



## Strategic Planning Committee

Meeting Date: December 11, 2023

Agenda Item No. 3

### Formation of a Regional Tolling Authority for the Yolo 80 Corridor Improvement Project

#### Information

**Prepared by:** Kathleen Hanley

**Attachments:** Yes

**Approved by:** James Corless

**Referring Committee:** Not Applicable

#### 1. Issue:

This item provides an overview of the process to form a regional tolling authority and the process to seek authority to toll for the Yolo 80 Managed Lanes Project

#### 2. Recommendation:

None; this item is for information only.

#### 3. Background/Analysis:

Tolled lanes, including express lanes and high-occupancy toll lanes, are identified as a viable strategy in the adopted Metropolitan Transportation Plan/Sustainable Communities Strategy (MTP/SCS) to improve traffic management, increase system reliability, expand modal choice, and increase person and freight throughput. The adopted MTP/SCS identified the following corridors in the region for tolled facilities: US 50, I-80, I-5, SR 51 (Capital City Freeway), SR 99, and SR 65. There are many tolled facilities currently in operations throughout California, primarily in the Bay Area and southern California. In the Bay Area, tolled facilities are operated or governed by more than seven different agencies within one region. In southern California, the approach tends to be more regional with fewer agencies. SACOG, Yolo TD, Caltrans, and other transportation stakeholders believe that a regional approach, rather than multiple organizations within the region, would be the best overall strategy for managing tolling facilities. This report builds on previous tolling presentations and discussions in the region including, the Megaregion Working Group workshop in April 2022, the SACOG Transportation Committee and Board workshop in March 2023, and the SACOG Strategic Planning Committee and Board information item in August 2023. Staff also plans to present a discussion on this item to the SACOG Transportation Committee on December 7, and as an informational item to the SACOG Board on December 11.

The California Transportation Commission (CTC) was delegated authority to approve tolled facilities on the state highway system through AB 194.

The CTC requires each tolled facility, or project, to seek approval prior to construction. Toll Facility Project Applications may be submitted by a Regional Transportation Planning Agency (RTPA), a Joint Powers Authority with the consent of the RTPA, or Caltrans. Toll Facility Project Applications are lengthy, typically more than 60 pages, and must demonstrate the project meets the following minimum criteria:

- Improves highway performance through increased throughput or reduced delay
- Is in the constrained portion of the RTP (or MTP/SCS)
- Evidence of cooperation between the RTPA and Caltrans
- Compliance with AB 194
- Project initiation document
- Funding plan

AB 194 allows the CTC to establish guidelines for tolling applications that include additional criteria beyond the minimum requirements, and therefore the CTC will consider additional factors in its evaluation including:

- Compliance with state law
- Compatibility with present and planned transportation systems
- Corridor performance improvement
- Technical feasibility
- Financial feasibility
- Support in existing regional plans and from community

The CTC's approval process also requires a public hearing on each Toll Facility Project Application prior to the CTC commission meeting when the approval is considered.

The Yolo 80 Managed Lanes Project is the first project in the region that will seek approval to toll from the CTC. The project has received \$86 million in federal INFRA funds, which requires the project to begin construction in September 2024 or risk forfeiture of the funds. To meet this deadline, the project must go out to bid in April 2024. The project's draft environmental document was released on November 13, 2023, and comments are due January 5, 2024; the Notice of Determination is anticipated to be filed in Spring 2024. Twelve alternatives are included in the draft environmental document, including multiple that would construct tolled lanes. The project extends along I-80 from the Yolo/Solano County line to West El Camino Avenue in Sacramento County and on US 50 from the I-80/US 50 Interchange to the US 50/I-5 interchange.

Other efforts in the region include I-5 Managed Lanes, as well as a more comprehensive managed lanes strategy through Caltrans' Managed Lanes System Plan (MLSP) that is currently underway.

#### **4. Discussion/Analysis:**

In order to develop locally-governed toll lanes in Yolo County, SACOG (as the RTPA) must either submit the application for the Yolo 80 Corridor Improvement Project on its own to the CTC or consent to a joint powers authority submitting the application to the CTC. SACOG is not necessarily required to be a member of a JPA itself, but membership enables SACOG to have a role in the implementation of tolling and establishment of toll policies.

A joint powers authority is formed by a negotiated agreement, with the parties to the agreement generally serving as the members of the authority and appointing representatives to the authority's governing board. SACOG and Yolo TD have initiated negotiations of the draft agreement that is attached to this report, and the draft agreement has been provided to representatives of Caltrans. This agreement would form the Capital Area Regional Tolling Authority, which would develop and operate the toll lanes in Yolo County. This agreement is being presented as only a draft for the Strategic Planning Committee's review and feedback.

As contemplated in the draft, the Authority's governing board would consist of five initial board members. Two board members would be appointed by Yolo TD, and two board members would be appointed by

SACOG. One of the SACOG appointees would have to be from a jurisdiction within Yolo County and one would be “at-large,” from any of SACOG’s member agencies. The fifth would be from Caltrans, either as a voting or non-voting representative.

With the intent of the Authority being a truly regional entity, the agreement creates a means for other agencies within the region to participate on the Board and eventually join the Authority as members. Placer County Transportation Planning Agency, El Dorado County Transportation Commission, and a representative within Sacramento County would initially be given non-voting seats on the Authority Board and would be able to agree to join as full members. Once they become full members, these agencies would appoint up to two board members, and then SACOG would point an additional board member from that county. (That is, SACOG could therefore ultimately have five representatives – one from each county and one at large.) The specific timing of when other agencies could join remains a topic for discussion.

The draft agreement is intended to convey broad powers to the Authority to take all measures necessary and convenient to implement the toll lanes, including the powers to develop, design, construct, obtain financing for, manage, and maintain the toll facilities. The Authority may contract for services or contract with other public agencies. The draft agreement does not require the members to fund the Authority’s operations or subject the members to any type of assessment. There may be agreements among the parties that more particularly delineate which parties are responsible for which portions of the project, including for contributing to the project costs.

The Authority’s board would establish policies for tolling, such as setting pricing. The draft agreement does not specifically discuss the use of toll revenues, but under AB 194 – the law that allows for the toll application – revenues from tolls must be utilized for operating expenses, such as debt service, facility maintenance, administration of the Authority, establishing reserves and others. Revenues in excess of operating expenses must be used within the corridor where the revenue was generated. The Authority board would be required to adopt a budget for operations and an expenditure plan for excess revenues.

State law allows a joint powers agreement to indicate that the Authority’s debts are not the debts of its members. The proposed draft agreement includes this language, which means that SACOG would not be responsible for any contractual liabilities or similar obligations that the Authority incurs. By the terms of the agreement, the Authority would likewise have a duty to defend and indemnify SACOG for liabilities resulting from the Authority’s operations. Under state law, members to a JPA may be jointly and severally liable for certain tort liabilities incurred by the JPA but may agree to indemnify each other. This initial draft proposes that the members would agree to indemnify each other for tort liabilities that are imposed solely by reason of laws making members jointly and severally liable, and the other parties acknowledge that SACOG does not own or operate transportation facilities. The draft would require the Authority board to procure adequate insurance before owning or constructing any toll facilities.

The joint powers authority would need to be established, and its board formed, prior to submitting the application to the CTC. Staff therefore intends to present a joint powers agreement for approval at the January SACOG Board meeting. Yolo TD’s board would also approve the agreement in January. The Authority Board would need to meet shortly thereafter to review and approve the application to the CTC. Through a contract with a consultant, Yolo TD has been conducting the necessary analyses and preparation of required documentation for the application, in consultation and coordination with SACOG and Caltrans staff.

## **5. Fiscal Impact/Grant Information:**

Staff time and legal expenses for SACOG in its RTPA role required to negotiate, draft and review the draft joint powers agreement are included in the adopted budget.