

AGENDA

Orange County Council of Governments/Orange County Transportation Authority Sustainable Communities Strategy Joint Working Committee

Working Group Members

Cheryl Brothers
Peter Buffa
Carolyn Cavecche
Richard Dixon
Peter Herzog
Sharon Quirk-Silva

Orange County Transportation Authority Headquarters
600 South Main Street, 1st Floor - Room 103/104

Orange, California

Thursday, April 22, 2010, 9:00 a.m. to 10:30 a.m.

Call to Order

Pledge of Allegiance

1. Public Comments

Special Calendar

2. Discussion of Committee Structure and Calendar

Allison Cheshire, Deputy Clerk of the Board

Regular Calendar

3. Southern California Association of Governments Memorandum of Understanding with Orange County Council of Governments and Orange County Transportation Authority

Kristine Murray, Executive Director, OCCOG

Recommended Action: Receive and file as an information item.

Discussion Items

4. Overview of Sustainable Communities Strategy Development Timeline

Kristine Murray, Executive Director, OCCOG

5. Funding for Implementation of Orange County Sustainable Communities Strategy

Kristine Murray, executive Director, OCCOG

Richard Teano, Senior Transportation Funding Analyst, OCTA

Thomas Wulf, Manager, Finance and Administration, OCTA

6. Executive Director's Comments

7. Working Group Members' Reports

8. Adjournment

The next regularly scheduled meeting of this Committee will be determined as a result of discussion under Item 2 (above) and held at the Orange County Transportation Authority Headquarters.

***Orange County Council of Governments/Orange County Transportation Authority
Joint Sustainable Communities Strategy Working Committee***

April 22, 2010

Subject: **Southern California Association of Governments Memorandum of Understanding with Orange County Council of Governments and Orange County Transportation Authority**

Summary: This report provides the committee members an update on staff activities pertaining to preparations with the Southern California Association of Governments (SCAG) on the development of a Memorandum of Understanding to conduct an Orange County subregional Sustainable Communities Strategy (SCS).

Background: The enactment of SB 375 (Chapter 728, Statutes of 2008) provided for subregional councils of governments in the SCAG region to work with their respective county transportation commissions to develop transportation and land use strategies to meet greenhouse gas reduction targets.

SB 375 authorizes a subregional council of governments and the county transportation commissions in the SCAG region to work together to propose the SCS and an alternative planning strategy (APS), if needed.

One of the major benefits to conducting a subregional SCS, is that SCAG is required by statute to include the subregional SCS within its regional SCS to the extent that it is consistent with existing state and federal law. As Executive Director of OCCOG, I submitted a letter to the Executive Director of SCAG, Hasan Ikhata prior to the December 31, 2009 deadline notifying him of the OCCOG and OCTA board actions to develop and submit a subregional SCS, dependent upon negotiating a memorandum of understanding with the SCAG on the terms, roles, and responsibilities for conducting a subregional SCS in Orange County (Attachment A).

A meeting with SCAG's Executive Director and his staff was held on February 3, 2010 to discuss initial terms for the MOU. The technical staff of OCCOG and OCTA were involved in the drafting of those terms listed below:

- Regional Housing Needs Assessment (RHNA) responsibilities shall remain with SCAG;
- Demographic data submitted by OC shall be used by SCAG for RHNA;
- Data requirements by SCAG must be compatible with Orange County's TAZ datasets;

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- Does not include language that indicates that the Orange County SCS will be “adopted.”
 1. Statute does not require adoption at the subregional level,
 2. Adoption may result in the need for environmental analysis under CEQA;
- Ensure that Orange County receives a fair-share of any funding that is made available to SCAG for development of a SCS;
- Submittal dates should be as flexible as possible;
- Data submitted to SCAG by OCCOG/OCTA must be accurately reflected in any and all documentation produced by SCAG that relates to the Orange County or Regional SCS;
- Development of a subregional APS is optional;
- Orange County will not be penalized in any way if the regional targets are not met;
- SCAG strategies in the regional SCS should be applied equitably across the SCAG region;
- Establish a clear and fair conflict resolution process;
- Ensure that Renewed Measure M projects are exempt from SB 375 requirements.

At the February meeting with SCAG, an agreement was reached on all of the terms listed above with the one caveat that SCAG staff wanted to reference their draft SB 375 Framework and Guidelines (F&G) to the MOU. We agreed to consider advising our board to include the framework and guidelines document as a reference “by working in cooperation with the SCAG region” but only once the F&G document was finalized. The SCAG Regional Council adopted a final version of that document on April 1, 2010 (Attachment A).

OCTA and OCCOG staff worked together, with review by legal counsel, to prepare the first draft of the MOU based on the verbal agreement to the terms discussed in February and submitted it to SCAG for their consideration on March 1, 2010. We received SCAG’s revisions to that document on March 25, 2010 (Attachment B) and the related Exhibit C: Deliverables and Milestones Schedule (Attachment C) on April 7, 2010. We promptly shared the revised MOU with members of this committee, along with the SCAG Framework and Guidelines.

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To date, staff has received feedback from members of this committee and technical staff and there are significant concerns with the revisions submitted by SCAG. The top level issues are outlined below:

1. Consistency with the SCAG Framework and Guidelines (F&G) is not required by state law nor on the same level as state or federal law. OCTA prefers to refer to the F&G as a general guidance document (not policy and procedures as is implied by the references to the F&G). Words such as “comply with” the F&G are inconsistent with the intent and authority of the F&G.
2. The Renewed Measure M program exemption should be retained and made consistent with the recently adopted RTP guidelines. The deletion proposed by SCAG is unacceptable.
3. OCTA’s Long Range Transportation Program (LRTP) program of projects is our input to the SCAG RTP. The deletion of “program of transportation projects” is problematic.
4. OCTA and OCCOG will use OCP 2010 for the SCS (not the RTP growth forecasts).
5. OCTA cannot accept a reference to the Deliverables and Milestones Schedule that is open-ended and subject to change.
6. The LRTP is the transportation element of the SCS. References to “adjustments” should be deleted. This may occur but does not need to be included in the MOU.
7. The OCCOG/OCTA agreement terms supersede the OCTA/SCAG MOU (in the event of conflicts). The original language should be retained.
8. Clarify the use of “households” to the modeling variables. This change seems unnecessary.

We are attempting to schedule a follow-up meeting with SCAG staff and counsel to resolve these outstanding issues. They are significant and will have to be addressed in a way that is feasible from a technical and policy standpoint before staff will recommend approval of the MOU to the committee and respective Board of Directors.

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Recommendation: Receive and file as an information item.

Attachments:

- A. SCAG SB 375 Framework and Guidelines
- B. Draft MOU between SCAG and Orange County on SB 375 Planning Requirements
- C. Exhibit C: Deliverables and Milestones Schedule

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Southern California Association of Governments

(Approved by Regional Council - April 1, 2010)

FRAMEWORK AND GUIDELINES **for** **SUBREGIONAL SUSTAINABLE COMMUNITIES STRATEGY**

I. INTRODUCTION

SB 375 (Steinberg), also known as California's Sustainable Communities Strategy and Climate Protection Act, is a new state law which became effective January 1, 2009. SB 375 calls for the integration of transportation, land use, and housing planning, and also establishes the reduction of greenhouse gas (GHG) emissions as one of the main goals for regional planning. SCAG, working with the individual County Transportation Commissions (CTCs) and the subregional organizations within the SCAG region, is responsible for implementing SB 375 in the Southern California region. Success in this endeavor is dependent on collaboration with a range of public and private partners throughout the region.

Briefly summarized here, SB 375 requires SCAG as the Metropolitan Planning Organization to:

- Prepare a Sustainable Communities Strategy (SCS) as part of the 2012 Regional Transportation Plan (RTP). The SCS will meet a State-determined regional GHG emission reduction target, if it is feasible to do so.
- Prepare an Alternative Planning Strategy (APS) that is not part of the RTP if the SCS is unable to meet the regional target.
- Integrate SCAG planning processes, in particular assuring that the Regional Housing Needs Assessment (RHNA) is consistent with the SCS, at the jurisdiction level.
- Specific to SCAG only, allow for subregional SCS/APS development.
- Develop a substantial public participation process involving all stakeholders.

Unique to the SCAG region, SB 375 provides that "a subregional council of governments and the county transportation commission may work together to propose the sustainable communities strategy and an alternative planning strategy . . . for that subregional area." Govt. Code §65080(b)(2)(C). In addition, SB 375 authorizes that SCAG "may adopt a framework for a subregional SCS or a subregional APS to address the intraregional land use, transportation, economic, air quality, and climate policy relationships." *Id.* Finally, SB 375 requires SCAG to "develop overall guidelines, create public participation plans, ensure coordination, resolve conflicts, make sure that the overall plan complies with applicable legal requirements, and adopt the plan for the region." *Id.*

The intent of this Framework and Guidelines for Subregional Sustainable Communities Strategy (also referred to herein as the "Framework and Guidelines" or the "Subregional Framework and Guidelines") is to offer the SCAG region's subregional agencies the highest degree of autonomy,

flexibility and responsibility in developing a program and set of implementation strategies for their subregional areas. This will allow the subregional strategies to better reflect the issues, concerns, and future vision of the region's collective jurisdictions with the input of the fullest range of stakeholders. In order to achieve these objectives, it is necessary for SCAG to develop measures that assure equity, consistency and coordination, such that SCAG can incorporate the subregional SCSs in its regional SCS which will be adopted as part of the 2012 RTP pursuant to SB 375. For that reason, this Framework and Guidelines establishes standards for the subregion's work in preparing and submitting subregional strategies, while also laying out SCAG's role in facilitating and supporting the subregional effort with data, tools, and other assistance.

While the Framework and Guidelines are intended to facilitate the specific subregional option to develop the SCS (and APS if necessary) as described in SB 375, SCAG encourages the fullest possible participation from all subregional organizations. As SCAG undertakes implementation of SB 375 for the first time, SCAG has also designed a "collaborative" process, in cooperation with the subregions, that allows for robust subregional participation for subregions that choose not to exercise their statutory option.

II. ELIGIBILITY AND PARTICIPATION

SB 375 allows for subregional councils of governments in the SCAG region to have the option to develop the SCS (and the APS if necessary) for their area. SCAG interprets this option as being available to any subregional organization recognized by SCAG, regardless of whether the organization is formally established as a "subregional council of governments."

County Transportation Commissions (CTCs) play an important and necessary role in the development of a subregional SCS. Any subregion that chooses to develop a subregional strategy will need to work closely with the respective CTC in its subregional area in order to identify and integrate transportation projects and policies. Beyond working with CTCs, SCAG encourages partnership efforts in the development of subregional strategies, including partnerships between and among subregions.

Subregional agencies must formally indicate to SCAG, in writing, by December 31, 2009 if they intend to exercise this option to develop their own SCS. Subregions that choose to develop an SCS for their area must do so in a manner consistent with this Framework and Guidelines. The subregion's intent to exercise its statutory option to prepare the strategy for their area must be decided and communicated through formal action of the subregional agency's governing board. Subsequent to receipt of any subregion's intent to develop and adopt an SCS, SCAG will convene discussions regarding a formal written agreement between SCAG and the subregion, which may be revised if necessary, as the SCS process is implemented.

III. FRAMEWORK

The Framework portion of this document covers regional objectives and policy considerations, and provides general direction to the subregions in preparing their own SCS, and APS if necessary.

A. SCAG’s preliminary goals for implementing SB 375 are as follows:

- Achieve the regional GHG emission reduction target for cars and light trucks through an SCS.
- Fully integrate SCAG’s planning processes for transportation, growth, intergovernmental review, land use, housing, and the environment.
- Seek areas of cooperation that go beyond the procedural statutory requirements, but that also result in regional plans and strategies that are mutually supportive of a range of goals.
- Build trust by providing an interactive, participatory and collaborative process for all stakeholders. Provide, in particular, for the robust participation of local jurisdictions, subregions and CTCs in the development of the SCAG regional SCS and implementation of the subregional provisions of the law.
- Assure that the SCS adopted by SCAG and submitted to California Air Resources Board (ARB) is a reflection of the region’s collective growth strategy and vision for the future.
- Develop strategies that incorporate and are respectful of local and subregional priorities, plans, and projects.

B. Flexibility

Subregions may develop any appropriate strategy to address the region’s greenhouse gas reduction goals and the intent of SB 375. While subregions will be provided with SCAG data, and with a conceptual or preliminary scenario to use as a helpful starting point, they may employ any combination of land use policy change, transportation policy, and transportation investment, within the specific parameters described in the Guidelines.

C. Outreach Effort and Principles

Subregions are required to conduct an open and participatory process that includes the fullest possible range of stakeholders. As further discussed within the Guidelines, SCAG amended its existing Public Participation Plan (PPP) to describes SCAG’s responsibilities in complying with the outreach requirements of SB 375 and other applicable laws and regulations. SCAG will fulfill its outreach requirements for the regional SCS/APS which will include outreach activities regarding the subregional SCS/APS. Subregions are also encouraged to design their own outreach process that meets each subregion’s own needs and reinforces the spirit of openness and full participation. To the extent that subregions do establish their own outreach process, this process should be coordinated with SCAG’s outreach process.

D. Communication and Coordination

Subregions developing their own SCS are strongly encouraged to maintain regular communication with SCAG staff, the respective CTC, their jurisdictions and other stakeholders, and other subregions if necessary, to review issues as they arise and to assure close coordination. Mechanisms for on-going communication should be established in the early phases of strategy development.

E. Planning Concepts

SCAG, its subregions, and member cities have established a successful track record on a range of land use and transportation planning approaches through the on-going SCAG Compass Blueprint Program, including approximately 60 local demonstration projects completed to date. Subregions are

encouraged to capture, further develop and build off the concepts and approaches of the Compass Blueprint program. In brief, these include developing transit-oriented, mixed use, and walkable communities, and providing for a mix of housing and jobs.

IV. GUIDELINES

These Guidelines describe specific parameters for the subregional SCS/APS effort under SB 375, including process, deliverables, data, documentation, and timelines. As described above, the Guidelines are created to ensure that the region can successfully incorporate strategies developed by the subregions into the regional SCS, and that the region can comply with its own requirements under SB 375. Failure to proceed in a manner consistent with the Guidelines will result in SCAG not accepting a subregion's submitted strategy.

A. Subregional Process

(1) Subregional Sustainable Communities Strategy

Subregions that choose to exercise their optional role under SB 375 will develop and adopt a subregional Sustainable Communities Strategy. That strategy must contain all of the required elements, and follow all procedures, as described in SB 375. Subregions may choose to further develop an Alternative Planning Strategy (APS), according to the procedures and requirements described in SB 375. If subregions prepare an APS, they must prepare a Sustainable Communities Strategy first, in accordance with SB 375. A subregional APS is not "in lieu of" a subregional SCS, but in addition to the subregional SCS. In part, an APS must identify the principal impediments to achieving the targets within the SCS. The APS must show how the GHG emission targets would be achieved through alternative development patterns, infrastructure, and additional transportation measures or policies. SCAG encourages subregions to focus on feasible strategies that can be included in the SCS.

The subregional SCS must include all components of a regional SCS as described in SB 375, and outlined below:

- (i.) identify the general location of uses, residential densities, and building intensities within the subregion;
- (ii.) identify areas within the subregion sufficient to house all the population of the subregion, including all economic segments of the population, over the course of the planning period of the RTP taking into account net migration into the region, population growth, household formation and employment growth;
- (iii.) identify areas within the subregion sufficient to house an eight-year projection of the regional housing need for the subregion pursuant to Section 65584;
- (iv.) identify a transportation network to service the transportation needs of the subregion;
- (v.) gather and consider the best practically available scientific information regarding resource areas and farmland in the subregion as defined in subdivisions (a) and (b) of Section 65080.01;
- (vi.) consider the state housing goals specified in Sections 65580 and 65581;
- (vii.) set forth a forecasted development pattern for the subregion, which, when integrated with the transportation network, and other transportation measures and policies, will reduce the greenhouse gas emissions from automobiles and light trucks to achieve, if there is a feasible way to do so, the greenhouse gas emission reduction targets approved by the ARB; and

(viii.) allow the RTP to comply with Section 176 of the federal Clean Air Act (42 U.S.C. Sec. 7506). See, Government Code §65080(b)(2)(B).

In preparing the subregional SCS, the subregion will consider feasible strategies, including local land use policies, transportation infrastructure investment (e.g., transportation projects), and other transportation policies such as Transportation Demand Management (TDM) strategies (which includes pricing), and Transportation System Management (TSM) strategies. Technological measures may be included if they exceed measures captured in other state and federal requirements (e.g., AB32).

As discussed further below (under “Documentation”), subregions need not constrain land use strategies considered for the SCS to current General Plans. In other words, the adopted strategy need not be fully consistent with local General Plans currently in place. However, should the adopted subregional strategy deviate from General Plans, subregions will need to demonstrate the feasibility of the strategy by documenting any affected jurisdictions’ willingness to adopt the necessary General Plan changes.

The regional SCS shall be part of the 2012 RTP. Therefore, for transportation investments included in a subregional SCS to be valid, they must also be included in the 2012 RTP. Further, such projects need to be scheduled in the RTIP for construction completion by the target years (2020 and 2035) in order to demonstrate any benefits as part of the SCS. As such, subregions will need to collaborate with the respective CTC in their area to coordinate the subregional SCS with future transportation investments. It should also be noted that the California Transportation Commission is updating their RTP Guidelines. This topic is likely to be part of further discussion through the SCS process as well.

SCAG will accept and incorporate the subregional SCS, unless (a) it does not comply with SB 375, (b) it is does not comply with federal law, or (c) it is does not comply with SCAG’s Subregional Framework and Guidelines. In the event that a compiled regional SCS, including subregional submissions, does not achieve the regional target, SCAG will initiate a process to develop and consider additional GHG emission reduction measures region-wide. SCAG will develop a written agreement with each subregional organization to define a process and timeline whereby subregions would submit a draft subregional SCS for review and comments to SCAG, so that any inconsistencies may be identified and resolved early in the process. Furthermore, SCAG will compile and disseminate performance information on the preliminary regional SCS and its components in order to facilitate regional dialogue. The development of a subregional SCS does not exempt any subregion from further GHG emission reduction measures being included in the regional SCS. Further, all regional measures needed to meet the regional target will be subject to adoption by the Regional Council, and any additional subregional measures beyond the SCS submittal from subregions accepting delegation needed to meet the regional target must also be adopted by the subregional governing body.

(2) Subregional Alternative Planning Strategy (APS)

Subregions are encouraged to focus their efforts on feasible measures that can be included in an SCS. In the event that a subregion chooses to prepare an APS, the content of a subregional APS should be consistent with what is required by SB 375 (*see*, Government Code §65080(b)(2)(H)), as follows:

- (i.) Shall identify the principal impediments to achieving the subregional SCS.

- (ii.) May include an alternative development pattern for the subregion pursuant to subparagraphs (B) to (F), inclusive.
- (iii.) Shall describe how the alternative planning strategy would contribute to the regional greenhouse gas emission reduction target, and why the development pattern, measures, and policies in the alternative planning strategy are the most practicable choices for the subregion.
- (iv.) An alternative development pattern set forth in the alternative planning strategy shall comply with Part 450 of Title 23 of, and Part 93 of Title 40 of, the Code of Federal Regulations, except to the extent that compliance will prevent achievement of the regional greenhouse gas emission reduction targets approved by the ARB.
- (v.) For purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), an alternative planning strategy shall not constitute a land use plan, policy, or regulation, and the inconsistency of a project with an alternative planning strategy shall not be a consideration in determining whether a project may have an environmental effect.

Any precise timing or submission requirements for a subregional APS will be determined based on further discussions with subregional partners. As previously noted, a subregional APS is in addition to a subregional SCS.

(3) Outreach and Process

SCAG will fulfill all of its outreach requirements under SB 375 for the regional SCS/APS, which will include outreach regarding any subregional SCS/APS. SCAG staff has revised its Public Participation Plan to incorporate the outreach requirements of SB 375, and integrate the SB 375 process with the 2012 RTP development as part of SCAG's Public Participation Plan Amendment No. 2, adopted by SCAG's Regional Council on December 3, 2009. Subsequent to the adoption of the PPP Amendment No. 2, SCAG will continue to discuss with subregions and stakeholders the Subregional Framework & Guidelines, which further describe the Public Participation elements of SB 375.

Subregions that elect to prepare their own SCS or APS are encouraged to present their subregional SCS or APS, in coordination with SCAG, at all meetings, workshops and hearings held by SCAG in their respective counties. Additionally, the subregions would be asked to either provide SCAG with their mailing lists so that public notices and outreach materials may also be posted and sent out by SCAG, or SCAG will provide notices and outreach materials to the subregions for their distribution to stakeholders. The SCAG PPP Amendment No. 2 provides that additional outreach may be performed by subregions. Subregions are strongly encouraged to design and adopt their own outreach processes that mimic the specific requirements imposed on the region under SB 375. Subregional outreach processes should reinforce the regional goal of full and open participation, and engagement of the broadest possible range of stakeholders.

(4) Subregional SCS Approval

It is recommended that the governing board of the subregional agency approve the subregional SCS prior to submission to SCAG. While the exact format is still subject to further discussion, SCAG recommends that there be a resolution from the governing board of the subregion with a finding that the land use strategies included in the subregional SCS are feasible and based upon consultation with the local jurisdictions in the respective subregion. Subregion should consult with their legal counsel as to compliance with the California Environmental Quality Act (CEQA). In SCAG's view, the

subregional SCS is not a “project” for the purposes of CEQA; rather, the 2012 RTP which will include the regional SCS is the actual “project” which will be reviewed for environmental impacts pursuant to CEQA. As such, the regional SCS, which will include the subregional SCSs, will undergo a thorough CEQA review. Nevertheless, subregions approving subregional SCSs should consider issuing a notice of exemption under CEQA to notify the public of their “no project” determination and/or to invoke the “common sense” exemption pursuant to CEQA Guidelines § 15061(b)(3).

Finally, in accordance with SB 375, subregions are strongly encouraged to work in partnership with the CTC in their area. SCAG can facilitate these arrangements if needed.

(5) Data Standards

SCAG is currently assessing the precise data standards anticipated for the regional and subregional SCS. In particular, SCAG is reviewing the potential use of parcel data and development types currently used for regional planning. At present, the following describes the anticipated data requirements for a subregional SCS.

1. Types of Variables

Variables are categorized into socio-economic variables and land use variables. The socio-economic variables include population, households, housing units, and employment. The land use variables include land uses, residential densities, building intensities, etc, as described in SB 375.

2. Geographical Levels

SCAG is considering the collection and adoption of the data at a small-area level as optional for local agencies in order to make accessible the CEQA streamlining provisions under SB 375. The housing unit, employment, and the land use variables can be collected at a small-area level for those areas which under SB 375 qualify as containing a “transit priority project” (i.e. within half-mile of a major transit stop or high-quality transit corridor) for purposes of allowing jurisdictions to take advantage of the CEQA streamlining incentives in SB 375.

For all other areas in the region, SCAG staff will collect the population, household, employment, and land use variables at the Census tract or Traffic Analysis Zone (TAZ) level.

3. Base Year and Forecast Years

The socio-economic and land use variables will be required for the base year of 2008, and the target years of 2020 and 2035.

(6) Documentation

Subregions are expected to maintain full and complete records related to the development of the subregional SCS, including utilizing the most recent planning assumptions considering local general plans and other factors. In particular, subregions must document the feasibility of the subregional strategy by demonstrating the willingness of local agencies to consider and adopt land use changes necessitated by the SCS. The format for this documentation may include adopted resolutions from local jurisdictions and/or the subregion’s governing board.

(7) Timing

An overview schedule of the major milestones of the subregional process and its relationship to the regional SCS/RTP is included below. Subregions must submit the subregional SCS to SCAG by the date prescribed. Further, SCAG will need a preliminary SCS from subregions for the purpose of preparing a project description for the 2012 RTP Program Environmental Impact Report. The precise content of this preliminary submission will be determined based on further discussions. The anticipated timing of this preliminary product is approximately February 2011.

(8) Relationship to Regional Housing Needs Assessment (RHNA) and Housing Element

Although SB 375 calls for an integrated process, subregions are not automatically required to take on RHNA delegation as described in State law if they prepare an SCS/APS. However, SCAG encourages subregions to undertake both processes due to their inherent connections.

SB 375 requires that the RHNA allocated housing units be consistent with the development pattern included in the SCS. *See*, Government Code §65584.04(i). Population and housing demand must also be proportional to employment growth. At the same time, in addition to the requirement that the RHNA be consistent with the development pattern in the SCS, the SCS must also identify areas that are sufficient to house the regional population by income group through the RTP planning period, and must identify areas to accommodate the region's housing need for the next local Housing Element eight year planning period update. The requirements of the statute are being further interpreted through the RTP guidelines process. Staff intends to monitor and participate in the guideline process, inform stakeholders regarding various material on these issues, and amend, if necessary, these Framework and Guidelines, pending its adoption.

SCAG will be adopting the RHNA and applying it to local jurisdictions at the jurisdiction boundary level. SCAG staff believes that consistency between the RHNA and the SCS may still be accomplished by aggregating the housing units contained in the smaller geographic levels noted in the SCS and including such as part of the total jurisdictional number for RHNA purpose. SCAG staff has concluded that there is no consistency requirement for RHNA purposes at sub-jurisdictional level, even though the SCS is adopted at the smaller geographic level for the opportunity areas.

The option to develop a subregional SCS is separate from the option for subregions to adopt a RHNA distribution, and subject to separate statutory requirements. Nevertheless, subregions that develop and adopt a subregional SCS should be aware that the SCS will form the basis for the allocation of housing need as part of the RHNA process. Further, SCS development requires integration of elements of the RHNA process, including assuring that areas are identified to accommodate the 8 year need for housing, and that housing not be constrained by certain types of local growth controls as described in State law.

SCAG will provide further guidance for subregions and a separate process description for the RHNA.

B. COUNTY TRANSPORTATION COMMISSIONS' ROLES AND RESPONSIBILITIES

Subregions that develop a subregional SCS will need to work closely with the CTCs in their area in order to coordinate and integrate transportation projects and policies as part of the subregional SCS. As discussed above (under "Subregional Sustainable Communities Strategy"), any transportation

projects identified in the subregional SCS must also be included in the 2012 RTP in order to be considered as a feasible strategy. SCAG can help to facilitate communication between subregions and CTCs.

C. SCAG ROLES AND RESPONSIBILITIES

SCAG's roles in supporting the subregional SCS development process are in the following areas:

(1) Preparing and adopting the Framework and Guidelines

SCAG will adopt these Framework and Guidelines in order to assure regional consistency and the region's compliance with law.

(2) Public Participation Plan

SCAG will assist the subregions by developing, adopting and implementing a Public Participation Plan and outreach process with stakeholders. This process includes consultation with congestion management agencies, transportation agencies, and transportation commissions; and SCAG will hold public workshops and hearings. SCAG will also conduct informational meetings in each county within the region for local elected officials (members of the board of supervisors and city councils), to present the draft SCS, and APS if necessary, and solicit and consider input and recommendations.

(3) Methodology

As required by SB 375, SCAG will adopt a methodology for measuring greenhouse gas emission reductions associated with the strategy.

(4) Incorporation/Modification

SCAG will accept and incorporate the subregional SCS unless it does not comply with SB 375, federal law, or the Subregional Framework and Guidelines. As SCAG intends the entire SCS development process to be iterative, SCAG will not amend a locally-submitted SCS. SCAG may provide additional guidance to subregions so that subregions may make amendments to its subregional SCS as part of the iterative process, or request a subregion to prepare an APS if necessary. Further, SCAG can propose additional regional strategies if feasible and necessary to achieve the regional emission reduction target with the regional SCS. SCAG will develop a written agreement with each subregional organization to define a process and timeline whereby subregions would submit a draft subregional SCS for review and comments to SCAG, so that any inconsistencies may be identified and resolved early in the process.

(5) Modeling

SCAG currently uses a Trip-Based Regional Transportation Demand Model and ARB's EMFAC model for emissions purposes. In addition to regional modeling, SCAG is developing tools to evaluate the effects of strategies that are not fully accounted for in the regional model. SCAG is also developing two additional tools – a Land Use Model and an Activity Based Model – to assist in strategy development and measurement of outcomes under SB 375.

In addition to modeling tools which are used to measure results of completed scenarios, SCAG is developing a scenario planning tool for use in workshop settings as scenarios are being created with jurisdictions and stakeholders. The tool will be made available to subregions and local governments for their use in subregional strategy development.

(6) Adoption/Submission to State

After the incorporation of subregional strategies, SCAG will finalize and adopt the regional SCS as part of the 2012 RTP. SCAG will submit the SCS to ARB for review as required in SB 375.

(7) Conflict Resolution

While SB 375 requires SCAG to develop a process for resolving conflicts, it is unclear at this time the nature or purpose of a conflict resolution process as SCAG does not intend to amend a locally-submitted SCS. As noted above, SCAG will accept the subregional SCS unless it is inconsistent with SB 375, federal law, or the Subregional Framework and Guidelines. SCAG will also request that a subregion prepare an APS if necessary. It is SCAG's intent that the process be iterative and that there be coordination among SCAG, subregions and their respective jurisdictions and CTCs. SCAG is open to further discussion on issues which may generate a need to establish a conflict resolution process as part of the written agreement between SCAG and the subregional organization.

(8) Funding

Funding for subregional activities is not available at this time, and any specific parameters for future funding are speculative. Should funding become available, SCAG anticipates providing a share of available resources to subregions. While there are no requirements associated with potential future funding at this time, it is advisable for subregions to track and record their expenses and activities associated with these efforts.

(9) Preliminary Scenario Planning

SCAG will work with each subregion to collect information and prompt dialogue with each local jurisdiction prior to the start of formal SCS development. This phase of the process is identified as "preliminary scenario planning" in the schedule below. The purpose of this process is to create a base of information to inform SCAG's recommendation of a regional target to ARB prior to June 2010. All subregions are encouraged to assist SCAG in facilitating this process.

(10) Data

SCAG is currently developing, and will provide each subregion with datasets for the following:

- (1) 2008 Base year;
- (2) General Plan/Growth projection & distribution;
- (3) Trend Baseline; and
- (4) Policy Forecast/SCS.

While the Trend Baseline is a technical projection that provides a best estimate of future growth based on past trends and assumes no general plan land use policy changes, the Policy Forecast/ SCS is derived using local input through a bottom-up process, reflecting regional policies including transportation investments. Local input is collected from counties, subregions, and local jurisdictions.

Data/GIS maps will be provided to subregions and local jurisdiction for their review. This data and maps include the 2008 base year socioeconomic estimates and 2020 and 2035 socioeconomic forecast. Other GIS maps including the existing land use, the general plan land use, the resource areas, and other important areas identified in SB 375. It should be noted that none of the data/ maps provided were endorsed or adopted by SCAG's Community, Economic and Human Development Committee (CEHD). All data/maps provided are for the purpose of collecting input and comments from subregions and local jurisdictions. This is to initiate dialogue among stakeholders to address the requirements of SB 375 and its implementation.

The list of data/GIS maps include:

1. Existing land use
2. Zoning
3. General plan land use
4. Resource areas include:
 - (a.) all publicly owned parks and open space;
 - (b.) open space or habitat areas protected by natural community conservation plans, habitat conservation plans, and other adopted natural resource protection plans;
 - (c.) habitat for species identified as candidate, fully protected, sensitive, or species of special status by local, state, or federal agencies or protected by the federal Endangered Species Act (1973), the California Endangered Species Act, or Native Plant Protection Act;
 - (d.) lands subject to conservation or agricultural easements for conservation or agricultural purposes by local governments, special districts, or nonprofit 501(c)(3) organizations, areas of the state designated by the State Mining and Geology Board as areas of statewide or regional significance pursuant to Section 2790 of the Public Resources Code, and lands under Williamson Act contracts;
 - (e.) areas designated for open-space or agricultural uses in adopted open-space elements or agricultural elements of the local general plan or by local ordinance;
 - (f.) areas containing biological resources as described in Appendix G of the CEQA Guidelines that may be significantly affected by the sustainable communities strategy or the alternative planning strategy; and
 - (g.) an area subject to flooding where a development project would not, at the time of development in the judgment of the agency, meet the requirements of the National Flood Insurance Program or where the area is subject to more protective provisions of state law or local ordinance.
5. Farmland
6. Sphere of influence
7. Transit priority areas
8. City/Census tract boundary with ID
9. City/TAZ boundary with ID

(11) Tools

SCAG is developing a Local Sustainability Planning Model (LSPM) for subregions/local jurisdictions to analyze land use impact. The use of this tool is not mandatory and is at the discretion of the Subregion. The LSPM is a web-based tool that can be used to analyze, visualize and calculate the impact of land use changes on auto ownership, mode use, vehicle miles of travel (VMT), and greenhouse gas emissions in real time. Users will be able to estimate transportation and emissions impacts by modifying land use designations within their community.

Other tools currently maintained by SCAG may be useful to the subregional SCS development effort, including the web-based CaLOTS application. SCAG will consider providing guidance and training on additional tools based on further discussions with subregional partners.

(12) Resources and technical assistance

SCAG will assist the subregions by making available technical tools for scenario development as described above. Further, SCAG will assign a staff liaison to each subregion, regardless of whether the subregion exercises its statutory option to prepare an SCS. SCAG staff can participate in subregional workshops, meetings, and other processes at the request of the subregion, and pending funding and availability. SCAG's legal staff will be available to assist with questions related to SB 375 or SCAG's implementation of SB 375. Further, SCAG will prepare materials for its own process in developing the regional SCS, and will make these materials available to subregions.

D. MILESTONES/SCHEDULE

- CARB issues Final Regional Targets – September 2010
- SCS development (preliminary scenario, draft, etc) – through early 2011
- Release Draft RTP/regional SCS for public review – November 2011
- Regional Council adopts RTP/SCS – April 2012

If other milestones are needed, they will be incorporated into the written agreement between SCAG and the Subregion.

1 **MEMORANDUM OF UNDERSTANDING**
2 **BY AND BETWEEN**
3 **ORANGE COUNTY TRANSPORTATION AUTHORITY**
4 **AND**
5 **ORANGE COUNTY COUNCIL OF GOVERNMENTS**
6 **AND**
7 **THE SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS**
8 **FOR ORANGE COUNTY SUSTAINABLE COMMUNITIES STRATEGY**
9

10 **THIS MEMORANDUM OF UNDERSTANDING** (hereinafter referred to as "MOU") is entered by
11 and between the Orange County Transportation Authority, (hereinafter referred to as "AUTHORITY"),
12 the Orange County Council of Governments, (hereinafter referred to as "OCCOG"), and the Southern
13 California Association of Governments, (hereinafter referred to as "SCAG"), collectively referred to as
14 the "Parties."

15 **RECITALS:**

16 **WHEREAS**, Senate Bill 375 (Chapter 728, laws of 2008, "SB 375") requires SCAG to prepare a
17 regional Sustainable Communities Strategy (hereinafter referred to as "SCS" or "Regional SCS") as part
18 of SCAG's Regional Transportation Plan (RTP) to achieve goals for the reduction of greenhouse gas
19 emissions from automobiles and light trucks in the SCAG region which comprises the counties of
20 Imperial, Los Angeles, Orange, Riverside, San Bernardino and Ventura;

21 **WHEREAS**, SB 375 allows AUTHORITY, as the county transportation commission for Orange
22 County, and OCCOG, as a subregional council of governments for Orange County, to develop and
23 submit to SCAG a subregional SCS for Orange County (hereinafter referred to as "Orange County
24 SCS");

25 **WHEREAS**, as part of its implementation of SB 375, SCAG has developed and adopted a
26 certain "Framework and Guidelines for the Subregional Sustainable Communities Strategy" (hereinafter

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1 referred to as "Framework and Guidelines"), attached hereto as Exhibit "A" and incorporated herein by
2 this reference.

3 **WHEREAS**, SCAG is required by SB 375 to include a subregional SCS in the regional SCS, to
4 the extent consistent with the Framework and Guidelines, SB 375, and federal law;

5 ~~**WHEREAS**, the provisions included in this MOU are consistent with SCAG's framework for~~
6 ~~preparation of a subregional SCS;~~

7 **WHEREAS**, AUTHORITY and OCCOG have previously executed Agreement C-9-0497
8 defining roles and responsibilities for the Orange County SCS, attached hereto as Exhibit "B" and
9 incorporated herein by this reference, and no terms or provisions in such Agreement supersede this
10 MOU; and

11 **WHEREAS**, AUTHORITY, OCCOG, and SCAG desire to enter into this MOU to demonstrate
12 mutual commitments to prepare the Orange County SCS.

13 **NOW, THEREFORE**, the Parties enter into the following MOU with respect to the matters set
14 forth herein:

15 1. This MOU establishes the roles, responsibilities, and requirements for AUTHORITY, OCCOG,
16 and SCAG that are necessary to develop an Orange County SCS that shall be included in the regional
17 SCS prepared by SCAG.

18 2. AUTHORITY and OCCOG shall prepare the Orange County SCS in accordance with the
19 Framework and Guidelines, as attached hereto.

20 3. AUTHORITY and OCCOG agree that the Orange County SCS shall comply with the
21 Deliverables and Milestones Schedule, attached hereto as Exhibit "C" and incorporated herein by
22 this reference. The Deliverables and Milestones Schedule shall be subject to change based on
23 direction from the SCAG Regional Council or Community, Economic and Human Development
24 Policy Committee.

25 4. AUTHORITY shall prepare the transportation element of the Orange County SCS through
26 AUTHORITY'S Long-Range Transportation Plan (LRTP). Such transportation element shall, at a

1 minimum, identify a transportation network (i.e., list of transportation projects) to service the
2 transportation needs of Orange County, and describe transportation policies (e.g., Transportation
3 Demand Management and Transportation System Management strategies). 5. OCCOG shall
4 prepare the Orange County SCS, and use AUTHORITY'S LRTP as the transportation element of
5 the Orange County SCS. *Deliberations through the Orange County SCS development process*
6 *may result in adjustments to the transportation element developed through the LRTP.* 6. *OCCOG*
7 *and AUTHORITY agree to conduct a public participation process in developing the Orange County*
8 *SCS, similar to the process required for the regional SCS required under Section 65080(b)(2)(D)-*
9 *(E) of the California Government Code. SCAG encourages OCCOG to develop a public*
10 *participation plan, similar to SCAG's Public Participation Plan adopted in December 2009, for such*
11 *purposes.*

12 7. *OCCOG and AUTHORITY agree to participate in all meetings, workshops, hearings, and other*
13 *outreach activities organized in Orange County by SCAG at which the regional SCS or Orange*
14 *County SCS is discussed. All parties shall coordinate with one another during implementation of*
15 *SCAG's public participation process in order to ensure broad public and stakeholder participation,*
16 *and to avoid duplication of effort.*

17 8. *OCCOG and AUTHORITY shall retain and deliver to SCAG all documentation of meetings,*
18 *workshops, hearings and other outreach activities at which the Orange County SCS is discussed.*
19 *Such documentation shall include but is not limited to meeting notices, agendas, minutes,*
20 *comments and responses to comments, sign-up sheets, hand-outs, and copies of power point*
21 *presentations.*

22 9. *AUTHORITY, OCCOG, and SCAG agree that population, household, housing, and employment*
23 *estimates prepared by the Center for Demographic Research at California State University Fullerton*
24 *through the Orange County Projection 2010 (OCP 2010) process and the 2012 RTP growth*
25 *forecasting process, shall be used by AUTHORITY for preparation of the LRTP, and by OCCOG*
26 *for preparation of the Orange County SCS. However, during such process, AUTHORITY and*

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OCCOG agree that the datasets delivered to SCAG as part of this process shall comply with the data standards set forth in the Framework and Guidelines. SCAG agrees to use the OCP 2010 reviewed and approved by OCCOG for the Regional SCS and the 2012 RTP.

10 AUTHORITY and Orange County local agencies shall provide SCAG with population, employment, household and housing estimates in transportation analysis zone (TAZ) format consistent with the Orange County Transportation Analysis Model (OCTAM) and the SCAG Regional Transportation Model.11. AUTHORITY agrees to incorporate new land use-transportation interactions into OCTAM, and these shall include, at a minimum, net residential and employment densities, jobs/housing diversity, design characteristics, and destination accessibility.12. The Parties agree and acknowledge that population, household, housing, and employment data submitted to SCAG by OCCOG and AUTHORITY shall be accurately reflected in all documentation produced by SCAG that relates to the Orange County SCS and Regional SCS.13. The Parties agree and acknowledge that RHNA responsibilities shall remain with SCAG, and neither AUTHORITY nor OCCOG shall assume delegation responsibility for RHNA as part of the Orange County SCS development. However, neither AUTHORITY nor OCCOG are precluded by this MOU from assuming delegation responsibility for RHNA as part of a subsequent, separate agreement.14. SCAG agrees to accept AUTHORITY's LRTP as Orange County's input for the 2012 Regional Transportation Plan.15. SCAG agrees that in addition to preparation of the Orange County SCS developed under this MOU, development of an Alternative Planning Strategy (APS) by AUTHORITY and OCCOG is optional. This understanding shall not preclude SCAG from preparing a regional APS pursuant to SB 375. 16. SCAG agrees that it will not impose a penalty on the Orange County subregion if the greenhouse gas targets are not met by the Regional SCS. 17. SCAG shall accept the Orange County SCS prepared in accordance with this MOU, as the Orange County subregion's input into the Regional SCS prepared by SCAG.

18. AUTHORITY, OCCOG, and SCAG shall separately amend this MOU in writing or develop a separate, mutual funding agreement addressing Orange County SCS costs should state or federal

1 funding become available that can be applied toward preparation of the Orange County SCS.. 19.

2 AUTHORITY, OCCOG, and SCAG agree to work closely together throughout the regional SCS process
3 and Orange County SCS process to provide technical input, applicable planning data, and constructive
4 feedback with respect to all documents, products and deliverables developed and associated with the
5 Orange County SCS.

6 . 20. The AUTHORITY, OCCOG, and SCAG agree to work together in good faith, using
7 reasonable efforts to resolve any unforeseen issues and disputes arising out of the performance of this
8 MOU.

9 . 21. The Parties agree in good faith to provide the resources necessary to implement the
10 provisions of the MOU.

11 22. AUTHORITY, OCCOG, and SCAG agree to defend, indemnify and hold harmless the other
12 parties, their Officers, agents, elected officials, and employees, from all liability, claims, losses and
13 demands, including defense costs and reasonable attorneys' fees, whether resulting from court action
14 or otherwise, arising out of the acts or omissions of the defending party, its officers, agents, or
15 employees, in the performance of the MOU. When acts or omissions of one party are directed by
16 another party, the party directing the acts or omission shall owe this defense and indemnity obligation to
17 the agencies following the directions. The provisions of this paragraph shall survive termination of this
18 MOU.

19 23. This MOU shall be governed by all applicable federal, state, and local laws. The signatories
20 warrant that in the performance of this MOU, each shall comply with all applicable federal, state and
21 local laws, statutes and ordinances and all lawful orders, rules and regulations promulgated there
22 under.

23 24. This MOU may only be modified or amended upon written mutual consent of all
24 signatories. All modifications, amendments, changes and revisions of this MOU in whole or part,
25 and from time to time, shall be binding upon the parties, so long as the same shall be in writing and
26 executed by the signatories.

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1 25. This MOU, including all exhibits and documents incorporated herein and made applicable
2 by reference, constitutes the complete and exclusive statement of the term(s) and condition(s) of the
3 agreement between the parties and it supersedes all prior representations, understandings and
4 communications. The invalidity in whole or part of any term or condition of this MOU shall not affect the
5 validity of the other term(s) or condition(s).. 26. Any party may withdraw from this MOU upon 30
6 days written notice to the other, until the due date set forth in Exhibit "B" for submittal to SCAG of the
7 preliminary Orange County SCS. After such due date, any party may withdraw from this MOU only
8 upon mutual written agreement by all Parties.

9 27. Each signatory shall be excused from performing its obligations under this MOU during the
10 time and to the extent that it is prevented from performing by an unforeseeable cause beyond its
11 control, including but not limited to: any incident of fire, flood; acts of God; commandeering of material,
12 produces, plants or facilities by federal, state or local government; national fuel shortage; or a material
13 act or omission by any other party; when satisfactory evidence of such cause is presented to the other
14 parties, and provided further such nonperformance is unforeseeable, beyond the control and is not due
15 to the fault or negligence of the party not performing.

16 28. Any notice sent by first class mail, postage paid, to the address and addressee, shall be
17 deemed to have been given when in the ordinary course it would be delivered. The representatives of
18 the parties who are primarily responsible for the administration of this MOU, and to whom
19 notices, demands and communications shall be given are as detailed in Exhibit "D". If there are any
20 changes in the names and/or addresses listed in Exhibit "D", the party desiring to make such changes
21 shall give a written notice to the other respective parties within five (5) days of such change.

22 29. This MOU shall continue in full force and effect from the Effective Date up to and until
23 the date that the Regional SCS is adopted by SCAG's Regional Council, unless otherwise terminated
24 earlier in accordance with section 26 of this MOU. The Effective Date of this MOU shall mean the date
25 (last date indicated below) that all parties have fully executed this MOU.
26

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1 **IN WITNESS WHEREOF**, the Parties hereto have caused this MOU No. 0-XXX to be executed by
2 their duly authorized representatives.

3
4 **ORANGE COUNTY TRANSPORTATION AUTHORITY**

5
6 By _____
7 Will Kempton, Chief Executive Officer

8
9 **ORANGE COUNTY COUNCIL OF GOVERNMENTS**

10
11 By _____
12 Kristine Murray, Executive Director

13 **SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS**

14
15 By _____
16 Hasan Ikhata, Executive Director

Exhibit C: Deliverables and Milestones Schedule

DELIVERABLES

The Orange County Subregional SCS will consist of the following components:

1. Database (OCP 2010) that allocates population, housing, household, and employment to areas of the county. Geographic area should be the smallest level practicable for the COG to produce, preferably at the parcel level. The database must reflect the base year 2008 and each variable in the two GHG target years (2020 and 2035), in accordance with the Data Standards set forth below.
2. A map or series of maps that illustrates the growth distribution described above, and that further delineates uses, intensities, and residential densities, in accordance with the Data Standards set forth below.
3. A listing of transportation projects that are incorporated in the subregional SCS.
4. A listing and description of transportation policies (e.g. TDM, TSM and others) to be employed.
5. Documentation that establishes the process, including the public participation and outreach process used to develop the SCS, and demonstrates the affected jurisdictions willingness to consider general plan changes.
6. A narrative description of the strategies employed to reduce greenhouse gas emissions. A further description of any other strategies that were considered and not ultimately included.

MILESTONES SCHEDULE

The key milestones and related schedule required as part of the development of the Orange County Subregional SCS are as follows:

1. Status report on Preliminary Subregional SCS – Dec 2010
2. Adopted OCP 2010/Delivery to SCAG – Jan 2011
3. Preliminary SCS / for purposes of preparing PEIR project description (intended to be narrative only project description that describes intended strategies or strategy options that are likely to be incorporated into the final Subregional SCS.) –Feb 2011
4. Status report on Draft Subregional SCS – Feb 2011
5. Draft Subregional SCS (containing all components described above) to be incorporated into draft Regional SCS – April 2011
6. Status report on final Subregional SCS – April 2011
7. Final Subregional SCS for incorporation into Regional SCS – June 2011
8. Iterative process, if necessary to meet target – June to November 2011
9. OCCOG to participate in regional outreach conducted in Orange County – June 2011 to February 2012

10. Regional SCS adoption – April 2012

DATA STANDARDS

SCAG is currently assessing the precise data standards anticipated for the regional and subregional SCS. In particular, SCAG is reviewing the potential use of parcel data and development types currently used for regional planning. At present, the following describes the anticipated data requirements for a subregional SCS.

1. Types of Variables

Variables are categorized into socio-economic variables and land use variables. The socio-economic variables include population, households, housing units, and employment. The land use variables include land uses designations, building densities, building intensities, and applicable policies.

2. Geographical Levels

Socio-economic and land-use variables should be provided to SCAG at the smallest geographical level practicable for OCCOG to produce, preferably at the parcel level. At a minimum, such variables will be provided at the Census tract or Traffic Analysis Zone (TAZ) level.

3. Base Year and Forecast Years

The socio-economic and land use variables will be required for the base year of 2008, and the target years of 2020 and 2035.

DOCUMENTATION

Subregions are expected to maintain full and complete records related to the development of the Subregional SCS, including utilizing the most recent planning assumptions considering local general plans and other factors. In particular, subregions must document the feasibility of the subregional strategy by demonstrating the willingness of local agencies to consider and adopt land use changes necessitated by the SCS. The format for this documentation may include adopted resolutions from local jurisdictions and/or the subregion's governing board. Subregions shall include information regarding the status of the documentation as part of the required status reports to SCAG, and copies of the actual documentation shall be submitted to SCAG as part the final Subregional SCS.