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May 21, 2008

The Honorable Jackalyne Pfannenstiel
Chair, California Energy Commission
Chair, Climate Action Team's Land Use Subgroup
1516 Ninth Street, MS-33
Sacramento, CA 95814-5512

Re: Draft LUSCAT Submission to Scoping Plan

Dear Chairwoman Pfannenstiel:

The League of California Cities (League) appreciates the opportunity to comment upon the suggested strategies for reducing greenhouse gas (GHG) emissions from the land use and transportation sectors during the development of the *Draft LUSCAT Submission to the Scoping Plan*. We make the following general comments, first focusing on a comment about general process, and then summarizing points upon which we agree, and finally providing comments on areas that we think need improvement.

I. A General Comment About the State-Local Government Partnership

We are very pleased to see in the vision principles and the framework for LUSCAT strategies that the LUSCAT Submission recognizes the need for partnerships, including partnerships with state and local governments. That said, we are disappointed in a process to date that continues to local government like any another stakeholder. We recognize that a number of groups have very important interests at stake and do not discount those here.

But local governments differ from stakeholders in two very important ways. First, local governments are elected bodies of government. Second, local governments will have responsibilities for actually implementing the goals and policies of AB 32, with real costs and consequences for the community.

While we continue to offer constructive comments, we would like to see a more elevated role in the process. Any process developed by the state in terms of addressing land use strategies—an area that everyone agrees is generally under the jurisdiction of local governments—should place local governments on an equal footing with the represented state agencies.

II. Areas of Agreement with *LUSCAT Submission with Minor Comments*

The League generally agrees with large portions of the goals and strategies contained in the draft report and have minor related comments. In particular:

- ***Regional Approach***. We support the development of voluntary regional emission goals (we would use the term "goals," not "targets") that are developed cooperatively between the State, regional and local governments and echo the comments on this point submitted by the Sacramento Area Council of Governments. The calculation of the regional goal should first take into account reduction in GHGs that will be gained from a more fuel efficient fleet and using lower carbon fuels.

- ***Provide Guidance on Measurement.*** How reductions in GHG are measured and accounted for remains a looming issue. The state should provide resources to develop and disseminate, through a transparent process, the best models available. It should also encourage best practices, but remembering its other goal of flexibility, remember that the ultimate goal is to reduce GHG emissions. Thus, the state should encourage local agencies and others to be innovative in achieving the goal and not develop methodologies that lock in specific practices.

- ***Building on Regional Blueprints***. We also support the recommendation to continue to use the existing blueprint processes. In particular, the strategies listed on page 59 should help make blueprints even more feasible on a statewide basis as more resources develop. We note, however, that the most successful blueprints in the state to date, such as the SACOG Blueprint and the SANDAG Comprehensive Plan, have been locally driven, bottoms-up processes where local governments have fully participated. Accordingly, they have developed a level of community and agency level support that help assure their success.

- ***Blueprint-RTP-RHNA Coordination.*** We agree that better coordination between Blueprint Plans, Regional Transportation Plans, and Regional Housing Needs Plans is needed. If Blueprints, RTP, and RHNA could be integrated into one planning process, it would will result in less confusion and better, more focused plans that would, with the help of the new CTC Guidelines, result in real GHG emission reductions. Additionally, one coordinated process will assure that competing state goals are efficiently reconciled. For example, one emerging conflict is the difference between the GHG emission reductions associated with compact, transit friendly land use patterns and the "fair share" principle of the RHNA process that requires all communities take their fair share of housing, regardless of proximity to transit resources.

- ***Revolving Fund for Planning.*** The idea in Section 6.5 for a revolving fund is a good idea, but it will have to be supplemented from time to time because local agencies cannot recapture 100 percent of the planning costs from new development. Under the

Takings Clause and Mitigation Fee Act, local agencies can only charge a fee that covers the cost that is "roughly proportional" to the impacts of the new development.

- ***Performance Indicators.*** The performance indicators are a good idea, because it recognizes that there are a variety of factors that need to be considered when determining whether a policy is successfully reducing GHG emissions. We believe that too much of the conversations to date around this issue have focused on VMT as the sole or primary indicator in the transportation sector. To be sure, VMT is an important indicator, but it is not the only one, as this list recognizes. We only suggest two additions to the list. First, an indication of efficient residential development would be the number of units per land developed for residential purposes. Second, the percentage of units zoned in housing inventory over total assigned housing need would be a good indicator for housing responsibilities (local agencies do not actually build housing, they zone for it).

III. Suggestions and Recommendations for Improvement

The League has the following comments and recommendations for improving the draft *LUSCAT Submission*:

- ***Connection to Infrastructure Needs Should Be Stated More Precisely in Goals.*** While the primary goals and policies make loose references to improved tax structure, the goals should recognize that there will be real infrastructure needs from the growth envisioned by the draft document. Infill infrastructure is more than just bigger sewer pipes; its also about having fire equipment that can do a six story rescue, a code enforcement officer who are educated about mixed use buildings, an efficient transit system, lights and sidewalks that feel safe to use, sufficient parks and libraries, and refurbished, vibrant schools near transit. The commitment to find funding sources for these types of infrastructure need to be stronger in the goals if we are going to really build communities where the quality of life is high.

- ***More Specificity in Transportation Funding Needed.*** For all the importance this document places on the need for transportation, noticeably absent is a specific recommendation for a more reliable sources of transportation funding. This is particularly needed when some pots of current transportation funding can easily be diverted. The reports recommendation to "increase the pool of funds available for transit projects" is not specific enough. Perhaps the intent is to rely more specifically on pricing mechanisms for this funding, but more detail is needed.

- ***Permit Streamlining.*** Page 61 recommends streamlining permit processes for reducing discretionary approvals for multifamily, infill, and affordable housing developments. Taken on its face, this statement suggests that the provisions Permit Streamlining Act, Housing Element Law, Least Cost Zoning Law, Density Bonus Law, and Housing Accountability Act are not sufficient. But no analysis or

justification is provided. However, if the intent of this suggestion is to focus on how the environmental review process can be misused to slow or oppose projects, which is addressed at various points in the report, this language should more precisely focus on streamlining CEQA.

- ***Housing Element Enforcement.*** Land Use Legislative Needs Section 6.2 discusses the potential legislative need related to land use. We disagree with the need to increase enforcement of the housing element. According to HCD's own figures, 80 percent of the local agencies in the state had an approved housing element (note that the housing element is the only part of the local general plan that must be approved by the state). These communities represent 87% of the state population. We wonder why, given the obvious resource limitations that will have to be considered, this is one of the priorities in the document.

- ***LAFCO Infill Analysis.*** In addition, the Land Use Legislative Needs Section 6.2 also requests legislation that would require LAFCOs to consider infill capacity and GHG emissions priority to granting approvals in extensions of spheres of influence. This is an example of where the recommendations run at cross purposes of allowing for flexible solutions to GHG emissions. Instead, it recommends a one size fits all approach. The entire Draft Document, taking as a whole, outlines a variety of strategies that will help local governments reduce their emissions. This strategy, in contrast, substitutes the judgment of one local body from another. It's a transfer of local decision making authority away from the residents of the community. It should not be included in the report.

- ***Preservation of Existing Transportation Systems.*** We agree with the California State Association of Counties in stressing the importance of supporting an increase in funding for the preservation of the existing transportation system, especially local streets and roads, as this system serves as the transit right-of-way and is critical to a seamless, efficient, multi-modal transportation system. Further, as we discuss future funding options (congestion pricing, gas taxes, mitigation fees, etc.) we must consider the current systems that are severely under-funded and dependent upon some of these revenue streams for critical preservation and safety needs.

- ***Waste Diversion Goals.*** Again echoing CSAC, we are concerned about the suggested need for legislation regarding waste diversion goals. While we agree that there is a need to address the future direction of the State's diversion program, we do not agree that the first step should be a higher diversion goal. Instead, other changes that would address existing problems associated with the California Waste Management Act's implementation should be fully vetted and in place before mandating a higher diversion goal. Such changes would include eliminating some of the Act's existing restrictions on what counts towards diversion; providing for "real" consumer and manufacturer responsibility; placing more emphasis on program implementation and less so on numeric compliance.

IV. Conclusion

We look forward to continue working with the LUSCAT and the State Air Resources Board in a process that appropriately reflects the role that local government will play in implementing these goals, policies, and strategies. Please contact me if you have any additional questions.

Best Regards,

Bill Higgins
Legislative Representative

CC: Mary Nichols, Executive Director, California Air Resources Board
Ron Loveridge, Board Member, California Air Resources Board
Cynthia Bryant, Director, Governor's Office of Planning and Research
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