



Approval Authority Meeting

Thursday, August 08, 2019

10:00 A.M.

Location

450 Golden Gate Ave.

San Francisco, CA 94102

2nd Floor, California Conference Room

Agenda

1. CALL TO ORDER

ROLL CALL

UASI Chair	Mary Ellen Carroll, City and County of San Francisco
UASI Vice-Chair	Rich Lucia, County of Alameda
Member	Michael Cochrane, City and County of San Francisco
Member	Toshia Shavies Marshall, City of Oakland
Member	Raymond Riordan, City of San Jose
Member	Dana Reed, County of Santa Clara
Member	Mike Casten, County of Contra Costa
Member	Bob Doyle, County of Marin
Member	Gerry Malais, County of Monterey
Member	Mark Robbins, County of San Mateo
Member	Christopher Godley, County of Sonoma
General Manager	Craig Dziedzic

2. NCRIC BAY AREA THREAT BRIEFING (CLOSED SESSION) (Discussion)

NCRIC Executive Director Mike Sena will present a threat briefing for the Bay Area UASI in closed session pursuant to California government code 54957(b). (*Public comment on closed session item. Prior to adjustment into closed session, the public may speak on items to be addressed in closed session.*)

(*Document for this item is a report.*) 20 mins

3. APPROVAL OF THE MINUTES (Discussion, Possible Action)

Discussion and possible action to approve the draft minutes from the July 11, 2019 regular meeting or take any other action related to the matter.

(*Document for this item includes draft minutes from July 11, 2019.*) 5 mins

4. GENERAL MANAGER'S REPORT (Discussion, Possible Action)

General Manager Craig Dziedzic will present his report:

- a. Northern California Regional Intelligence Center (NCRIC) Funding Strategy (Action)
- b. Regional Training & Exercise Program RFP Update (Discussion)

c. Management Team Tracking Tool and Future Agenda Items (Discussion)
(Documents for this item are a report and the Tracking Tool from Craig Dziedzic.) 5 mins

5. BROWN ACT TRAINING (Discussion)

Approval Authority Attorney Eric Casher will provide an update on the Brown Act.
(Documents for this item are a report and 2 appendices from Eric Casher.) 15 mins

6. REGIONAL COORDINATION EXERCISE UPDATE (Discussion, Possible Action)

Regional Project Manager Corinne Bartshire will provide an update on the Regional Coordination Exercise.

(Documents for this item are a report and an appendix from Corinne Bartshire.) 5 mins

7. BAYRICS JPA QUARTERLY REPORT & TACTICAL INTEROPERABLE COMMUNICATIONS PLAN (TICP) PROJECT UPDATE (Discussion, Possible Action)

BayRICS General Manager Corey Reynolds will present the JPA Quarterly Report for BayRICS including an update on the Tactical Interoperable Communications Plan (TICP) Project & mobile application.

(Documents for this item are a report and an appendix from Corey Reynolds.) 5 mins

8. AIR QUALITY MESSAGING PROJECT UPDATE (Discussion, Possible Action)

San Francisco Department of Emergency Management Director of External Affairs Francis Zamora and a representative from the Association of Bay Area Health Officers (ABAHO) will provide an update on the Air Quality Messaging Project.

(Documents for this item are a report and an appendix from Francis Zamora.) 7 mins

9. BAY AREA UASI SPENDING REPORT (Discussion, Possible Action)

Chief Financial Officer Tristan Levarado will present the FY18 UASI Spending Report.

(Document for this item is a report from Tristan Levarado.) 5 mins

10. ANNOUNCEMENTS- GOOD OF THE ORDER

11. GENERAL PUBLIC COMMENT

Members of the public may address the Approval Authority for up to three minutes on items within the jurisdiction of the Bay Area UASI Approval Authority.

12. ADJOURNMENT

If any materials related to an item on this agenda have been distributed to the Approval Authority members after distribution of the agenda packet, those materials are available for public inspection at the Bay Area UASI Management Office located at 711 Van Ness Avenue, Suite 420, San Francisco, CA, 94102 during normal office hours: 8:00 a.m. - 5:00 p.m.

Public Participation:

It is the policy of the Approval Authority to encourage and permit public participation and comment on matters within the Approval Authority's jurisdiction, as follows.

- *Public Comment on Agenda Items.* The Approval Authority will take public comment on each item on the agenda. The Approval Authority will take public comment on an action

item before the Approval Authority takes any action on that item. Persons addressing the Approval Authority on an agenda item shall confine their remarks to that particular agenda item. For each agenda item, each member of the public may address the Approval Authority once, for up to three minutes. The Chair may limit the public comment on an agenda item to less than three minutes per speaker, based on the nature of the agenda item, the number of anticipated speakers for that item, and the number and anticipated duration of other agenda items.

- *General Public Comment.* The Approval Authority shall include general public comment as an agenda item at each meeting of the Approval Authority. During general public comment, each member of the public may address the Approval Authority on matters within the Approval Authority's jurisdiction. Issues discussed during general public comment must not appear elsewhere on the agenda for that meeting. Each member of the public may address the Approval Authority once during general public comment, for up to three minutes. The Chair may limit the total general public comment to 30 minutes and may limit the time allocated to each speaker depending on the number of speakers during general public comment and the number and anticipated duration of agenda items.
- *Speaker Identification.* Individuals making public comment may be requested, but not required, to identify themselves and whom they represent.
- *Designated Public Comment Area.* Members of the public wishing to address the Approval Authority must speak from the public comment area.
- *Comment, Not Debate.* During public comment, speakers shall address their remarks to the Approval Authority as a whole and not to individual Approval Authority representatives, the General Manager or Management Team members, or the audience. Approval Authority Representatives and other persons are not required to respond to questions from a speaker. Approval Authority Representatives shall not enter into debate or discussion with speakers during public comment, although Approval Authority Representatives may question speakers to obtain clarification. Approval Authority Representatives may ask the General Manager to investigate an issue raised during public comment and later report to the Approval Authority. The lack of a response by the Approval Authority to public comment does not necessarily constitute agreement with or support of comments made during public comment.
- *Speaker Conduct.* The Approval Authority will not tolerate disruptive conduct by individuals making public comment. Speakers who use profanity or engage in yelling, screaming, or other disruptive behavior will be directed to cease that conduct and may be asked to leave the meeting room.

Disability Access

The Bay Area UASI Approval Authority will hold its meeting at the James Burton Federal Building, Northern California Regional Intelligence Center, 2nd Floor, California Conference Room, located at 450 Golden Gate Avenue, San Francisco, CA 94102. In compliance with the Americans with Disabilities Act, those requiring accommodations for this meeting should notify the UASI Administrative Assistant, at least 24 hours prior to the meeting, at (415) 353-5223.



To: Bay Area UASI Approval Authority

From: Mike Sena, Executive Director, Northern California Regional Intelligence Center

Date: August 08, 2019

Re: Item 02: NCRIC Bay Area Threat Briefing (Closed Session)

Staff Recommendation:

None

Action or Discussion Items:

Discussion

Discussion:

NCRIC Executive Director Mike Sena will present a threat briefing for the Bay Area UASI in closed session pursuant to California government code 54957(b).



**Bay Area UASI Program
Approval Authority Meeting**
Thursday, July 11, 2019
10:00 AM

LOCATION
Alameda County Sheriff's Office OES
4985 Broder Blvd., Dublin, CA 94568
OES Assembly Room

**REGULAR MEETING MINUTES
DRAFT**

1. Roll Call

UASI Chair Mary Ellen Carroll called the meeting to order at 10:00 AM and General Manager Craig Dziedzic subsequently took the roll. Chair Carroll, and Vice Chair Richard Lucia were present. Members Michael Cochrane, Toshia Shavies Marshall, Raymond Riordan, Dana Reed, Gerry Malais, and Mark Robbins were present. Member Christopher Godley was present and arrived at 10:03 AM. Members Bob Doyle and Mike Casten were absent, but their alternates Dave Augustus and Chris Simmons were present.

2. Approval of the Minutes

Chair Carroll asked for any comments or questions concerning the minutes from the May 9, 2019 meeting. Seeing none, she requested a motion to approve the minutes.

Motion: Approve the minutes from the May 9, 2019 Approval Authority Meeting.

Moved: Member Malais **Seconded:** Member Cochrane

Vote: The motion was passed unanimously.

A member of the public made a comment.

3. General Manager's Report

(a) Regional Catastrophic Preparedness Grant Program

General Manager Craig Dziejdzic indicated that the Management Team submitted an application for FEMA's Regional Catastrophic Preparedness Grant Program (RCPGP), requesting the maximum award per applicant of \$1.5m. He stated that this grant would enhance the work that was done in logistics/supply chain management involving C-POD planning.

(b) Management Team Update

General Manager Craig Dziejdzic introduced Lloyd Shand as the new Emergency Services Coordinator 1. He also introduced the newly promoted Yoshimi Saito as the Contracts Specialist.

(c) National Homeland Security Conference

General Manager Craig Dziejdzic briefed the board on the successful presentations by the UASI Team at the National Homeland Security Conference. The next conference will be in Chicago from June 29 – July 3, 2020. The following conferences will be in Las Vegas in 2021, and in Cleveland in 2022.

(e) Management Team Tracking Tool and Future Agenda Items

There were no additions to the tracking tool.
A member of the public made a comment.

4. FY20 Project Proposal Guidance

Regional Grants Manager Mary Landers presented the Project Proposal Guidance for the FY20 UASI funding cycle. This document contains all requirements and procedures for the FY20 sub-recipient grant application, review, and approval process. The timeline and general approach of the process is consistent with prior years. She stated that the guidance has been simplified and includes 3 short appendices.

Motion: Approve FY20 Project Proposal Guidance.

Moved: Member Malais **Seconded:** Member Cochrane

Vote: The motion was passed unanimously.

Three members of the board and two members of the public made a comment.

5. Technical Assistance Program Update

Regional Program Manager Janell Myhre provided an update on the UASI Technical Assistance (TA) Program. She stated that over ten TA sessions have taken place. Eight counties/cities have been recipients and this initiative has been receiving high evaluations and positive feedback. She stated that moving forward, the Management Team will use the information gathered from the surveys to conduct additional outreach and better defined program offerings.

A member of the board made a comment.

6. Training And Exercise RFP Update

Regional Project Manager Corinne Bartshire presented highlights and key components of the draft RFP for the Regional Training and Exercise Program. She also facilitated a discussion with the Approval Authority to obtain feedback and suggested document revisions. She reviewed the draft RFP scope of work and qualification requirements to the board. After additional discussion, Approval Authority members requested an amendment to the RFP to include language that increases transparency.

Motion 1: Approve the draft RFP content with the added language to increase transparency.

Moved: Member Reed **Seconded:** Member Cochrane

Vote: The motion was passed unanimously.

Motion 2: Approve the release of the RFP.

Moved: Member Malais **Seconded:** Member Riordan

Vote: The motion was passed unanimously.

Four members of the board and two members of the public made a comment.

7. Cyber Resilience Program Update

Regional Project Manager Mikyung Kim-Molina presented an update on the Cyber Resilience Program and described the current status and next steps for funding from FY 18 and FY 19. She stated that using FY 18 funds, a Tiered Training project was developed to deliver a high quality, targeted cybersecurity curriculum. Additionally, she reported that FY 19 funds were allocated to develop a regional cyber incident response framework, toolkit to address planning gaps, identify risks and threats, and improve cyber readiness within the region.

Three members of the board and one member of the public made comments.

8. Mass Notification Seminar Closeout

Regional Project Manager Mikyung Kim-Molina provided a recap of the Mass Notification Seminar. She stated the presenters shared lessons learned, best practices, and challenges in mass notification capabilities before, during, and after an emergency incident. Conference attendees were from both the Bay Area and around the country. Members of the board thanked Mikyung for her hard work on the seminar.

9. **Risk Management Program Update**

Regional Project Manager Amy Ramirez provided an update on the Risk Management program. She stated that there was no change to the regional asset risk for 2019. She also reported that the NCRIC completed an update to the Aviation sub-sector in CalCOP. Additionally, Haystax has completed the migration of CalCOP to a new platform. Lastly, she reported that a workshop was held on April 17th that drafted new Capability Targets using standardized language required by FEMA.

Two members of the board and three members of the public made comments.

10. **Access & Functional Needs Project Update**

Regional Project Manager Amy Ramirez provided an update on the Regional Access and Functional Needs (AFN) Project. She stated that the Emergency Management Work Group and the AFN leads identified for each jurisdiction had provided local subject matter expertise on project deliverables. She reported that the Memorandum of Understanding (MOU) Template, Train-the-Trainer for Shelter Staff and the Spontaneous Shelter Guidance tasks will be completed in July. Additionally, the AFN Planning Guidance Tool and the region-wide toolkit orientation will be completed in August.

One member of the board and two members of the public made comments.

11. **Bay Area UASI Travel Expenditures**

Chief Financial Officer Tristan Levardo presented travel expenditures for the Bay Area UASI from 7/08/18 – 6/21/19.

A member of the board asked a question.

12. **Announcements – Good of the Order**

Four members of the board made comments.

13. **General Public Comment**

One member of the public made a comment.

14. **Adjournment**

The meeting adjourned at 11:55 AM



To: Bay Area UASI Approval Authority
From: Craig Dziedzic, General Manager
Date: August 08, 2019
Re: Item 04: General Manager's Report

Recommendation:

Approve the Funding Strategy for the NCRIC's Operations.

Action or Discussion Items:

- a. Northern California Regional Intelligence Center (NCRIC) Funding Strategy (Action)
- b. Regional Training and Exercise Program Request for Proposals (RFP) Update (Discussion)
- c. Management Team Tracking Tool and Future Agenda Items (Discussion)

Discussion/Description:

(a) Northern California Regional Intelligence Center (NCRIC) Funding Strategy (Action).

Background

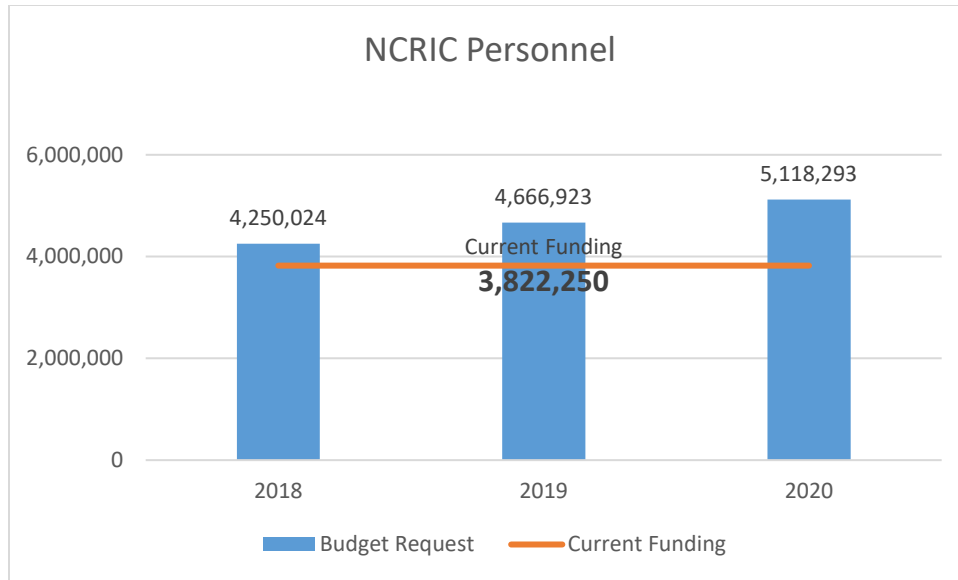
At the July 11, 2019 Approval Authority meeting, Approval Authority members requested a sustainable funding strategy to adequately address the NCRIC's operations to preclude funding its operations from other regional allocations such as the regional hubs.

Issue

How do we continue to fund the operations of the NCRIC when the personnel expenses (i.e., fringe benefits) have been increasing on an annual basis in light of an overall level of grant funding for the region.

Discussion

For both FY 2018 and FY 2019, the Bay Area UASI allocation has remained leveled at the net amount of \$22.7 mil. Similarly, the overall allocation for the NCRIC remained the same at approx. \$4.4 mil. However, the NCRIC's organizational expenses (i.e., personnel) have increased \$400,000 per year from \$4.25 mil (FY 2018) and \$4.66 (FY 2019); which in effect leaves the organization with a budget shortage of (-\$428K) FY2018 and (-\$845K) FY 2019. (See graph below). A major contributing factor for the increase in NCRIC operating expenses are the Cost of Living Adjustments (COLA) and fringe benefits paid to its personnel - a total of \$835,654 (FY 2018).



Strategy

1. Allocate an additional 3% to the NCRIC’s annual allocation earmarked to cover COLA and fringe benefits. Such funds would only be used for such expenditures and not be reallocated to other expenditures.
2. Funding for the organizational expenditures of the NCRIC should be derived solely from the allocation of regional sustainment projects, not from the HUB allocations.
3. Adopt a cost sharing arrangement with the allied agencies whereby they would pay for fringe benefits and the NCRIC would pay for the salaries of their assigned employees.
4. Request CalOES to increase its funding amount of \$1 mil.

(b) Regional Training/Exercise Request for Proposals (RFP) Update

The Regional Training/Exercise was issued by the City and County of San Francisco on July 19, 2019. The Deadline for submitting written questions occurred on August 2nd; the posting of written responses occurred during the week of August 12th. The deadline for submitting a proposal is August 27th. The Management Team will be forming an initial review of the proposals on September 17th followed by a technical review on October 8th. The Selection of the T/E Administrator will occur at the November 8th Approval authority.

(c) Management Team Tracking Tool and Future Agenda Items

Attached as Appendix A is the Management Team Tracking Tool. Members may submit future agenda items to the General Manager.



To: Bay Area UASI Approval Authority

From: Eric Casher, Meyers-Nave

Date: August 08, 2019

Re: Item 05: Brown Act Update

Staff Recommendation:

None

Action or Discussion Items:

Discussion

Discussion:

Eric Casher from the firm of Meyers-Nave will provide an update to the provisions of the Ralph M. Brown Act, which govern open meetings for local government bodies.

UASI Approval Authority and Management Team Tracking Tool

August 08, 2019 Approval Authority Meeting

#	Agenda Item	Presenter	Date Assigned	Due Date	Status / Comments
1	CBRNE Program Update	Phil White	1/31/19	11/14/19	
2	Radiological Security Initiative Update	Ed Baldini	1/31/19	11/14/19	
3	WebEOC Fusion Project Update	Janell Myhre	1/30/19	11/14/19	
4	Regional Training and Exercise RFP Update	Janell Myhre	3/25/19	11/14/19	
5	Supply Chain Management Project Update	Amy Ramirez	1/30/19	11/14/19	
6	Annual Stakeholder FB	Janell Myhre	7/16/19	11/14/19	
7	FY20 Proposed Regional Projects	Mary Landers	7/16/19	1/09/20	
8					
9					
10					
11					
12					

Recurring Agenda Items					
#	Agenda Item	Deliverable	Presenter	Due Date	Status / Comments
A	UASI Financial Reports	Report	Tristan Levardo	11/14/19 01/09/20 03/12/20 05/08/20 08/08/20	Reallocation of Grant Funds FY17 UASI Spending Report Bay Area UASI Travel Expenditures FY18 UASI Spending Report FY19 UASI Spending Report
B	BayRICS JPA Quarterly Report	Report	Corey Reynolds	11/14/19 01/09/20 03/12/20 08/08/20	BayRICS JPA Report
C	Election of UASI Officers	Discussion & Action Item	Chair	01/09/20 (annually)	
D	NCRIC Annual Report	Report	Mike Sena	01/09/20 (annually)	
E	Training and Exercise Program Annual Report	Report	TBD	01/09/20 (annually)	
F	NCRIC Threat Briefing	Report	Mike Sena	08/13/20 (annually)	
G	Risk Management Program	Report	Amy Ramirez	11/14/19 (annually) 11/14/19 (annually) 01/09/20 (annually) 07/11/20 (annually)	THIRA approval Hub funding allocation/Risk formula application Kick Off Update

**OPEN MEETING LAWS
IN CALIFORNIA:
RALPH M. BROWN ACT
UPDATE**

July 2019



555 12th Street, Suite 1500
Oakland, CA 94607
510.808.2000

ecasher@meyersnave.com

www.meyersnave.com

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION, PURPOSE, AND SCOPE OF BROWN ACT	1
II. BODIES COVERED BY THE BROWN ACT	1
III. MEETINGS DEFINED	2
A. EXCEPTIONS	2
1. Individual Contact Exception	2
2. Conference Exception	2
3. Community Meeting Exception	3
4. Other Legislative Body Exception	3
5. Social or Ceremonial Occasion Exception	3
6. Standing Committee Attendance Exception	3
7. Individual Deliberation Exception	3
B. SERIAL MEETINGS	3
1. Individual Contacts Between Members of the Public and Board Members	4
2. Video Teleconferencing and Conference Telephone Calls	4
3. Writings as Meetings	4
4. E-mails	4
IV. NOTICE AND AGENDA REQUIREMENTS	4
A. REGULAR MEETINGS	4
1. Agenda Requirements	4
2. Exceptions to Agenda Requirements	5
3. Public Testimony	5
B. SPECIAL MEETINGS	6
C. EMERGENCY MEETINGS	6
D. PUBLIC REPORTING OF ACTIONS TAKEN IN OPEN SESSIONS	7
E. CLOSED SESSIONS	7
1. Agenda Requirements	7
2. Oral Announcement Prior to Closed Session	7
3. Report at the Conclusion of Closed Session	7

E.	ADJOURNMENTS AND CONTINUANCES	8
F.	LOCATION OF MEETINGS	8
V.	PERMISSIBLE CLOSED SESSIONS	9
A.	PURPOSE	9
1.	Narrow Construction	9
2.	Semi-Closed Meetings	9
3.	Secret Ballots	9
B.	AUTHORIZED EXCEPTIONS	9
1.	Personnel Exception (Gov. Code § 54957(b))	9
2.	Pending Litigation Exception (Gov. Code § 54956.9)	10
3.	Real Estate Negotiations Exception (Gov. Code § 54956.8)	10
4.	Labor Negotiation Exception (Gov. Code § 54957.6)	10
5.	Public Security Exception (Gov. Code § 54957)	11
6.	License Application Exception (Gov. Code § 54956.7)	11
7.	Other Authorized Exceptions	11
C.	MINUTE BOOK	11
D.	CONFIDENTIALITY OF CLOSED SESSIONS	12
VI.	RECORDS DISTRIBUTED TO LEGISLATIVE BODY	12
VII.	PENALTIES AND REMEDIES FOR VIOLATION OF THE ACT	12
A.	CRIMINAL PENALTIES (Gov. § 54959)	12
B.	CIVIL REMEDIES	13
1.	Injunctive Relief (Gov. Code § 54960)	13
2.	Invalidation of Action (Gov. Code § 54960.1)	13
3.	Limitation on Relief for Past Actions of Legislative Bodies (Gov. Code § 54960.2)	13
4.	Attorney Fees (Gov. Code § 54960.5)	13

OPEN MEETING LAWS IN CALIFORNIA: RALPH M. BROWN ACT

I. INTRODUCTION, PURPOSE, AND SCOPE OF BROWN ACT

The Ralph M. Brown Act (the “Act”), codified as Government Code sections 54950 through 54963, is California’s open public meeting law. It was first enacted in 1953 as good government reform to limit perceived and real backroom deal making and to make local government decision making more transparent to the public. The Brown Act is intended to facilitate public participation in all phases of local government decision-making and to curb misuse of the democratic process by secret legislation of public bodies. (*Chaffee v. San Francisco Library Commission* (2004) 115 Cal.App.4th 461.) The basic requirement of the Act is set forth at Government Code section 54953(a):

“All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.”

By adopting this legislation, the Legislature established a clear presumption in favor of public access to public meetings.

Even though the Act establishes broad public access rights to the meetings of “legislative” bodies, it also recognizes that under certain limited circumstances there is a legitimate governmental interest in closing some meetings to the public. Examples of such statutorily-authorized closed session topics include personnel issues, pending litigation, anticipated litigation, labor negotiations, real property acquisitions, and public security.

The Brown Act now covers virtually every type of local government body, elected or appointed, decision-making or advisory, permanent or temporary. Similarly, meetings subject to the Brown Act are not limited to formal gatherings but include communications by which a majority develops a “collective concurrence as to action to be taken.” Even discussions among a majority of the legislative body are considered “meetings” if the discussion involves any item within the body’s subject matter jurisdiction.

II. BODIES COVERED BY THE BROWN ACT

The Brown Act applies to “legislative bodies” of all local agencies in the State of California. “Legislative body” is defined in the Brown Act to include the governing body of a local agency (e.g., the board of directors) and any commission, committee, board or other body of a local agency, whether permanent or temporary, decision making or advisory, created by charter, ordinance, resolution or formal action of the legislative body. “Standing committees” (even those consisting of less than a quorum of the body) are subject to the requirements of the Brown Act. Standing committees have either: (1) a continuing subject matter jurisdiction; or (2) a meeting fixed by charter, ordinance, resolution or other formal action of the legislative body. For example, if a governing body creates a long-term committee on a particular subject (e.g., finance, public safety, budget, etc.), such a committee would be considered a standing committee subject to the Brown Act. (Gov. Code § 54952(b).)

Also included as legislative bodies are any non-profit corporations created by the legislative body to exercise delegated authority or any non-profit that receives funding from the legislative body and to whose board the legislative body appoints one of its members (Gov. Code § 54952(c).)

Government Code section 54952 includes as a legislative body a limited liability company that is created by the legislative body to exercise delegated authority or that receives funding from the local agency and to whose board the legislative body appoints one of its members.

The Brown Act does not apply to ad hoc advisory committees composed solely of less than a quorum of the legislative body. Such committees shall not have “continuing subject matter jurisdiction” and do not have a meeting schedule fixed by formal action of a legislative body. Ad hoc committees generally serve only a limited or a single purpose, are not perpetual, and are dissolved once their assigned task is completed.

Committees that are not created by formal action of the legislative body are not covered. For example, if a staff member or a single member of a governing board creates an advisory group and it is not otherwise created by formal action, that committee is not covered by the Brown Act.

III. MEETING DEFINED

The Brown Act defines a meeting as “any congregation of a majority of the members of a legislative body at the same time and location, including teleconference locations as permitted by Section 54953, to hear, discuss, deliberate or take action on any item that is within the subject matter jurisdiction of the legislative body.” (Gov. Code § 54952.2(a).) This definition is extraordinarily expansive and essentially prohibits any deliberation among members of a legislative body on issues before that body other than at a scheduled public meeting.

However, there are six types of gatherings that are exempt from the provisions of the Brown Act. These exceptions are: (1) the individual contact exception; (2) the conference exception; (3) the community meeting exception; (4) the other legislative body exception; (5) the social or ceremonial occasion exception; and (6) the standing committee attendance exception.

Unless a gathering of a majority of the members of a legislative body falls within one of these specified exceptions, if a majority of the members are in the same place and discussing any city business matter, such a gathering would be considered a meeting under the Brown Act.

A. EXCEPTIONS

1. Individual Contact Exception: The Act specifically allows individual contacts or conversations between a member of the body and any other person, providing such contact or conversation does not result in a serial meeting (defined below). (Gov. Code § 54952.2(c)(1).)

2. Conference Exception: The Act specifically allows the attendance of a majority of members at a conference or similar gathering, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, specific matters within the jurisdiction of the agency. (Gov. Code § 54952.2(c)(2).)

3. Community Meeting Exception: A majority of members may attend an open and publicized community meeting organized to address a topic of local concern without running afoul of the Act, as long as the agency did not organize the event and the members do not discuss among themselves, other than as part of the scheduled program, specific matters within the jurisdiction of the agency. (Gov. Code § 54952.2(c)(3).)

4. Other Legislative Body Exception: A majority of the members of a local legislative body may attend an open and noticed meeting of another body of the same agency, as well as an open and noticed meeting of another local agency, again with the caveat that they may not discuss among themselves, other than as part of the scheduled meeting, specific business within their jurisdiction. (Gov. Code § 54952.2(c)(4).) Thus, for example, the Brown Act does not prohibit a majority of a city's planning commissioners from attending an open and noticed meeting of the City Council.

5. Social or Ceremonial Occasion Exception: A majority can attend social or ceremonial events as long as they do not discuss among themselves specific business within the subject matter jurisdiction of their agency. (Gov. Code § 54952.2(c)(5).)

6. Standing Committee Attendance Exception: A majority of members may attend an open and noticed meeting of a standing committee of the body, provided that members of the body who are not members of the standing committee attend only as observers. (Gov. Code § 54952.2(c)(6).)

7. Individual Deliberation Exception: To be a "legislative body," a group must engage in collective, rather than individual, deliberation or decisionmaking. Thus, a group of city employees who each have a specific and separate responsibility regarding the same matter, is not a legislative body. For example, if a group of officials must individually review and approve a particular document, they are not considered a legislative body because they are not acting collectively, even though they are working on the same matter. (*Golightly v. Molina* (2014) 229 Cal.App.4th 1501.)

B. SERIAL MEETINGS

Although the Brown Act does not prohibit individual contacts or conversations between a member of a legislative body and any other person, the Brown Act does prohibit a series of such individual contacts if they result in a so-called "serial meeting." (Gov. Code § 54952.2(b).)

The Act expressly prohibits serial meetings, defined as "a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction or the legislative body." (Gov. Code § 54952.2(b)(1).)

For example, a chain of communications (sometimes referred to as a "daisy chain" serial meeting) occurs in the following circumstance: Member A contacts member B. Member B then contacts member C. Member C then contacts Member D, and so on, until a majority of the members of the legislative body have participated in the discussion.

An example of the so-called "hub and spoke" serial meeting occurs when a staff person telephones members of a board one-by-one to discuss a proposed action, or a chief executive briefs board members prior to a formal meeting and, in the process, reveals information about the members' respective views. The Brown Act prohibits not only reaching a collective concurrence, but also any discussion by a majority of the legislative body members on any item that is within the legislative body's jurisdiction. The Brown Act

does not, however, prevent an employee or official of the agency from having separate conversations with a majority of the legislative body outside of a meeting in order to answer questions or provide information to the members, as long as that person does not communicate the comments or positions of a member or members to a majority. (Gov. Code § 54952.2(b)(2).)

1. Individual Contacts Between Members of the Public and Board Members.

Although Government Code 54952.2(c)(1) allows for individual contacts or conversations between a member of a legislative body and another person, it should be kept in mind that such individual contact should not be expanded in an effort to engage a majority of the legislative body in a discussion of any issue within the legislative body's jurisdiction. In other words, a member of the public should not act as an intermediary to relay among a majority of the members the members' positions or comments on topics within their subject matter jurisdiction.

2. Video Teleconferencing and Conference Telephone Calls.

The prohibition against serial meetings specifically exempts video conferencing or teleconferencing meetings as long as they are conducted according to the procedures set forth in the Brown Act at section 54953(b). Such procedures require the following steps: (1) an agenda must be posted at all videoconference or teleconference locations; (2) each location must be identified in the notice and agenda of the meeting and must be accessible to the public, and (3) a quorum of the members of the legislative body must participate from within the boundaries of the agency's jurisdiction.

3. Writings as Meetings.

Although generally distribution of written instruments does not constitute a meeting under the Brown Act, at least one court has determined that circulation of a proposal among board members for their review and signature did, in fact, constitute a meeting in violation of the Brown Act when a majority of the members of the legislative body signed the document.

4. E-mails.

The Brown Act prohibits the use of "a series of communications of any kind . . . to discuss, deliberate or take action . . ." (Gov. Code § 54952.2(b)(1).) Consequently, e-mails are subject to the Brown Act. The ease with which one can send an e-mail message may make it a particularly problematic trap for unwary public officials. A board member may send a message to a colleague about a matter that will be before the board. The recipient might forward it to a third board member, resulting in a serial meeting prohibited by the Brown Act. All may be acting without any intention of violating the Brown Act, and yet they may have done so. The e-mail string is also an electronic record of the violation. If a majority of the members of a legislative body either receive or reply to an e-mail, a serial meeting may result since the transmission of the members' ideas could be construed as a "discussion" under the Brown Act. This can easily occur when a member selects "reply to all" on a message sent from staff where that message contains discussion, deliberation, decisions or other content on any issue within the legislative body's jurisdiction.

IV. NOTICE AND AGENDA REQUIREMENTS

A. REGULAR MEETINGS

Each legislative body of a local agency, including advisory committees, commissions, or boards, as well as standing committees of legislative bodies, must provide an agenda at least 72 hours before the regular meeting. As of January 1, 2019, the meeting agenda must still be posted in a physical location that is freely accessible to members of the public, and additionally posted via direct link on the

agency's home webpage. The agenda online must be downloadable, indexable, electronically searchable, platform independent and machine readable, and available to the public free of charge. Alternatively, the agenda online may be posted on a dedicated webpage that provides agenda information. (Gov. Code. §§ 54590-54963.)

1. Agenda Requirements. For regular meetings, the legislative body must post an agenda, in a location freely accessible to members of the public and on the agency's web site, at least 72 hours prior to the meeting. As of January 1, 2019, the online agenda must be available through a direct link, or on a dedicated agenda webpage on the agency's website. (Gov. Code. §§ 54590-54963.) The agenda must contain a brief general description of each item of business to be conducted, and must specify the time and location of the regular meeting. (Gov. Code § 54954.2(a).) The Brown Act provides that such descriptions of agenda items generally need not exceed 20 words, but should inform interested members of the public about what is under consideration, so that the public can determine whether it wishes to participate in the meeting. (Gov. Code § 54954.2(a)(1).) The agenda must also include a notice informing the public that any writing that is a public record and relates to an open session agenda item that is distributed less than 72 hours prior to the meeting will be available for public inspection at City Hall. (Gov. Code § 54957.5.) If requested, the agenda shall be made available in appropriate formats to serve persons with disabilities, and the agenda must include information regarding how, to whom and when a request for disability accommodation may be made by a person with a disability who requires such accommodation in order to participate in the public meeting.

2. Exceptions to Agenda Requirements. The Brown Act provides that no action or discussion shall be undertaken on any item not appearing on the posted agenda except: (1) a member of a legislative body or its staff may briefly respond to statements made or questions posed by a person exercising public testimony rights under the public comment portion of the meeting; (2) a member of the legislative body, on his or her own initiative, or in response to questions posed by the public, may ask questions for clarification, make a brief announcement or make a brief report on his or her own activities; and (3) a member of the legislative body may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda. (Gov. Code § 54954.2(a)(2).)

In addition, the legislative body may take action on items not appearing on the posted agenda if the body publicly identifies the item and one of the following three circumstances exists:

(a) A majority determines that an emergency exists as defined by Government Code section 54956.5 (discussed in more detail below).

(b) Two-thirds vote of the members of the body present or, if less than two-thirds of the members are present, a unanimous vote of those members present, determines that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted.

(c) The item was previously posted for a prior meeting of the body that occurred not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken. (Gov. Code § 54954.2(b).)

3. Public Testimony. The Brown Act provides that every agenda for a regular meeting must provide an opportunity for members of the public to address the legislative body on any item under the subject matter jurisdiction of the body. Encompassed in this provision are two types of public comment periods. One is a general comment period in which members of the public may comment on any

item of interest that is within the body's subject matter jurisdiction and is not on the agenda. The other public comment period is with respect to any item on the agenda. Such comment periods on agenda items must be allowed to occur prior to or during the Council's consideration of the item. (Gov. Code § 54954.3(a).)

There is one exception to allowing public comment. This exception provides that the agenda need not provide an opportunity for members of the public to address the legislative body on any item that had already been considered by a committee, composed exclusively of members of the legislative body, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item unless the item has been substantially changed since the committee heard the item as determined by the legislative body.

The legislative body is allowed to adopt reasonable regulations, including regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker. (Gov. Code § 54954.3(b).)

If a legislative body does adopt regulations limiting the time for public comment, it must provide at least twice the allotted time to a member of the public who uses a translator. (Gov. Code § 54954.3(b)(2)-(3).)

B. SPECIAL MEETINGS

A special meeting may be called at any time by the presiding officer of the legislative body or by a majority of the members of the legislative body by delivering written notice to each member of the legislative body and to each local newspaper of general circulation and radio or television stations requesting notice in writing, and by posting the notice on the agency's web site. The notice must be delivered personally or by any other means and shall be received at least 24 hours before the time of the meeting as specified in the notice, which shall also specify the time and place of the special meeting and the business to be conducted. No other business shall be considered at special meetings. In other words, there cannot be any matters added to the agenda. In some instances written notice may be dispensed with as to any members of the legislative body. The call and notice must be posted 24 hours prior to the special meeting in a location freely accessible to members of the public. (Gov. Code § 54956.)

Note that agencies may not agendize or discuss matters regarding local agency official salaries, salary schedules or compensation paid in the form of fringe benefits at a special meeting. The definition of "local agency officials" includes chief executive officers, deputy and assistant chief executive officers, department heads and officials who have an employment contract with the agency, and who are not members of a collective bargaining unit. General budget discussions may still be held at special meetings, however. (Gov. Code § 54956(b).)

C. EMERGENCY MEETINGS

As noted above, a legislative body may conduct an emergency meeting when there is an "emergency situation" requiring prompt action due to disruption or threatened disruption of public facilities without having to comply with the 24-hour notice requirement of a special meeting. (Gov. Code § 54956.5(b)(1).) The Brown Act defines "emergency situation" as work stoppage or crippling activity or other activity that severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body; and a "dire emergency" as a crippling disaster, mass destruction, terrorist act, or threatened terrorist

activity that poses peril so immediate and significant that requiring the legislative body to provide even one-hour notice before holding an emergency meeting may endanger the public health, safety, or both, as determined by a majority of the members of the legislative body. (Gov. Code § 54956.5(a)(1).)

However, newspapers of general circulation, radio or television stations that have requested special meeting notices shall be notified by the presiding officer or designee one hour prior to the “emergency” meeting by telephone unless telephone services are not functioning. In the case of a “dire emergency,” notice shall be given to the media at or near the time the presiding officer notifies members of the legislative body of the emergency meeting.

The legislative body may not meet in closed session during an emergency meeting, except pursuant to Government Code section 54957, which allows a closed session with law enforcement on specified security matters if agreed to by a two-thirds vote of the members present at the emergency meeting or, if less than two-thirds of the members are present, by unanimous vote. (Gov. Code § 54956.5(c).)

D. PUBLIC REPORTING OF ACTIONS TAKEN IN OPEN SESSIONS

All legislative bodies must publicly report any action taken and the vote or abstention on that action of each member present for the action. “Action taken” is a collective decision made by a majority of the members upon a motion, proposal, resolution, order or ordinance, and may include decisions made by general consensus. The public announcement is in addition to the prior requirements of taking and recording attendance, and recording votes, in the minutes. The minutes should also clearly record whether any voting member leaves the meeting before adjournment or enters the meeting after the call to order.

Each time the legislative body takes action, the action should be by motion followed either (1) by a roll call vote with each vote or abstention individually recorded in the minutes, or (2) following each vote, the Chair or Clerk of the legislative body (or other appropriate person) announcing the vote, including who voted which way. The Chair’s or Clerk’s statement should be substantially similar to the following and should be recorded in the minutes:

“The Board voted on a motion to [describe action taken].

The motion [carried/did not carry] by unanimous vote.

-or-

The following individuals voted in favor [list members]; the following members voted against [list members]; and [the following members abstained/no members abstained]. Based on this count, the motion [carried/did not carry].”

The same statement should be made where a decision, such as a direction to staff, is made by general consensus.

E. CLOSED SESSIONS

1. Agenda Requirements. Although closed sessions not open to the public may be conducted at regular or special meetings, there must still be notice of the closed sessions even if no action is contemplated.

The Brown Act provides certain “safe harbor” provisions or model formats for describing closed session matters. Substantial compliance with these “safe harbor” provisions satisfies agenda description requirements. (See Gov. Code § 54954.5.)

2. Oral Announcement Prior to Closed Session. The Brown Act also requires an oral announcement of the items to be discussed in closed session prior to adjourning to closed session. In some instances, the Brown Act only requires a reference to the item as it appears on the agenda. In other situations, the Brown Act requires additional information and describes the types of announcements which must be made. However, these provisions do not require the disclosure of privileged or confidential communications exempt from disclosure under the Public Records Act.

3. Report at the Conclusion of Closed Sessions. The Brown Act requires that a legislative body reconvene in open session after conducting a closed session. If certain types of action are taken in closed session and under certain specified circumstances, the legislative body is to report the action taken and the vote, subject to limited exceptions. (See Gov. Code § 54957.1.)

E. ADJOURNMENTS AND CONTINUANCES

The Brown Act provides that a legislative body may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may adjourn such meetings and if all members are absent, the clerk or secretary of the legislative body may declare the meeting adjourned and must provide written notice of the adjournment in the same manner as for special meetings. A copy of the order or notice of adjournment must be posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within 24 hours after the time of the adjournment. (Gov. Code § 54955.)

A duly noticed hearing may also be continued or recontinued in the same manner as adjourned meetings. However, if a meeting is continued to a time less than 24 hours after the time specified in the original notice, a copy of the notice of continuance must be posted immediately following the meeting in which the continuance was adopted. (Gov. Code § 54955.1.)

F. LOCATION OF MEETINGS

Regular or special meetings of the legislative body must be held within the boundaries of the territory over which the local agency exercises jurisdiction. In other words, a city council meeting must be within the city, county board of supervisors must be within the county, and boards of directors for special districts must meet within special districts. (Gov. Code § 54954(b).)

However, there are boundary exemptions set forth in the Brown Act that permit the legislative body to meet outside of its boundaries to do any of the following:

1. Comply with state or federal law or any court order, or attend a judicial or administrative proceeding to which the local agency is a party.

2. Inspect real property located outside the jurisdiction or personal property that would be inconvenient to bring inside the jurisdiction.
3. Participate in meetings or discussions of multi-agency significance so long as the meetings are held at the jurisdiction of one of the agencies and proper notice is provided by all bodies covered by the Act.
4. Meet at the nearest available facility if the legislative body has no meeting facility within the jurisdiction or at the principal office of the legislative body if that office is located outside the jurisdiction.
5. Meet with federal or California officials on a legislative or regulatory issue affecting the local agency when a local meeting would be impractical and over which the state or federal officials have jurisdiction.
6. Meet in or nearby a facility owned by the local agency so long as the topic of the meeting is directly related to the facility itself.
7. Visit the office of the body's legal counsel for a closed session held on pending litigation when to do so would reduce legal fees or costs.

School districts have certain additional exemptions. Joint powers authorities must meet within the jurisdiction of one of its member agencies unless one of the above exemptions apply.

V. PERMISSIBLE CLOSED SESSIONS

A. PURPOSE

The basic purpose of the Brown Act is to be sure that the public business is conducted in public and that the public is permitted to participate. However, the Legislature has recognized those instances when discussion of certain types of matters in open session would not be in the best interest of the public.

1. Narrow Construction. Closed sessions cannot be conducted unless expressly authorized by specific statutory provisions of the Brown Act. Since closed sessions are the exception to the open meeting requirements of the Brown Act, the provisions allowing closed sessions have been narrowly construed. Even if a matter is sensitive, controversial, cumbersome, embarrassing or could be handled in a much more expeditious manner in closed session, a closed session is not allowed unless expressly authorized by the Brown Act.

2. Semi-Closed Meetings. Sessions of legislative bodies are either "closed" or "open." There should not be any so-called "semi-closed" meetings. In other words, a legislative body cannot invite selected members of the public to attend closed sessions while excluding others. In general, closed sessions should only include those members of the legislative body and any additional support staff that may be necessary (e.g., legal counsel, supervisor in a disciplinary matter, consultants, real estate or labor negotiators). Alternate members should not participate if the members for whom they are alternates are present.

3. Secret Ballots. Secret ballots cannot be conducted in closed session unless the vote is specifically related to a closed session matter. In other words, if the item under consideration is not subject to a specific closed session exception, any vote on the item must be conducted in open session. Also, many votes that are permitted to be taken in closed session must be reported in the open session immediately following.

B. AUTHORIZED EXCEPTIONS

1. Personnel Exception (Gov. Code § 54957(b)). The so-called “personnel” exception allows a legislative body to meet in closed session to consider the “appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee by another person or employee unless the employee requests a public session.”

The term “employee” is defined as including an officer or an independent contractor who functions as an officer or an employee, but does not include any elected official, member of a legislative body or other independent contractors. It is important to keep in mind that this particular closed session does not allow for discussion or action on proposed compensation except for reducing compensation that results from imposition of discipline.

A closed session under the personnel exception that involves specific complaints or charges brought against an employee requires that notice be given to the employee of his or her rights to have complaints or charges aired in open session. The notice must be provided 24 hours before the meeting.

2. Pending Litigation Exception (Gov. Code § 54956.9). The Brown Act provides that a legislative body may meet in closed session to discuss “pending litigation.” “Litigation” is defined to include any adjudicatory proceedings, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer or arbitrator. For purposes of the Act, litigation is considered “pending” when any of the following circumstances exist: (a) litigation to which the agency is a party has been initiated formally; (b) it has been determined based on certain defined existing facts and circumstances that there exists a significant exposure to litigation (i.e., threatened or anticipated litigation against the agency); or (c) a local agency desires to discuss potential litigation to be initiated by the agency.

With respect to “existing litigation” the most obvious situation is when there has been an actual lawsuit filed in court or where another administrative agency names the local agency as a party.

With respect to threatened or anticipated litigation against the local agency, there are six separate categories of facts and circumstances, one of which must exist in order for a closed session to take place. An agency should consult with its counsel to determine whether these facts and circumstances exist, in order to provide a basis for a closed session. The legislative body may also meet under this exception to determine whether a closed session is authorized based on the information provided by legal counsel or staff.

3. Real Estate Negotiations Exception (Gov. Code § 54956.8). This exception allows a legislative body to meet in closed session to grant authority to its negotiator regarding real property

negotiations and the power to finalize any agreement so negotiated. This closed session item concerns the purchase, sale, lease or exchange of property by or for the agency, and it must be preceded by an open session in which the body identifies both the real property and the persons with whom the negotiator may negotiate. If after negotiations for the purchase of property there is an impasse, and the legislative body wishes to consider eminent domain proceedings, such discussions should be held under the pending litigation exception of the Brown Act rather than the real property negotiation exception.

4. Labor Negotiation Exception (Gov. Code § 54957.6). A legislative body may meet in closed session with its labor negotiator regarding employment discussions with employee organizations and unrepresented employees regarding compensation. During such closed sessions, the legislative body may approve an agreement concluding labor negotiations with represented employees. However, closed sessions may not include final actions on proposed compensation for unrepresented employees. Prior to the closed session, the legislative body shall, in open and public session, identify the designated representatives and parties to the negotiation.

5. Public Security Exception (Gov. Code § 54957). Legislative bodies may meet in closed session with the Governor, Attorney General, district attorney, agency counsel, sheriff or chief of police, or their respective deputies, or a security consultant or security operations manager, on matters posing a threat to the security of public buildings, a threat to the security of essential public services, or a threat to the public's right of access to public services or public facilities.

Government Code section 54957 includes among those who can meet with a legislative body in closed session, agency counsel and security consultants or security operation managers with respect to matters posing a threat to the security of essential public services, including water, drinking water, wastewater treatment, natural gas service and electric service.

6. License Application Exception (Gov. Code § 54956.7). The Brown Act provides special provisions for consideration of license applications by persons with criminal records.

7. Other Authorized Exceptions.

a. Joint powers agencies may meet in closed session to discuss a claim for payment of a tort liability loss, public liability loss, or workers' compensation liability incurred by the joint powers agency or local agency member of such a joint powers agency. (Gov. Code § 54956.95.)

b. Multi-jurisdictional law enforcement agencies may meet in closed session to discuss the case records of any ongoing criminal investigation of the multi-jurisdictional law enforcement agency. A "multi-jurisdictional law enforcement agency" is a joint powers entity formed to investigate criminal activity or felony possession of a firearm; high technology, computer, or identify theft; human trafficking; or vehicle theft. (Gov. Code § 54957.8.)

c. A legislative body may meet in closed session to discuss a local agency employee's application for early withdrawal of funds in a deferred compensation plan when the application is based on financial hardship arising from an unforeseeable emergency due to illness, accident, casualty or other extraordinary event. (Gov. Code § 54957.10)

d. County hospitals, hospital districts, school districts and community colleges may conduct additional closed sessions under certain statutory provisions, including Health and Safety Code sections 1461, 1462, 32106, 32155 or Government Code sections 37606, 37606.1 and 37624.3 as they apply to hospitals, or any provisions of the Education Code pertaining to school districts and community college districts. (Gov. Code § 54962.)

C. MINUTE BOOK

An agency may, but is not required to, keep a minute book with respect to closed sessions. (See Gov. Code § 54957.2.) If it chooses, the legislative body may designate a clerk or other officer or employee to attend the closed session to keep the minute book. Such a minute book is not a public record, therefore is not subject to disclosure, and shall be kept confidential.

D. CONFIDENTIALITY OF CLOSED SESSIONS

Government Code section 54963 provides that a person may not disclose confidential closed session information without the consent of the legislative body holding the closed session. Violations can be addressed by injunction or disciplinary action.

VI. RECORDS DISTRIBUTED TO A LEGISLATIVE BODY

Agendas of public meetings and any other writings, when distributed to all or a majority of the legislative body of a local agency by any person in connection with a matter subject to discussion or consideration at an open meeting of the body, are subject to disclosure under the California Public Records Act, Government Code section 6250 *et seq.*, and shall be made available upon request without delay. However, any records so distributed are not subject to disclosure if they fall within the certain specified exemptions (see Government Code sections 6253.5, 6254, 6254.3, 6254.7, 6254.15, 6254.16, 6254.22, and 54957.5(a)).

Any writing that is a public record and relates to an agenda item for an open session of a regular meeting that is distributed less than 72 hours prior to the meeting must be made available for public inspection at a designated public office or location at the same time the writing is distributed to all or a majority of the legislative body. The local agency must list the location where such writings and all of the agency's agendas are available. The local agency may also post the writing on the agency's website in a manner and location that makes it clear the writing relates to an agenda of an upcoming meeting. (Gov. Code § 54957.5(b).) Writings that are public records subject to disclosure and that are distributed during a public meeting shall be made available for public inspection at the public meeting if prepared by the local agency or a member of the legislative body, and should be provided after the meeting if prepared by some other person. Any such writings shall be made available in an appropriate alternative format upon request by a person with a disability. (Gov. Code § 54957.5(c).)

VII. PENALTIES AND REMEDIES FOR VIOLATION OF THE ACT

The Brown Act includes provisions that make violations of the Act a crime and authorize civil actions to invalidate actions previously taken or to stop or prevent violations.

A. CRIMINAL PENALTIES (Gov. Code § 54959)

Each member of a legislative body who attends a meeting of that legislative body where “action” is taken in violation of the Act, and where the member “intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this chapter, is guilty of a misdemeanor.” “Action taken” is defined by Government Code section 54952.6 and means a collective decision, commitment or promise by a majority of the members of the body to make a positive or negative decision, or an actual vote. Mere deliberation without some action is not a subject to criminal penalty.

B. CIVIL REMEDIES

1. Injunctive Relief (Gov. Code § 54960). The Brown Act provides that the district attorney or any interested person may commence an action by mandamus or injunctive or declaratory relief for the purpose of stopping or preventing violations or threatened violations of the Brown Act.

2. Invalidation of Action (Gov. Code § 54960.1). The district attorney or any interested person may commence an action by mandamus or injunction for obtaining a court order that actions taken in violation of certain provisions of the Brown Act are null and void. The specified provisions concerning which such a suit may be filed are:

- (a) General open meeting requirement (§ 54953);
- (b) Agenda requirement for regular meetings (§ 54954.2);
- (c) Safe harbor notice provisions for closed sessions (§ 54954.5);
- (d) Procedures for new taxes and assessments (§ 54954.6);
- (e) Requirements for special meetings (§ 54956); and
- (f) Requirements for emergency meetings (§ 54956.5).

However, prior to commencing such an action, the legislative body must be provided a demand to cure or correct the action alleged to have been taken in violation of the Brown Act. The written demand must be made within 30 days of the action if it was in open session, or within 90 days of the action in all other situations. The legislative body shall within 30 days correct or cure the challenged action or advise the demanding party in writing of its decision not to do so. If the legislative body takes no action, the demanding party may initiate litigation but must do so within 15 days of receipt of decision to cure or correct or refusal to do so or within 15 days of the end of the 30-day period to cure or correct.

3. Limitation on Relief For Past Actions of Legislative Bodies (Gov. Code § 54960.2). For actions filed by the district attorney or any interested person related to past actions of a legislative body, the potential filer must first mail or fax a cease and desist letter to the legislative body within nine (9) months of the alleged violation. The legislative body has 30 days to respond. If the legislative body does not timely provide an unconditional commitment to cease, desist and not repeat the challenged action, then an action may be brought, but only within 60 days of expiration of the response period. "Late" unconditional commitments may be made by the legislative body, but in that event the court shall award attorneys' fees and costs to the filer. "Unconditional commitments" must be approved by the legislative body in open session, and not on a consent agenda, and will bar the filing of an action. However, violation of an "unconditional commitment" constitutes an independent violation of the Brown act. There are also provisions for rescission of an unconditional commitment.

4. Attorneys' Fees (Gov. Code § 54960.5). A court may award court costs and reasonable attorneys' fees to plaintiffs in actions brought under the Brown Act where it finds that there has been a violation of the Act. These costs and fees shall be paid by the local agency and shall not be the personal liability of the public officer or employee. The court may also award court costs and reasonable

attorneys' fees to a defendant legislative body or member where the defendant prevails and the court finds the action was clearly frivolous and totally lacking in merit.

3324887.2



meyers | nave
A Professional Law Corporation

***Bay Area Urban Areas
Security Initiative
2019 Brown Act Presentation***

Eric S. Casher, Principal

August 8, 2019

III. Government Transparency Laws

Ralph M. Brown Act

Government Code sections 54950 et seq.



III. Government Transparency Laws

B. Brown Act

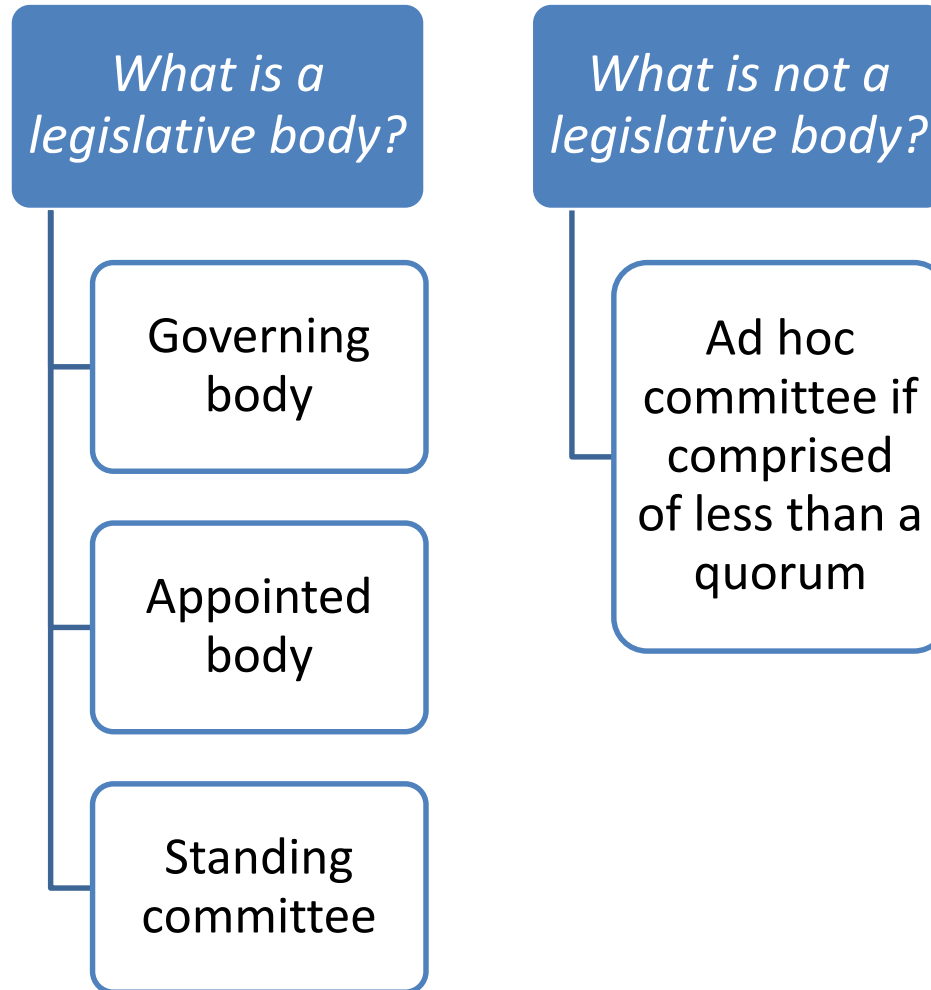
Open Meeting Requirements

- Meetings...
- Of Legislative Bodies...
- *Shall be open and public*



III. Government Transparency Laws

Legislative Bodies



III. Government Transparency Laws

B. Brown Act Definition of “Meetings”

- A congregation of a majority of the members at the same time and place to hear, discuss, or deliberate on an item of business within the agency’s subject matter jurisdiction
- Exceptions:
 - Conferences
 - Community meetings
 - Social or ceremonial occasions
 - Individual deliberation and decision-making
 - Individual contacts
 - Ad Hoc committees
 - Meetings of other legislative bodies

III. Government Transparency Laws

B. Brown Act— Avoiding “Serial Meetings”

- Majority may not, outside a meeting, use a series of communications to discuss, deliberate, or take action on any item of business



- Does not prevent employees and officials from engaging in separate conversations outside of a meeting provided that the comments or positions of other members are not communicated

III. Government Transparency Laws

B. Brown Act—Avoiding “Serial Meetings”

Examples

- Hub and spoke
 - A staff member (the hub) communicates with members of a legislative body (the spokes) one-by-one for input on a proposed action and in the process reveals members’ positions to other members in advance of the meeting.
- Daisy chain
 - In the daisy-chain scenario, Member A contacts Member B, Member B contacts Member C, Member C contacts Member D and so on, until a quorum has discussed, deliberated or taken action on an item within the legislative body’s subject matter jurisdiction.
- Emails
 - Informal nature of email communication is ripe for inadvertent Brown Act violations



III. Government Transparency Laws

B. Brown Act

Closed Sessions

- Closed session discussions are confidential
- Required to publicly report certain actions taken in closed session

Permissible Closed Session Topics:

- Real estate negotiations
- Pending or threatened litigation
- Initiation of litigation
- Personnel
- Labor negotiations
- Public security



III. Government Transparency Laws

B. Brown Act

*May take action only
on items on posted agenda*

- Posting requirements:
 - **Regular meetings** must be posted **72** hours before meeting
 - **Special meetings** must be posted **24** hours before meeting



- **Exceptions**
 - Emergency
 - Urgency → need for immediate action came to agency's attention after posting the agenda

III. Government Transparency Laws

B. Brown Act

- AB 2257: **New rule for 2019!**
- By 2019, agenda must be available through a prominent, direct link on agency's homepage.
- Alternatively, agency can provide a link to an integrated agenda management platform, with the current agenda at the top.

III. Government Transparency Laws

B. Brown Act

Public Participation Rights

- Regular meetings must provide an opportunity for the public to speak regarding on any matter within the body's jurisdiction
 - Legislative body may briefly discuss these items and refer matters to staff, ***but cannot take action***
- Public can address the legislative body on matters on the agenda before or during consideration of the item



III. Government Transparency Laws

B. Brown Act

Public Participation Rights

- Legislative body may adopt reasonable regulations limiting total amount of time for public testimony and for each speaker
- **New Rule for 2019!**
- If a legislative body does this, it must provide at least twice the allotted time to a member of the public who uses a translator



III. Government Transparency Laws

B. Brown Act

Public Participation Rights



III. Government Transparency Laws

B. Brown Act

- SB 1436
- Requires an oral report in open session summarizing the recommendation to adjust the compensation of any “local agency executive” before action is taken.



To: Bay Area UASI Approval Authority
From: Corinne Bartshire, Regional Project Manager
Date: August 08, 2019
Re: Item 06: Regional Coordination Exercise Update

Recommendations:

No recommendation

Action or Discussion Items:

Discussion

Background:

The Approval Authority originally allocated \$200,000 of FY18 funds for the 2019 Critical Transportation Regional Coordination Exercise. With the reallocation of the FY18 Training & Exercise funds, additional \$400,000 was allocated for further capability building and exercises to include paratransit and alert & warning systems.

Discussion/Description:

Regional Project Manager Corinne Bartshire will present a status update of the 2019 Critical Transportation Exercise Series. The attached Appendix A is an accompanying PowerPoint presentation.

Bay Area UASI

Critical Transportation Regional Coordination Exercise Series

Approval Authority Meeting

Agenda Item 6

August 8, 2019





Selected Core Capabilities

CORE CAPABILITIES



Critical Transportation



Logistics & Supply Chain Management



Operational Coordination





Completed Exercises

MTC TTX (February 2019)

- Transit agencies expect to have limited staff / resources to provide services in an emergency

South Bay Hub TTX (May 2019)

- Need to create/update local critical transportation plans

North Bay Hub TTX (May 2019)

- Clarification needed re MTC's role vs the REOC/SOC Transportation Branch's role

East Bay Hub TTX (June 2019)

- Jurisdictions would benefit from established partnerships (via MOUs)

West Bay Hub TTX (June 2019)

- Essential elements of information (EIs) are not identified

A few key takeaways!





Upcoming Events

Exercise Series

Paratransit TTX*

- Roles in response
- Interagency coordination
- Mutual aid

August 28th

Regional Coordination TTX

- Mock coordination calls
- Resource management panel
- Situational awareness / common operating picture processes
- Integration of public information

September 5th

Public Information Exercise

- Bay Area JIS coordination
- Accessible public information
- Local alert & warning capabilities

September 12th

Alert & Warning Exercise*

- IPAWS training webinar
- IPAWS exercise (federal requirement / test an alert)

December TBD

*FY18 T&E Funding Reallocation Enhancement



Project Toolkits

Critical
Transportation
Planning Toolkit

Paratransit
Emergency
Preparedness
Toolkit*

Public Information
Critical
Transportation
Toolkit

Alert & Warning
Toolkit*

Year – End Workshops

Regional Capabilities Review

November 20th

Animals in evacuation

December 12th

*FY18 T&E Funding Reallocation Enhancement



To: Bay Area UASI Approval Authority

From: Corey Reynolds, BayRICS General Manager

Date: August 08, 2019

Re: Item 07: BayRICS JPA Quarterly Report & Tactical Interoperable Communications Plan and (TICP) Project Update

Staff Recommendation:

None

Action or Discussion Items:

Discussion

Discussion:

BayRICS General Manager Corey Reynolds will present the JPA Quarterly Report for BayRICS including an update on the Tactical Interoperable Communications Plan (TICP) and mobile application development.



BayRICS Quarterly Update

Bay Area UASI Approval Authority

August 8, 2019



Radio Interoperability Current Activities

- System Key Exchange
- Regional Radio Programming Analysis
- LOA/MOU Development
- Alias Scheme Consensus

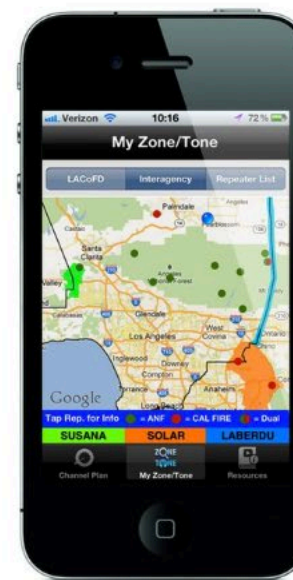




FY18 UASI Grant:

Regional Tactical Interoperable Communications Plan (TICP) Mobile Application and Operationalization

- Digitizes and operationalizes the TICP for use in the field
- Rapidly locate and display radio channel information, important contacts, which repeaters to access, and which zone to use



Public Safety Communications Evolution

Two-Way Land Mobile Radio (LMR)

Two-way wireless communication system

- Highly reliable
- Limited interconnectivity with other systems
- Mission-critical voice services
- Basic data transmission
- Public safety enhanced features (e.g., push-to-talk)
- Limited transmission range
- Enhanced performance enabled by Project 25 (P25)

Nationwide Public Safety Broadband Network

Public safety-grade data network

- Mission critical voice over LTE
- Single integrated device (voice & data) for certain user classes
- Dedicated network built to public safety requirements using dedicated and allocated 700 MHz spectrum

Existing Private/Commercial Mobile Data

Other data-enabling infrastructure

- Available to augment mission critical voice communications
- May include wireline, cellular, mesh, microwave, satellite, wireless local area (e.g., WiFi), paging, HF radio, and/or unlicensed wireless networks
- Sufficiency for public safety communications based on specific user group needs

Emerging Technologies

Device-to-device (D2D) communication

- Devices communicate directly with each other without routing the data paths through a network infrastructure
- Proximity services
- Resiliency options

Integrated Technologies

- Administrative Data
- Mission Critical Data
- Administrative Voice
- Mission Critical Voice





FirstNet

Adoption Update:

- Nationwide, 600,000+ connections to the network from more than 7,250 public-safety agencies

Buildout Update:

- New cell sites in CA updated to support operations on Band 14 spectrum
- Band 14 upgrades on existing sites

FirstNet Authority Update:

- Bay Area Contact: Chris Baker, Senior Public Safety Advisor
- Public Safety Advisory Committee (PSAC)



First Responder Network Authority Roadmap Domains



Core

- EPC
- IMS Core
- Services Platforms
- App Servers
- Service Enablers



Coverage & Capacity

- Macro Coverage
- Capacity
- In-building Solutions
- Temporary/On-Demand Coverage
- Range Extension
- Device-to-Device
- Air-to-Ground
- Maritime Operations
- Availability/Reliability/Resiliency/Hardening



Situational Awareness

- Location Services
- Sensors
- Wearables
- Cameras/Video
- Mapping/Geographic Information System (GIS)
- Data Analytics/Artificial Intelligence



Voice Communications

- Mission Critical Push-to-talk (MCPTT)
- PTT Interconnection



Secure Information Exchange

- Data Access
- Data Sharing
- Cybersecurity
- Identity, Credential and Access Management (ICAM)/Single Sign-On



User Experience

- Priority Services
- Applications
- Devices
- Accessories
- Hands Free Operations
- Augmented Virtual Reality
- Heads-Up Display



FirstNet

Other Considerations

- Response Operations Group
- Products and Services
 - Devices
 - Applications
 - Push-to-Talk
 - Local Control
- Early Adopter Network Performance Experience
 - Coverage
 - Capacity





Questions?

Corey Reynolds
BayRICS General Manager
corey.reynolds@bayrics.net
(925) 803-7882



Supporting Resources



FirstNet Buildout Timeline

Quality of Service with Priority and Preemption	March 30, 2018 thru March 29, 2019
Enhanced Voice over LTE (VoLTE) with Priority	March 30, 2019 thru March 29, 2020
3GPP Mission Critical Push-to-Talk (Unicast only)	March 30, 2020 thru March 29, 2021
3GPP Mission Critical Push-to-Talk (Broadcast), Mission Critical Voice/Data/IoT	March 30, 2021 thru March 29, 2022
“Final Operating Condition”	March 30, 2022



To: Bay Area UASI Approval Authority

**From: Francis Zamora, SF DEM Director of External Affairs and
Dr. Jan Gurley, SF Department of Public Health Deputy Health Officer**

Date: August 08, 2019

Re: Item 08: Air Quality Messaging Project Update

Staff Recommendations:

No recommendation

Action or Discussion Items:

Discussion

Background:

The Air Quality Messaging Project is a collaboration between the Association of Bay Area Health Officers (ABAHO), San Francisco Department of Emergency Management, the Bay Area Air Quality Management District (BAAQMD), and the Bay Area UASI. The key deliverable for the project is an Air Quality PIO Toolkit. The Toolkit is designed as a resource to enable public information officers to provide consistent messaging related to air quality incidents throughout the Bay Area.

The Toolkit covers core guidance on air quality messaging, sample messages and templates, and recommendations for effectively communicating with the whole community.

Discussion:

San Francisco Department of Emergency Management Director of External Affairs Francis Zamora will provide an overview of the Air Quality PIO Toolkit and key messaging. Dr. Jan Gurley, from the SF Department of Public Health, representing the Association of Bay Area Health Officers (ABAHO), will provide background on recommendations related to the use of N95 respirators during an air quality incident. The attached Appendix A is an accompanying PowerPoint presentation.



Improving San Francisco Bay Area's Response to Future Air Quality Incidents

Regional Coordination

August 8, 2019
UASI Approval Authority Meeting

Bay Area Air Quality Messaging Project



Agenda

- Project Overview
- Core Message
- Key Message: N95 Respirators
- Next Steps

Bay Area Regional Air Quality Messaging Project

Project Objectives:

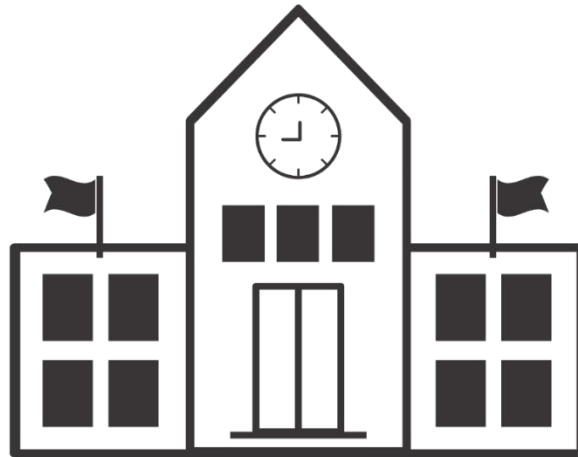
- Facilitate regional discussions on protective health measures for air quality incidents in the Bay Area.
- Develop guidance and resources for disseminating accurate, timely, relevant and accessible public information for all populations.
- Provide public information resources to San Francisco Bay Area cities and counties.



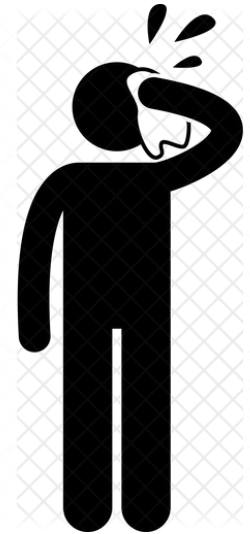
Public Health Messaging Principles



Weatherize Your Home



Go to a Cleaner Air Center



Heat Over Air Quality

N95 Respirators

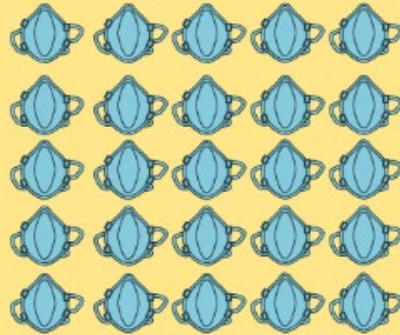
There is **NO Clear Evidence** that N95 respirators are beneficial to an individual's health during wildfire smoke air quality events. N95s can be harmful.



N95 Respirators

A LOOK AT N95 RESPIRATORS

1M
N95 RESPIRATORS
ARE NEEDED TO
PREVENT...



1 **PERSON FROM**
GOING TO THE
HOSPITAL

\$19,110,000

THE INVESTMENT
NEEDED TO
EFFECTIVELY
PROTECT ONE
PERSON



N95 respirators have a limited lifecycle & cannot be reused. Three N95s are needed per day per individual. At a unit price of \$0.91 the cost per week per 1,000 people is \$19,110.

LET'S MAKE BETTER
INVESTMENTS!

Investing in cleaner air facilities is a safer and more cost-effective option.

Questions?





To: Bay Area UASI Approval Authority
From: Tristan Levardo, CFO
Date: August 08, 2019
Re: Item 09: FY2018 UASI Spending Report

Staff Recommendation:

Information or possible action

Action or Discussion Item:

Information or possible action

Summary

The sub-recipient performance period for FY2018 UASI grant is November 1, 2018 – December 31, 2019, with some projects receiving extensions up to June 30, 2020. The budget reflects the reallocated training and exercise funds.

Financial Information:

Jurisdiction	Budget	Spending	Spent %	Committed
Management Team	4,503,900	1,526,563	34%	2,977,337
Alameda	1,374,882	31,050	2%	1,343,832
Contra Costa	994,448	223,269	22%	771,179
Corte Madera	32,615			32,615
Fremont	182,056	182,056	100%	
Marin	452,979	23,839	5%	429,140
Monterey	492,217	55,364	11%	436,853
Monterey Fire District	252,295	252,295	100%	
Napa	239,209	36,000	15%	203,209
NCRIC	5,281,852	2,092,012	40%	3,189,840

Oakland	1,183,000	25,463	2%	1,157,537
Rio Vista	26,077	26,077	100%	
San Francisco	3,143,823	968,910	31%	2,174,913
San Jose	1,726,661	84,755	5%	1,641,906
San Mateo	1,298,866	130,647	10%	1,168,219
Santa Clara	683,463			683,463
Santa Cruz	100,825			100,825
Solano	423,700			423,700
Sonoma	267,782			267,782
Walnut Creek	81,850			81,850
Total	22,742,500	5,658,300	25%	17,084,200

