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**Consent Calendar July 14, 2015 Amendment 2 Legal Services Agreement  
Abbott and Kindermann**

1 message

**bsbarnes@landlawbybarnes.com** <bsbarnes@landlawbybarnes.com>  
To: "edc.cob@edcgov.us" <edc.cob@edcgov.us>

Mon, Jul 13, 2015 at 4:53 PM

To the Clerk of the Board, and Honorable Members of the Board of  
Supervisors:

This office is pleased to see that County Counsel is recommending retention of outside counsel to review the staff reports and recommendations, so far released to the public, regarding the Board's Intent to Amend the General Plan, with emphasis on the Traffic Demand Model. This office has written staff and this board regarding what we believe to be significant inconsistencies regarding application of the Traffic Demand Model, especially calculations used by Kimley Horn, contrasted with two comment letters from Caltrans. Caltrans has raised significant calculations issues, especially as it applies to LOS at the entrances and exists to Hiway 50 from Missouri Flats to the County line. A copy of our most recent letter is attached. We have received no response to our written requests that these inconsistencies be addressed and resolved.

We hope that this action by the Board will move El Dorado County toward a correction of what appears to be traffic number manipulation to avoid the strictures of Measure Y as adopted by El Dorado's General Plan in 2004. Such corrections and revisions will help to provide the public with verification in what their daily experience is: complete congestion on El Dorado Hills Blvd., Latrobe, and feeder streets, and that County planning processes will openly require consideration of real traffic impacts and apply such realistic consideration to any applications for approval involving modification of existing uses or expansion of approvals.

Brigit Barnes

Brigit S. Barnes &amp; Associates

3262 Penryn Road, Suite 200

Loomis, CA 95650

(916) 660-9555

F: (916) 660-9554

EM: [bsbarnes@landlawbybarnes.com](mailto:bsbarnes@landlawbybarnes.com)

*"Far and away the best prize that life offers is the chance to work hard at work worth doing."*

*Theodore Roosevelt, 1903*

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County Counsel.L02-re traffic-06.09.15.pdf  
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**Brigit S.  
Barnes &  
Associates,  
Inc.**

*A Law Corporation*

June 9, 2015

*Via Facsimile and Regular Mail*

Robyn Truitt Drivon, County Counsel  
El Dorado County  
330 Fair Lane  
Placerville, CA 95667  
**Fax: 530-621-2937**

Brigit S. Barnes, Esq.  
Annie R. Embree, Esq.  
Of Counsel

Re: Targeted General Plan Amendment/Zoning Ordinance Update/Traffic  
Analysis for EDHI Request for Zoning Modifications for Town Center West

Dear Ms. Drivon:

This office has serious concerns over what appears to be improper coordination of traffic-related and other issues between the County and private developers, such as El Dorado Hills Investors (EDHI), owner of the area known as Town Center West (TCW). This coordination improperly disguises ongoing traffic analysis defects reflected in the Targeted General Plan Amendment and proposed Town Center West and Saratoga Estates projects. This same defective analysis is intended to be used by El Dorado County's Planning Department without public review if the Town Center West project is approved as requested by the Developer.

For the reasons set out below, we expect El Dorado County to place further preparation of the County's Targeted General Plan Amendment/Zoning Ordinance Update (TGPA/ZOU), and El Dorado Hills Town Center West proposals which rely upon the TGPA/ZOU analyses, on hold until significant miscalculations in the traffic analysis for these proposed projects have been investigated and resolved. Likewise, no further processing of TCW should continue until an application for Re-Zoning, together with an EIR, is submitted by the Developer, and reviewed by El Dorado County and the public.

El Dorado County has retained the same traffic engineer (Kimley-Horn and Associates, Inc.) to prepare all traffic analysis for multiple projects. Many projects currently under consideration tier from the County's TGPA/ZOU Project traffic analysis as prepared by Kimley-Horn, which has twice received substantial adverse comment letters from Caltrans. The County's TGPA/ZOU traffic analysis will naturally be similarly used by Kimley-Horn for the Town Center West Planned Development Revisions Project, and the Saratoga Estates subdivision project, since Kimley-Horn has prepared the traffic analysis for all three projects.<sup>1</sup> Thus, Kimley-Horn is at one and the same time preparing demand modeling and

<sup>1</sup> (See Appendix D to County's TGPA-ZOU RDEIR and Section 3.9 Transportation and Traffic ["This analysis of the potential impacts of the project on the transportation system is based on the technical traffic modeling analysis prepared by Kimley-Horn and Associates (2014) provided in Appendix D."]; see also Appendix of the Initial Study for the TCW PD Revision Project ["Traffic Evaluation for the Project was performed by Kimley-Horn and Associates"]; and see also April 7,

*Land Use and  
Environmental  
Paralegal*  
Jaenalyn Jarvis

*Legal Assistants*  
Noreen Patrignani  
Jenna Porter

3262 Penryn Road  
Suite 200  
Loomis, CA 95650  
Phone (916) 660-9555  
FAX (916) 660-9554  
Website:  
landlawbybarnes.com

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traffic analysis on behalf of El Dorado County, purportedly to uphold and enforce General Plan standards, and preparing developer interested analysis, naturally seeking to avoid triggering "Measure Y" Highway 50 mitigations, and on- and off-ramp expansion obligations.

As you are aware, there has been substantial controversy, both historically and recently, surrounding traffic issues, especially on and off Highway 50, raised by Measure Y supporters, and including recent strong written opposition from Caltrans over the traffic methodology, calculations, and analysis contained in the County's application of its Travel Demand Model to US 50 segments. Our research indicates that Kimley-Horn's application of this modeling is improper because it was never independently examined, accepted premises mandated by El Dorado County without independent examination, and was prepared in the face of Caltrans's opposition. We understand that in certain cases, for example the TIM Fee Program, El Dorado County transportation engineers have required traffic calculations which could not be confirmed by private engineers, and may have been inserted by County Transportation Department representatives in an attempt to evade Measure Y policies previously incorporated into the El Dorado County General Plan.

Kimley-Horn's interpretation of El Dorado County's Travel Demand Model forms the basis for the misleading traffic analysis in the County's TGPA/ZOU Project documents, and will also be used to support the County's Major Update to the Capital Improvement Program (CIP) and Traffic Impact Mitigation (TIM) Fee Program, and other near- and long-term planning models.

These concerns are emphasized by Caltrans's March 16, 2015 direct challenge to County's Kimley-Horn analysis, and Caltrans's revised concerns as stated in its May 5, 2015 letter. Caltrans's May 5 letter has removed some of its strongest language, but the net effect of their comments remains the same<sup>2</sup>.

Some notable comments from Caltrans's March 16, 2015 and May 5, 2015 letters challenged the traffic assumptions for the Partial Recirculated DEIR for the County's TGPA/ZOU Project, and challenged the raw data, methodology, and conclusions for the TGPA/ZOU Project. Caltrans states that the LEVEL OF SERVICE standards are substantially under-calculated along Highway 50, and the report fails to include the projects already on the books, which will add up to 21,000 additional homes in its cumulative analysis. A list summarizing Caltrans's initial adverse comments of March 16, 2015, confirmed in its May 5, 2015 letter, are:

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2015 email -- Kimley-Horn Saratoga Estates Draft Transportation Impact Analysis.

2 Although by its May 5 letter Caltrans purports to redact its comments in the March 16 letter, the basis of its analysis has never been removed from the record. See District Director 2013 letter to El Dorado County Director of Planning.

- TGPA/ZOU DEIR inaccurately claims that Caltrans, in its September 22, 2014 letter, formally concurred with the Travel Demand Model (TDM) used to model traffic for the DEIR, when Caltrans's earlier letter only addressed the base year (not future or cumulative) model; and said letter further pointed out that certain areas of the model do not meet validation standards and generate unexpected outputs. Caltrans states that this results in traffic assignment outputs that do not accurately reflect existing conditions and which should not be used verbatim.
- Caltrans rejects many of the LEVEL OF SERVICE values shown in the TGPA/ZOU DEIR for US 50, including the segment between the County line and El Dorado Hills Boulevard/Latrobe Road, which currently operates at LEVEL OF SERVICE F and will operate at LEVEL OF SERVICE F in the future, without significant capacity increasing or operational improvements and/or reduction in demand. Per Caltrans, the DEIR erroneously states that this segment currently operates at LEVEL OF SERVICE B and C, and will operate at LEVEL OF SERVICE D in the future. Caltrans believes that, even with capacity increases, achieving LEVEL OF SERVICE D in the future for this segment is highly infeasible. This is the segment which will be impacted the most by the Town Center West developers' plans to redevelop without public oversight.
- Caltrans disagrees with the "Method of Analysis" section, stating that the LEVEL OF SERVICE calculations for US 50 should be calculated using a more appropriate methodology and realistic existing and future volumes.
- Caltrans wants to ensure that all minimum acceptable LEVEL OF SERVICE for US 50 was "E" against which actual segments should be judged.<sup>3</sup>
- Caltrans never received an opportunity to review cumulative (2035) Travel Demand Model scenarios or review growth forecasts.<sup>4</sup>
- Caltrans objects to how El Dorado County's Travel Demand Model is being applied. "Caltrans does not agree with the "Method of Analysis" section. "Caltrans suggests that the LEVEL OF SERVICE calculations for US 50 reported in the PRDEIR be calculated using the Operational Analysis for Basic Freeway Segments."<sup>5</sup>

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3 Caltrans March 16 letter Bullet Point No. 2 vs. May 5, 2015 letter Bullet Point No. 4.

4 Caltrans March 15, 2015 letter Bullet Point No. 3 v. May 5, 2015 letter Bullet Point No. 3.

5 May 15, 2015 letter Bullet Point No. 2.

- May 5, 2015 letter Bullet Point 5 underscores that El Dorado Hills Boulevard/Latrobe Road to the Sacramento County line currently operates at LEVEL OF SERVICE F during AM peak, especially the merge. Caltrans objects to County's Table 3.9-13, which indicates that this same segment operates at LEVEL OF SERVICE C: "reporting the existing LEVEL OF SERVICE as C significantly underestimates the traffic at this location . . . and adversely impacts the reasonableness of the future scenario analysis. Caltrans recommends the existing LEVEL OF SERVICE analysis for this segment, and any others with lower than expected LEVEL OF SERVICE for US 50, be recalculated using more appropriate input volumes". Caltrans also strongly recommends recalculation of future LEVEL OF SERVICE analysis for future build out scenarios, because their review indicates that El Dorado County is significantly "underestimating future traffic conditions on US 50", especially given that the future demand analysis actually concludes that the El Dorado Hills Blvd. segment will reduce to lower than current levels even with the additional 15,949 residential units currently planned.

Thus the challenged and disingenuous TIM Fee Program will allow developers such as Town Center West to evade the original intent of the Measure Y initiatives by paying token fees instead of building the essential infrastructure improvements before development. If the County's interpretation of its Travel Demand Model is selected, The County will be applying an Alice in Wonderland approach to traffic moving along Highway 50 at critical intersections – for example El Dorado Hills Blvd. and Latrobe Road – which hold only a LEVEL OF SERVICE designation of B or C, instead of E-F. County and Kimley-Horn's analysis also misleads the public by refusing to consider the impact of all projects currently in the cue<sup>6</sup> as part of the overall cumulatives analysis for traffic. Additional development can then be approved allowing such development to pay into the TIM Fee Program as mitigation and move forward with its projects, leaving actual construction of the proposed widening, signals, and the like to be successively moved to 2035, or even further out in time.

To the extent that the Kimley-Horn traffic DEIR analysis informs and provides the basis for the Town Center West PD Revision Project, then the same errors in methodology and/or analysis contained in the TGPA Travel Demand Model have been incorporated in the traffic analysis for TCW. Application of that same challenged analysis and defective assumptions especially related to LEVEL OF SERVICE determinations must be recalibrated to correctly state accurate traffic flows. If the Highway 50 segment between the County line and El Dorado Hills Blvd. is "B" as inaccurately asserted by Kimley-Horn in the TGPA/ZOU DEIR, reliance upon such a material defect for the Town Center West project traffic analysis fundamentally fails in its obligation to provide accurate information to decision makers, and misinforms the public as to what impacts the developers' proposed project will have on the immediately surrounding public, and on all those coming down Highway 50 and hitting the incoming traffic from Latrobe Road/El Dorado Hills Blvd.

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<sup>6</sup> Many of which have been previously approved pre-2006.

El Dorado County Counsel  
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We are particularly concerned that County's authorization for the same traffic engineer to perform the analysis for all three projects reflects "results-based" analysis being coordinated between El Dorado County, Kimley-Horn, and benefitting developers related to all three projects: County's TGPA/ZOU DEIR as the base of the case, and EDHI/TCW and Saratoga Estates relying upon the analysis in the TGPA/ZOU project.

Our concerns are underscored by admissions by Craig Sandberg, attorney for El Dorado Hills developers, that the Town Center West approach to traffic/methodology is "unorthodox". Like Kimley-Horn, Mr. Sandberg represents both the Town Center West project and Saratoga Estates as their land use attorney, and both projects derive their artificially low traffic LEVEL OF SERVICE and over-all traffic counts from the Caltrans challenged Kimley-Horn traffic analysis contained in the TGPA/ZOU DEIR.

Thus, at a minimum the County/Kimley-Horn methodology of applying the Travel Demand Model should be substantially revised as requested by Caltrans. Once the LEVEL OF SERVICE calculations are corrected to reflect actual present and anticipated conditions, the proposed mitigation for these projects will of necessity be increased to ensure real compliance with policies underlying Measure Y.

Sincerely,

  
Bright S. Barnes

cc: Client [via email]  
Shawna Pervines, Principal Planner [via email: [planning@edcgov.us](mailto:planning@edcgov.us)]

Syers.EDHVTGPA-ZOU\CountyCounsel.L02