

Subsection b, Transfers to the Fund. This section appropriates all funds received from the ground transportation freight tax.

Subsection c, Expenditures from Fund. This section allows for availability of funds received into the Freight Trust Fund for the freight funding programs in section 2.

Section 5, Freight Mobility Infrastructure Tax.

This section establishes a 1% tax on ground transportation of property with the United States.

Subchapter D—Ground Transportation Freight Tax

Subsection a, In General. This section establishes a 1% tax on the amount paid for taxable ground transportation of property within the United States.

Subsection b, By Whom Paid. The tax shall be paid by the person making the payment, or if the transportation is made by a related person, by that person for whom the transportation is made.

Subsection c, Transportation by Related Persons. If the transportation is made by the shipper or a person related to the shipper, then the fair market value will be taxed.

Subsection d, Definitions and Special Rule. The section:

- Defines “Taxable ground transportation” includes transportation of property by:
 - Freight rail
 - Truck trailer and semitrailer chassis and bodies, suitable for use with a trailer or semitrailer which has a gross vehicle weight of 26,000 pounds or more
- Defines “Related person” as outlined in prior sections of the Internal Revenue Code.
- Directs the Secretary to develop regulations for determining the taxable amount for transportation which is only partially within the United States and to discourage tax avoidance through diversion.

Subsection e, Exemption for United States and Possessions and State and Local Governments. This section exempts federal, state, and local governments from payment of the tax.

.....
(Original Signature of Member)

115TH CONGRESS
1ST SESSION

H. R. _____

To amend title 49, United States Code, to establish a Multimodal Freight Funding Formula Program and a National Freight Infrastructure Competitive Grant Program to improve the efficiency and reliability of freight movement in the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. LOWENTHAL introduced the following bill; which was referred to the Committee on _____

A BILL

To amend title 49, United States Code, to establish a Multimodal Freight Funding Formula Program and a National Freight Infrastructure Competitive Grant Program to improve the efficiency and reliability of freight movement in the United States, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Multimodal
5 and Sustainable Freight Infrastructure Act”.

1 **SEC. 2. FREIGHT FUNDING PROGRAMS.**

2 (a) IN GENERAL.—Chapter 701 of title 49, United
3 States Code, is amended by adding at the end the fol-
4 lowing:

5 **“§ 70104. Multimodal Freight Funding Formula Pro-**
6 **gram**

7 “(a) IN GENERAL.—The Secretary of Transportation
8 shall establish a Multimodal Freight Funding Formula
9 Program under which the Secretary shall distribute funds
10 to States to improve the efficiency and reliability of freight
11 movement in the United States.

12 “(b) FORMULA APPORTIONMENT.—Of funds made
13 available to the Secretary for a fiscal year to carry out
14 the Multimodal Freight Funding Formula Program under
15 this section, the Secretary shall calculate the amount
16 available to be apportioned to a State based on the fol-
17 lowing:

18 “(1) 6.25 percent in the ratio that—

19 “(A) the number of ports in each State;
20 bears to

21 “(B) the number of ports in all States.

22 “(2) 6.25 percent in the ratio that—

23 “(A) the number of rail track-miles used
24 for the movement of freight in each State; bears
25 to

1 “(B) the number of such rail track-miles in
2 all States.

3 “(3) 6.25 percent in the ratio that—

4 “(A) the number of cargo-handling air-
5 ports in each State; bears to

6 “(B) the number of such airports in all
7 States.

8 “(4) 6.25 percent in the ratio that—

9 “(A) the number of Interstate system
10 miles in each State; bears to

11 “(B) the number of Interstate system
12 miles in all States.

13 “(5) 37.5 percent in the ratio that—

14 “(A) the tonnage of rail, waterborne, high-
15 way, and airport freight moved in each State;
16 bears to

17 “(B) the tonnage of such freight moved in
18 all States.

19 “(6) 37.5 percent in the ratio that—

20 “(A) the value of rail, waterborne, highway
21 and airport freight moved in each State; bears
22 to

23 “(B) the value of such freight moved in all
24 States.

1 “(c) TIER I ELIGIBILITY.—The Secretary shall pro-
2 vide to a State in a fiscal year 40 percent of the amount
3 of the funds available to the State under subsection (b)
4 for that fiscal year if the State—

5 “(1) has an established freight advisory com-
6 mittee in accordance with section 70201;

7 “(2) developed any analyses or plans required
8 for the completion of a State freight plan in accord-
9 ance with section 70202;

10 “(3) has an approved State freight plan;

11 “(4) has conducted a statewide analysis of
12 freight needs and bottlenecks on all modes of trans-
13 portation, including intermodal and last mile needs;

14 “(5) demonstrates use of the statewide analysis
15 of freight needs in prioritizing projects in the State
16 freight plan;

17 “(6) demonstrates that the State will use the
18 funding that it is provided under this paragraph for
19 the highest priority projects identified in the freight
20 investment plan described under section 70202; and

21 “(7) demonstrates that the program of projects
22 will use the strategies and contribute to the goals
23 described in the State freight plan to decrease—

24 “(A) greenhouse gas emissions;

1 “(B) local air pollution, including ozone
2 and ozone precursors, nitrogen oxides, sulfur di-
3 oxide, particulate matter, carbon monoxide, and
4 lead;

5 “(C) water runoff and other adverse water
6 impacts; and

7 “(D) wildlife habitat loss.

8 “(d) TIER II ELIGIBILITY.—The Secretary shall pro-
9 vide to a State in a fiscal year 60 percent of the amount
10 of the funds available to the State under subsection (b)
11 for that fiscal year if the State—

12 “(1) has met the eligibility criteria of subsection
13 (c);

14 “(2) has conducted, in cooperation with at least
15 1 other State, a multistate analysis of freight needs
16 and bottlenecks on all modes of transportation, in-
17 cluding intermodal and last mile needs along a
18 multistate freight corridor; and

19 “(3) has developed, in cooperation with at least
20 one other State or a relevant entity in Canada or
21 Mexico, a regional freight investment plan that fo-
22 cuses on the end-to-end investment needs of critical
23 multistate freight corridors based on the multistate
24 analysis of freight needs and bottlenecks on all

1 modes of transportation, including intermodal and
2 last mile needs.

3 “(e) REDISTRIBUTION OF FUNDS.—The Secretary
4 shall make available under the National Freight Infra-
5 structure Competitive Grant Program under section
6 70105 any funds that—

7 “(1) the Secretary calculated under subsection
8 (b) as available to a State for a fiscal year but did
9 not provide to that State for that fiscal year under
10 subsection (c) or subsection (d); or

11 “(2) the Secretary provided to a State under
12 subsection (c) or subsection (d) but remain unobli-
13 gated in that State at the end of the third fiscal
14 year following the fiscal year in which they were pro-
15 vided to the State.

16 “(f) ELIGIBLE USES.—A State may use funds pro-
17 vided under this section only for—

18 “(1) the development of corridor freight plans
19 or regional freight plans; or

20 “(2) one or more phases of capital projects,
21 equipment, or operational improvements on roads,
22 rails, landside infrastructure on ports and airports,
23 and intermodal connectors included in a State
24 freight plan for projects that—

1 “(A) maintain or improve the efficiency
2 and reliability of freight supply chains;

3 “(B) demonstrate public freight benefits;

4 “(C) improve modal components of a
5 multimodal corridor that is critical to a State or
6 region;

7 “(D) address freight needs to facilitate a
8 regionally or nationally significant economic de-
9 velopment issue;

10 “(E) in accordance with the State freight
11 plan, decrease—

12 “(i) greenhouse gas emissions;

13 “(ii) local air pollution, including
14 ozone and ozone precursors, nitrogen ox-
15 ides, sulfur dioxide, particulate matter,
16 carbon monoxide, and lead;

17 “(iii) water runoff and other adverse
18 water impacts; and

19 “(iv) wildlife habitat loss;

20 “(F) are multimodal, multi-jurisdictional,
21 or corridor-based and address freight needs;

22 “(G) relieve freight or non-freight access,
23 congestion, or safety issues; or

24 “(H) address first and last mile connec-
25 tors.

1 “(g) EPA REPORT.—A State that receives funds
2 under this section shall collect data and, beginning 1 year
3 from the date of the completion of each project or project
4 phase that receives such funds, and annually thereafter
5 for 15 years, report to the Secretary and the Adminis-
6 trator of Environmental Protection Agency on progress
7 made toward greenhouse gas emission reductions and local
8 air pollution reductions in accordance with the State
9 freight plan. All relevant data and reporting shall be col-
10 lected and reported in accordance with guidance developed
11 by the Administrator in consultation with the Secretary.

12 “(h) FEDERAL SHARE.—

13 “(1) IN GENERAL.—The Federal share of the
14 cost of a project carried out by a State using funds
15 provided under this section may not be more than
16 80 percent.

17 “(2) ADDITIONAL FEDERAL SHARE.—The Fed-
18 eral share of the cost of a project carried out by a
19 State using funds provided under this section may
20 be increased by 5 percent if the such 5 percent is
21 used for the mitigation of diesel emissions from con-
22 struction activities associated with the project. The
23 Administrator of Environmental Protection Agency,
24 in consultation with the Secretary, shall develop
25 guidance for eligible equipment and activities con-

1 sistent with existing State, local, and nonprofit clean
2 construction guidelines.

3 “(i) RESERVATION OF FUNDS FOR TERRITORIES.—

4 Before making a calculation under subsection (b), the Sec-
5 retary shall withhold funds for distribution to each terri-
6 tory in an amount based on the freight infrastructure need
7 of the territories, as determined by the Secretary. Such
8 funds shall not otherwise be made available for distribu-
9 tion under this section.

10 “(j) AUTHORIZATION OF APPROPRIATIONS.—There

11 is authorized to be appropriated from the Freight Trust
12 Fund to carry out this section an amount equal to 50 per-
13 cent of the receipts of the Freight Trust Fund for each
14 fiscal year beginning in fiscal year 2018.

15 “(k) ADMINISTRATION AND OVERSIGHT COSTS.—

16 The Secretary may retain up to one-half of 1 percent of
17 the amounts available to carry out this section for each
18 fiscal year for the cost of administration and oversight of
19 projects funded under this section.

20 “(l) AVAILABILITY OF FUNDS.—Amounts authorized
21 under subsection (j) shall be—

22 “(1) available for obligation on October 1 of the
23 fiscal year for which they are authorized; and

24 “(2) available until expended.

1 “(m) APPLICATION OF RATE REQUIREMENTS.—The
2 Secretary shall take such action as may be necessary to
3 apply the requirements described under section 113 of title
4 23, as applicable, to any project receiving funds under this
5 section.

6 “(n) DEFINITIONS.—In this section:

7 “(1) STATE.—The term ‘State’ means each of
8 the 50 States, the District of Columbia, and Puerto
9 Rico.

10 “(2) STATE FREIGHT PLAN.—The term ‘State
11 freight plan’ means the State freight plan described
12 under section 70202.

13 “(3) TERRITORY.—The term ‘territory’ has the
14 meaning given such term in section 165(c)(1) of title
15 23.

16 **“§ 70105. National Freight Infrastructure Competitive**
17 **Grant Program**

18 “(a) ESTABLISHMENT.—The Secretary of Transpor-
19 tation shall establish a National Freight Infrastructure
20 Competitive Grant Program under which the Secretary
21 shall make grants, on a competitive basis, to designated
22 entities for eligible projects to improve the efficiency and
23 reliability of freight movement in the United States.

24 “(b) PROJECT GOALS.—In carrying out the Program,
25 the Secretary shall prioritize projects that—

1 “(1) improve the efficiency and reliability of
2 freight transportation;

3 “(2) reduce the cost of freight transportation;

4 “(3) improve the safety of freight transpor-
5 tation;

6 “(4) relieve bottlenecks in the freight transpor-
7 tation system;

8 “(5) improve the state of good repair of the
9 freight transportation system;

10 “(6) contribute to the environmental goals de-
11 scribed in the State freight plan; and

12 “(7) reduce the adverse impacts of freight
13 transportation on communities traversed by freight.

14 “(c) GRANT APPLICATIONS.—To be eligible to receive
15 a grant under the Program a designated entity shall sub-
16 mit to the Secretary an application at such time, in such
17 form, and containing such information as the Secretary
18 may require.

19 “(d) ELIGIBLE PROJECT.—A project is eligible for a
20 grant under the Program only if the Secretary determines
21 that the project—

22 “(1) that is—

23 “(A) a capital investment project for a
24 transportation infrastructure facility signifi-
25 cantly used for the movement of freight; or

1 “(B) infrastructure necessary to mitigate
2 the adverse impact of freight transportation on
3 communities traversed by freight, including—

4 “(i) a road, rail, or landside air or
5 water facility;

6 “(ii) an intermodal facility such as a
7 seaport or port on the inland waterway
8 system, an airport, or a highway and rail
9 intermodal facility;

10 “(iii) a facility related to an inter-
11 national border crossing;

12 “(iv) is for an operational improve-
13 ment or equipment of a facility described
14 in this paragraph; or

15 “(v) railway-roadway grade separa-
16 tions and related improvements;

17 “(2) will help to achieve the goals set out in
18 subsection (b);

19 “(3) has non-Federal source or sources of com-
20 mitted financing, along with any Federal funds, suf-
21 ficient to complete the project;

22 “(4) has independent utility;

23 “(5) is included in the State freight plan; and

24 “(6) includes the development of project plans
25 and analysis.

1 “(e) GRANT CRITERIA.—The Secretary shall select
2 eligible projects for funding based on the following cri-
3 teria:

4 “(1) The extent to which the project is likely to
5 advance the goals described in subsection (b).

6 “(2) The likely benefits of the project relative
7 to its costs.

8 “(3) The extent to which the project dem-
9 onstrates the use of innovative technology, strate-
10 gies, and practices.

11 “(4) The extent to which the project uses
12 onroad construction vehicles and nonroad construc-
13 tion equipment that meet the emission standards of
14 the Environmental Protection Agency.

15 “(5) The extent to which the project dem-
16 onstrates effective reductions (in accordance with
17 the State freight plan) in—

18 “(A) greenhouse gas emissions;

19 “(B) local air pollution, including ozone
20 and ozone precursors, nitrogen oxides, sulfur di-
21 oxide, particulate matter, carbon monoxide, and
22 lead;

23 “(C) water runoff and other adverse water
24 impacts; and

25 “(D) wildlife habitat loss.

1 “(6) The likely effect of the project on increas-
2 ing United States exports.

3 “(7) The consistency of the project with the na-
4 tional freight strategic plan described under section
5 70102.

6 “(8) The extent to which the project leverages
7 Federal funds by matching State, territorial, local,
8 tribal, or private funds to the Federal funding re-
9 quested under the Program.

10 “(9) The extent to which funds for the project
11 are not available from other Federal sources.

12 “(f) SPECIAL RULE.—A minimum of 5 percent of
13 funds made available under the Program for a fiscal year
14 shall be provided to zero-emission freight demonstration
15 projects, as defined by the Secretary of Transportation,
16 in consultation with the Administrator of the Environ-
17 mental Protection Agency.

18 “(g) RETROSPECTIVE ANALYSIS.—A grant agree-
19 ment made under the Program shall require that the re-
20 cipient collect data and report to the Secretary, at an ap-
21 propriate time as determined by the Secretary, on—

22 “(1) the actual cost of constructing the project;

23 “(2) the time required to complete the project
24 and put it into service;

1 “(3) the level of usage of the facility built or
2 improved by the project;

3 “(4) the benefits of the project, measured in a
4 way that is consistent with the benefits that were es-
5 timated in the application for funding that was sub-
6 mitted to the Secretary; and

7 “(5) any costs resulting from the project in ad-
8 dition to the costs of constructing the project.

9 “(h) EPA REPORT.—A grant agreement made under
10 the Program shall require that the recipient collect data
11 and, beginning 1 year from the date of the completion of
12 the project and annually thereafter for 15 years, report
13 to the Secretary and the Administrator of Environmental
14 Protection Agency on progress made toward greenhouse
15 gas emission reductions and local air pollution reductions
16 in accordance with the State freight plan. All relevant data
17 and reporting shall be collected and reported in accordance
18 with guidance developed by the Administrator in consulta-
19 tion with the Secretary.

20 “(i) PERIOD OF AVAILABILITY.—In entering into
21 agreements under this section, the Secretary shall ensure
22 that any funds made available for a project that are not
23 obligated or expended before the last day of the third fiscal
24 year following the fiscal year in which the funds are made

1 available are transferred back to the Secretary for making
2 grants under the Program.

3 “(j) REDISTRIBUTION OF FUNDS.—If a designated
4 entity that received a grant under this section has made
5 no obligation of funding with respect to such grant by the
6 end of the third fiscal year following the fiscal year in
7 which the Secretary awarded the grant, the Secretary
8 shall—

9 “(1) withdraw the grant from the designated
10 entity; and

11 “(2) apply the funding to another grant under
12 this section.

13 “(k) FEDERAL SHARE.—

14 “(1) IN GENERAL.—The Federal share of the
15 cost of a project for which a grant is made under
16 the Program, as estimated by the Secretary, shall be
17 not more than 80 percent.

18 “(2) ADDITIONAL FEDERAL SHARE.—The Fed-
19 eral share of the cost of a project carried out by a
20 State using funds provided under this section may
21 be increased by 5 percent if the such 5 percent is
22 used for the mitigation of diesel emissions from con-
23 struction activities associated with the project. The
24 Administrator of Environmental Protection Agency,
25 in consultation with the Secretary, shall develop

1 guidance for eligible equipment and activities con-
2 sistent with existing State, local, and nonprofit clean
3 construction guidelines.

4 “(l) ADMINISTRATION AND OVERSIGHT COSTS.—The
5 Secretary may retain up to one-half of 1 percent of the
6 amounts made available to carry out this section for each
7 fiscal year for the cost of administration and oversight of
8 projects funded under the Program.

9 “(m) AUTHORIZATION AND AVAILABILITY OF
10 FUNDS.—

11 “(1) AUTHORIZATION.—There is authorized to
12 be appropriated from the Freight Trust Fund to
13 carry out this section an amount equal to 50 percent
14 of the receipts of the Freight Trust Fund for each
15 fiscal year beginning in fiscal year 2018.

16 “(2) AVAILABILITY.—Amounts authorized
17 under paragraph (1) shall be—

18 “(A) available for obligation on October 1
19 of the fiscal year for which they are authorized;
20 and

21 “(B) available for obligation until ex-
22 pended.

23 “(n) APPLICATION OF RATE REQUIREMENTS.—The
24 Secretary shall take such action as may be necessary to
25 apply the requirements described under section 113 of title

1 23, as applicable, to any project receiving funds under this
2 section.

3 “(o) DEFINITIONS.—In this section:

4 “(1) DESIGNATED ENTITY.—The term ‘des-
5 ignated entity’ means—

6 “(A) a State;

7 “(B) a unit of local government;

8 “(C) a metropolitan planning organization;

9 “(D) a public transportation authority (in-
10 cluding a port authority);

11 “(E) a tribal government; or

12 “(F) or a consortium of the entities de-
13 scribed in this paragraph.

14 “(2) STATE.—The term ‘State’ means any of
15 the 50 States, the District of Columbia, Puerto Rico,
16 American Samoa, the Commonwealth of the North-
17 ern Mariana Islands, Guam, and the United States
18 Virgin Islands.

19 “(3) STATE FREIGHT PLAN.—The term ‘State
20 freight plan’ means the State freight plan described
21 under section 70202.”.

22 (b) CONFORMING AMENDMENT.—The table of sec-
23 tions for chapter 701 of title 49, United States Code, is
24 amended by adding at the end the following:

“70104. Multimodal Freight Funding Formula Program.

“70105. National Freight Infrastructure Competitive Grant Program.”.

1 **SEC. 3. NATIONAL AND STATE FREIGHT PLANS.**

2 (a) NATIONAL FREIGHT STRATEGIC PLAN.—Section
3 70102(b) of title 49, United States Code, is amended—

4 (1) in paragraph (10) by striking “and” at the
5 end;

6 (2) in paragraph (11) by striking the period at
7 the end and inserting “; and”; and

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

9 “(12) best practices to reduce greenhouse gas
10 emissions, local air pollution, water runoff, and wild-
11 life habitat loss.”.

12 (b) STATE FREIGHT ADVISORY COMMITTEES.—Sec-
13 tion 70201 of title 49, United States Code, is amended—

14 (1) in subsection (a) by striking “representa-
15 tives of ports, freight railroads,” and all that follows
16 through “local governments” and inserting the fol-
17 lowing: “representatives of—

18 “(1) ports;

19 “(2) freight railroads;

20 “(3) shippers;

21 “(4) carriers;

22 “(5) freight-related associations;

23 “(6) third-party logistics providers;

24 “(7) the freight industry workforce;

25 “(8) the transportation department of the State;

26 “(9) metropolitan planning organizations;

1 “(10) local governments;

2 “(11) the environmental protection department of the
3 State, if applicable; and

4 “(12) the air resources board of the State, if applica-
5 ble”;

6 (2) by redesignating subsection (b) as sub-
7 section (c);

8 (3) by inserting after subsection (a) the fol-
9 lowing:

10 “(b) **QUALIFICATIONS.**—Each member of a freight
11 advisory committee established under subsection (a) shall
12 be widely recognized to have qualifications sufficient to
13 represent the interests of such member’s stakeholder
14 group, including, as applicable—

15 “(1) a general business and financial experi-
16 ence;

17 “(2) experience or qualifications in the areas of
18 freight transportation and logistics;

19 “(3) experience in transportation planning;

20 “(4) experience representing employees of the
21 freight industry; or

22 “(5) experience representing a State, local gov-
23 ernment, or metropolitan planning organization.”;

24 (4) in subsection (b)—

1 (A) in paragraph (5) by inserting “, in-
2 cluding advising on the development of the
3 freight investment plan” after “70202”; and

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

5 “(6) approve the State freight plan under sec-
6 tion 70202, including the freight investment plan.”.

7 (c) STATE FREIGHT PLANS.—Section 70202 of title
8 49, United States Code, is amended—

9 (1) in subsection (b)—

10 (A) in paragraph (9)—

11 (i) by inserting “and section 70104”
12 after “section 167 of title 23”; and

13 (ii) by striking “and” at the end

14 (2) by redesignating paragraph (10) as para-
15 graph (12); and

16 (3) by inserting after paragraph (9) the fol-
17 lowing:

18 “(10) strategies and goals to decrease—

19 “(A) greenhouse gas emissions;

20 “(B) local air pollution, including ozone
21 and ozone precursors, nitrogen oxides, sulfur di-
22 oxide, particulate matter, carbon monoxide, and
23 lead;

24 “(C) water runoff and other adverse water
25 impacts; and

1 “(D) wildlife habitat loss;

2 “(11) strategies and goals to decrease the ad-
3 verse impact of freight transportation on commu-
4 nities traversed by freight railroads; and”;

5 (4) by redesignating subsection (e) as sub-
6 section (f); and

7 (5) by inserting after subsection (d) the fol-
8 lowing:

9 “(e) CERTIFICATION.—The Secretary shall approve a
10 freight plan if such plan meets the requirements of this
11 section and is consistent with the National freight stra-
12 tegic plan described in section 70102. The Secretary, in
13 consultation with the Administrator of the Environmental
14 Protection Agency shall certify any environmental goal or
15 strategy provisions of the plan.”.

16 **SEC. 4. FREIGHT TRUST FUND.**

17 (a) IN GENERAL.—Subchapter A of chapter 98 of the
18 Internal Revenue Code of 1986 is amended by adding at
19 the end the following new section:

20 **“SEC. 9512. FREIGHT TRUST FUND.**

21 “(a) CREATION OF TRUST FUND.—There is estab-
22 lished in the Treasury of the United States a trust fund
23 to be known as the ‘Freight Trust Fund’ (hereinafter in
24 this section referred to as the ‘Fund’) consisting of such

1 amounts as may be appropriated or credited to such Fund
2 as provided in this section or section 9602(b).

3 “(b) TRANSFERS TO THE FUND.—There are hereby
4 appropriated to the Fund amounts equivalent to taxes re-
5 ceived in the Treasury under section 4286.

6 “(c) EXPENDITURES FROM FUND.—Amounts in the
7 Fund shall be made available, as provided by appropria-
8 tion Acts, for making expenditures to meet obligations au-
9 thorized to be paid out of the Fund under section 2 of
10 the National Multimodal and Sustainable Freight Infra-
11 structure Act.”.

12 (b) CLERICAL AMENDMENT.—The table of sections
13 for subchapter A of chapter 98 of the Internal Revenue
14 Code of 1986 is amended by adding at the end the fol-
15 lowing new item:

“Sec. 9512. Freight Trust Fund.”.

16 **SEC. 5. FREIGHT MOBILITY INFRASTRUCTURE TAX.**

17 (a) IMPOSITION OF TAX.—Chapter 33 of the Internal
18 Revenue Code of 1986 is amended by inserting after sub-
19 chapter C the following new subchapter:

20 **“Subchapter D—Ground Transportation**
21 **Freight Tax**

“Sec. 4286. Imposition of tax.

22 **“SEC. 4286. IMPOSITION OF TAX.**

23 “(a) IN GENERAL.—There is hereby imposed upon
24 taxable ground transportation of property within the

1 United States a tax equal to 1 percent of the amount paid
2 for such transportation.

3 “(b) BY WHOM PAID.—

4 “(1) IN GENERAL.—The tax imposed by sub-
5 section (a) shall be paid—

6 “(A) by the person making the payment
7 subject to tax, or

8 “(B) in the case of transportation by a re-
9 lated person, by the person for whom such
10 transportation is made.

11 “(2) DETERMINATIONS OF AMOUNTS PAID IN
12 CERTAIN CASES.—For purposes of this section, rules
13 similar to the rules of section 4271(c) shall apply.

14 “(c) TRANSPORTATION BY RELATED PERSONS.—In
15 the case of transportation of property by the shipper or
16 a person related to the shipper, the fair market value of
17 such transportation shall be the amount which would be
18 paid for transporting such property if such property were
19 transported by an unrelated person, determined on an
20 arms’ length basis.

21 “(d) DEFINITIONS AND SPECIAL RULE.—For pur-
22 poses of this subchapter—

23 “(1) TAXABLE GROUND TRANSPORTATION.—
24 The term ‘taxable ground transportation’ means
25 transportation of property by—

1 “(A) freight rail, or

2 “(B) truck trailer and semitrailer chassis
3 and bodies, suitable for use with a trailer or
4 semitrailer which has a gross vehicle weight of
5 26,000 pounds or more.

6 For purposes of subparagraph (B), the terms ‘truck
7 trailer’ and ‘semitrailer’ have the same meanings as
8 such terms have in section 4051.

9 “(2) RELATED PERSON.—A person (hereinafter
10 in this paragraph referred to as the ‘related person’)
11 is related to any person if—

12 “(A) the related person bears a relation-
13 ship to such person specified in section 267(b)
14 or 707(b)(1), or

15 “(B) the related person and such person
16 are engaged in trades or businesses under com-
17 mon control (within the meaning of subsections
18 (a) and (b) of section 52).

19 For purposes of the preceding sentence, in applying
20 sections 267(b) and 707(b)(1), ‘10 percent’ shall be
21 substituted for ‘50 percent’ each place it appears.

22 “(3) TRANSPORTATION OUTSIDE THE UNITED
23 STATES.—In the case an amount paid for transpor-
24 tation any portion of which is outside the United
25 States, the portion of such amount paid which is al-

1 locable to transportation within the United States
2 shall be determined under regulations prescribed by
3 the Secretary. Such regulations shall include rules to
4 include transportation outside the United States the
5 primary purpose of which is to avoid the tax im-
6 posed by this section.

7 “(e) EXEMPTION FOR UNITED STATES AND POSSES-
8 SIONS AND STATE AND LOCAL GOVERNMENTS.—The tax
9 imposed by subsection (a) shall not apply to amounts paid
10 for transportation of property purchased for the exclusive
11 use of the United States, or any State or political subdivi-
12 sion thereof.”.

13 (b) CREDITS OR REFUNDS TO PERSONS WHO COL-
14 LECTED CERTAIN TAXES.—Section 6415 of such Code is
15 amended by striking “or 4271” each place it appears and
16 inserting “4271, or 4286”.

17 (c) CLERICAL AMENDMENT.—The table of sub-
18 chapters for chapter 33 of the Internal Revenue Code of
19 1986 is amended by inserting after the item relating to
20 subchapter C the following new item:

“SUBCHAPTER D. GROUND TRANSPORTATION FREIGHT TAX”.

21 (d) REGULATIONS.—Not later than 180 days after
22 the date of the enactment of this Act, the Secretary of
23 the Treasury shall issue regulations to carry out the
24 amendments made by this section.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to transportation beginning on or
3 after the last day of the 180-day period beginning on the
4 date of the issuance of regulations under subsection (c).