

# Agenda Report

TO: CITY COUNCIL

Date: December 4, 2000

FROM: City Manager

SUBJECT: Second Amendment to the SGVCOG Joint Exercise of Powers Agreement

## RECOMMENDATION:

It is recommended that the City Council adopt a resolution approving and adopting an amendment to the San Gabriel Valley Council of Governments Joint Powers Authority Amended and Restated Joint Exercise of Powers Agreement by adding the power to borrow money, incur indebtedness and/or issue bonds for the benefit of the Alameda Corridor East Project ("ACE Project") and to be repaid exclusively from funds pledged or designated for the ACE Project and relieving the City from any liability whatsoever arising from such borrowing.

## BACKGROUND:

The San Gabriel Valley Council of Governments ("SGVCOG") was established by a Joint Powers Agreement (the "Agreement") entered into as of March 1, 1994. The City is a party to the Agreement and a member of the SGVCOG. The membership of the SGVCOG amended the Agreement, effective September 17, 1998, creating the Alameda Corridor East Construction Authority ("Authority") for the purpose of implementing the Alameda Corridor East Project ("ACE Project"), consisting of improvements at 55 grade crossings on Union Pacific Railroad routes through the San Gabriel Valley. The Authority is proceeding to implement the ACE Project. To date, the ACE Project funding requirements have been fairly modest and primarily addressed by a loan from the City of Industry and by MTA grants that are disbursed on a reimbursement basis as debts come due. However, by the beginning of the new year, the rate of expenditures will increase as the project moves forward and Federal and State grants will become the predominant source of funds. Federal and State funding is reimbursed in arrears after invoices have been paid. Thus, the Authority staff have determined that the Authority will experience cash flow difficulties by early 2001 as it lets more contracts to implement the ACE Project. The Authority has retained financial advisors and bond counsel to advise it with respect to financial alternatives. The advisors in consultation with Authority staff have determined that a short term borrowing will be the best course of action to solve the cash flow concerns.

The first step in authorizing the short term borrowing is to amend the SGVCOG Agreement to provide for power to borrow, incur indebtedness and/or issue bonds. The short term

borrowing that is contemplated is a tax exempt commercial paper issue which is essentially a short term bond issue. The interest and principal on the issue will only be payable from monies pledged or otherwise designated for the ACE Project. If the amendment authorizing borrowing is not expeditiously approved by the members of the SGVCOG, the Authority will experience a cash shortfall and will have to curtail Project progress until an alternate means of cash flow financing is in place.

There is one major issue that City staff has identified and which has been adequately addressed in the JPA and the proposed amendment. That issue is whether the City is exposed to any liability as a result of the amendment. Section 16 of the Agreement, adopted with reference to Government Code Section 6508.1, provides that:

*"[t]he debts, liabilities and obligations of the Council shall be the debts, liabilities or obligations of the Council alone. No Member of the Council shall be responsible, directly or indirectly, for any obligation, debt or liability of the Council, whatsoever." (The term "Member of the Council" refers to the member cities of the San Gabriel Valley Council of Governments.)*

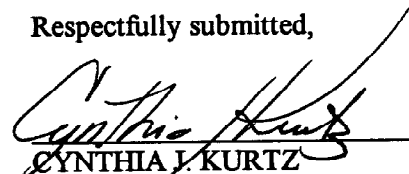
Moreover, the proposed amendment states that any borrowing thereunder shall be for the purpose of financing the ACE Project and shall be repaid solely from funds pledged or otherwise designated for the ACE Project. Accordingly, the adoption of the amendment to the JPA and subsequent issuance of debt by the SGVCOG will have no effect whatsoever on the City's liability, creditworthiness or its own ability to issue debt.

The financing transaction will take several months to complete. The Authority estimates that it will encounter cash flow difficulties by February 2001. Accordingly, adoption of the amendment to the SGVCOG Agreement by at least 16 members as soon as possible is essential to complete the financing and provide the necessary cash flow to the Authority by late January 2001.

**FISCAL IMPACT:**

There is no financial impact on the City in connection with the approval of the attached Resolution amending the SGVCOG Joint Exercise of Powers Agreement.

Respectfully submitted,

  
CYNTHIA J. KURTZ  
City Manager