

3.4 Organization Comments

From: Myesha Williams <mwilliams@rosefdn.org>
To: <eircomments@mtc.ca.gov>
Date: 4/17/2013 11:43 AM
Subject: Comments on Plan Bay Area EIR

My name is Myesha Williams of the New Voices Are Rising project—a project of the Rose Foundation for Communities and the Environment. In New Voices Are Rising, we work with high school students to develop skills and gain experience advocating for themselves and their communities' interests—essentially mentoring the next generation of environmental leaders. So thank you for the opportunity to comment on the Environmental Impact Report. It is clear that a lot of work has gone into preparing this and we really appreciate that. Even though the draft EIR identifies the EEJ alternative 5 as environmentally superior, we believe that the draft EIR does not adequately analyze the VMT and GHG reductions this alternative would offer as compared with the proposed plan.

B1-1

I would like to state my support for Alternative 5: The Equity, Jobs and Environment alternative for several reasons:

B1-2

1. The EEJ alternative funds significant investments in frequency improvements for high demand systems like AC Transit, which many of the students and communities we work with depend on for daily access to opportunities and necessities. According to the Bus Access Health Impact Assessment conducted by the Alameda County Public Health Department, more investment in transit service, especially bus service, can improve health and vitality for riders, their communities and the transit system overall. Currently, youth, seniors and transit dependent people's health is suffering as a result of the disinvestment in public transportation. The HIA found that reductions in bus service negatively affects the physical and mental health, safety, and well being of the most vulnerable riders. In order to reduce VMT, we MUST restore local transit to a reasonable baseline of service by committing an additional \$70 million per year to restore bus service cuts made over the past five years.

B1-3

2. The EEJ alternative 5 fares the best in reducing Vehicle Miles Traveled, which in turn helps us reach our goal of reducing Green House Gas Emissions. As the alternative with the strongest ridership, the EEJ will ensure that public transportation remains accessible, affordable, and will help to improve health and reduce health disparities. Alternative 5 prioritizes Bus, BART and plans for a free youth bus pass program. This proposal is especially significant for those of us who work with youth who experience negative health impacts and critical barriers to opportunity due to rising transit costs, service cuts and route changes.

B1-4

3. Lastly, the EEJ alternative has the lowest combined housing and transportation costs as a share of income for low income households. In order to reduce displacement, affordable housing should be planned in all High opportunity areas, including PDA's and PDA like places. With a projected increase in population of more than 2 million people, the EEJ is our best chance at preventing the continuing displacement of vulnerable residents from their homes and communities.

Thank you!

If you would like a copy of the Health Impact Assessment referenced in the comments, I'd be happy to provide that for you.

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<sup>3</sup>I am who I am doing what I came to do.<sup>2</sup> -Audre Lorde

May 2, 2013

Carolyn Clevenger  
MTC EIR Project Manager  
Metropolitan Transportation Commission  
101 Eighth Street  
Oakland, CA 94607

RE: Recommendations on Open Space Maps, Policy Measures and Findings  
in Plan Bay Area and its Draft Environmental Impact Report

Dear Ms. Clevenger,

Thank you for all your work at MTC. The Bay Area Open Space Council, Greenbelt Alliance and The Nature Conservancy have worked closely with the Metropolitan Transportation Commission and the Association of Bay Area Governments throughout the planning process and look forward to supporting implementation of the Bay Area's Sustainable Community Strategy. To this end, below, we provide comments on the Plan Bay Area Draft and its Draft Environmental Impact Report.

Map Modifications

**Draft Environmental Impact Report, Plan Bay Area**

B2-1

**Figure 2.9-1 (p.645)**

- Incorrect map placement, should instead be the Critical Habitat: North Bay.

B2-2

**Table 2.14-2 (p. 861)**

- Incorrect acreage figures. In order to convey lands that are open to the public for recreation, the figure in this table should be calculated based on "Open" or "Restricted" access in the Bay Area Protected Areas Database.
- Confirm the report utilizes use most recent version of Bay Area Protected Areas Database, the 2012 version. The database can be downloaded [here](#).
- Update title of table 2.14-2 to "Bay Area Parks and Open Space Open to the Public"

**Plan Bay Area Draft**

**Include Appendix of Data Sources**

- Include a list of data sources used for creating the document's maps, tables and charts.
- Distinguish between urban foot print, city limits and urban growth boundaries citing sources to ensure boundaries are up-to-date and accurate.

**San Francisco Bay Area: Transportation and Lands Uses map (p.6)**

- Legend mislabels protected lands from Bay Area Protected Areas Database as “Open Space”. Open space goes beyond the constrained definition of protected lands by fee or easement. Recommend relabeling “Protected Lands”.

**Map 1: SF Bay Area Resource Lands (p.51)**

- Resource Lands map is limited in its scope of fully illustrating the array of important resources provided by open space. Only farmland is included, while the other map layers are policy based measures or protected lands by ownership which do not exhibit the natural resources. It is important to consider and reference other resource areas found in [Regional Policy Background Paper: DRAFT - Conservation and Open Space](#) or in the [Greenbelt Mapper](#) including wildlife habitat, watersheds and wetlands, and agricultural lands.
- Map 1 should not call lands enrolled in the Williamson Act “Protected Open Space”. The map should show areas legally protected (under fee ownership or easements) as one color thereby distinguishing other short-term and temporary protective status, such as policy protected areas.
- Designated “Critical Habitat” is an insufficient proxy for priority natural habitats for conservation as it is a policy measure, not a comprehensive biodiversity analysis. The main document should reference the [Conservation and Open Space issue paper](#) as a way of acknowledging the multiple important areas and values in the region related to biodiversity, agriculture and open space.
- Include the research from [Conservation Lands Network](#) and [Critical Linkages](#) for highlighting important upland wildlife areas that have been prioritized for some form of conservation management to ensure ecological sustainability.
- The map symbology limits viewing the relationship between protected and unprotected agricultural lands.
- Recommend creating two maps from the existing SF Bay Resource Lands map. This is supported by SB 375 language which states “The sustainable communities strategy shall...(v) gather and consider best practically available scientific information regarding resources areas and farmland in the region” (SB 375, Section 4b2Av, Ch. 728 p. 7). One map exhibits the relationship between agricultural areas designated by FMMP, policy protected and permanently protected areas. The second map illustrates important wildlife areas (Conservation Lands Network, Critical Linkages), as well as water resource areas (groundwater recharge areas, reservoir catchment areas, wetlands and vernal pools).

**Urban Growth Boundaries: Appendix 2 Maps (p.146-160)**

- Acknowledge the distinction between Plan Bay Area’s Target #6 of directing all new development with the 2010 urban footprint (cited in Plan Bay Area as existing urban development or urban growth boundaries) versus what was actually analyzed in Plan Bay Area’s urban footprint used in scenario modeling (city limits or urban growth boundaries).
- For the purposes of our analysis of Plan Bay Area Draft, we interpreted Target #6 into mapping terms as existing urban growth boundary, and if that city does not have one, its city limits.
- With this assumption, Appendix 1 maps show urban growth boundaries with different extents than those found through Greenbelt Alliance’s At Risk 2012 research of the Bay Area’s 101 cities’ growth boundary policies.

- Attached is an analysis of this evaluation of the region’s cities’ current planning boundaries according to the Appendix 2 maps. The jobs and home projections map are overlaid by existing city limits if it has not adopted an urban growth boundary. These maps demonstrate areas in gray that exceed the known urban growth boundary extent for that city or county.
- Consistent standards of what defines an Urban Growth Boundary across the 9-county Bay Area must be clearly expressed to avoid inaccurate modeling of cities boundaries that are different from its current city limits or urban growth boundary. This would include using a city’s sphere of influence as an inappropriate planning boundary.
- **Failure to use the most current urban growth boundaries in the Plan Bay Area should be reflected in failing to meet the Target #6. This should be measured by the amount of land projected for urban development outside of existing city and county urban growth boundaries.**

## New Map Recommendations

### Draft Environmental Impact Report, Plan Bay Area

#### Migratory Corridors and Linkages

- B2-3** - Consider replacing Essential Connectivity Areas map with or adding an additional map of the Bay Area Critical Linkages & Conservation Lands Network (CLN) at 2.9-35 (p.653) as a scientifically based analysis that focused on biodiversity and local migratory conditions previously unavailable for the Bay Area.
- CA Essential Connectivity Areas is incomplete at the local level.
  - o According the data’s [Use Constraints](#): “It is a decision-support tool to be refined by finer-scale analyses and local linkage designs.”
  - o In the dEIR it states “ECAs were mapped on a state-wide level and should be considered coarse-scale polygons that can inform land planning efforts, but that should eventually be replaced by more detailed linkage designs, developed at finer resolution at the regional and ultimately local scale based on the needs of particular species and ecological processes.”
  - o **Critical Linkages and the CLN provide that refined analysis.**

#### Conservation Lands Network

- B2-4** - The CLN is a scientifically credible regional conservation plan designed to identify the most essential lands needed to sustain biological diversity. Consider adding a small section describing the plan and then a map showing the CLN. This could go at the beginning or the end of section 2.9.

#### Wetlands

- B2-5** - Include map of Bay Area’s wetlands at 2.9-11(p.629)
- San Francisco Estuary Institute maintains the Bay Area’s wetland GIS resources
  - o Appropriate to use SFEI’s data in this report as they are the local source for regional agencies on tidal and non-tidal wetland data, though their jurisdiction falls inside the full extent of the Bay Area’s nine counties.
  - o [Bay Area Aquatic Resource Inventory](#) is recommended to supplement state and federal wetland mapping resources.

- Furthermore, important vernal pools mapped from California's Department of Fish and Game California Central Valley Vernal Pool Habitat [GIS Data](#) expands the research of critical wetland areas and should be included in the wetlands map.

B2-6

### Reservoir Catchment Areas

- Include map of Bay Area's lands that drain into reservoirs for public drinking water at 2.12-12 (p.764), called "Surface Water Storage Watersheds" from the 2010 Forest and Range Assessment [GIS data](#).
- This map expands the scope of valuable watershed lands that are upstream in the hills and mountains to compliment the Figure 2.12-3 (p.763) Bay Area Groundwater Basins.
- Combined, these two maps portray a more comprehensive perspective of important watershed lands.

## Plan Bay Area Draft

### Policy Protection

- Include map of Bay Area's significant open space policy protections after Map 1 on p.52
  - Distinguish between open space protection by purchase through fee or easement compared to state and local measures passed by voters and elected officials
  - Include voter approved open space protections, urban growth boundaries and Williamson Act properties
    - Napa Measure P – Voter-approved agricultural and watershed protection
    - Solano Orderly Growth Initiative – Voter-approved agricultural protection
    - Current urban growth boundaries
      - Voter and council-approved
      - City and County-level
    - Properties enrolled in a Williamson Act contract
    - Wildlife Policies
      - FWS Critical Habitat
      - Habitat Conservation Plans/Natural Community Conservation Planning
  - Consider additional open space policy protection measures including hillside, riparian, and flood zone protection areas as well as jurisdictions with regulatory authority including Bay Conservation and Development Commission and in the Coastal Zone.

The Bay Area Open Space Council, Greenbelt Alliance and The Nature Conservancy greatly appreciate being a part of Plan Bay Area and believe the Plan is on the right track towards meeting mandated emissions reduction by SB 375 as well as our conservation goals. We are committed to ensuring this Plan is implemented according to a vision for a sustainable, equitable and healthy Bay Area. We recognize that this will not be easy, and look forward to finding ways to support the MTC, ABAG, the counties and cities of the Bay Area as we collectively move towards a goal of housing a growing population, reducing greenhouse gas emissions and protecting our natural resources.

Sincerely,

Bay Area Open Space Council

Greenbelt Alliance

The Nature Conservancy

**Urban Growth Boundary Analysis for Maps in Plan Bay Area and Draft EIR**  
**Measuring the accuracy of map boundaries identified as current Urban Growth Boundaries**  
**Submitted 5/2/2013 as Public Comment to Plan Bay Area by Greenbelt Alliance**

| <u>City</u> | <u>County</u> | <u>Current Urban Growth Boundary</u> | <u>In/Correct</u> | <u>Description</u>                                                                                  | <u>Boundary Mapped in Plan Bay Area</u> |
|-------------|---------------|--------------------------------------|-------------------|-----------------------------------------------------------------------------------------------------|-----------------------------------------|
| Alameda     | Alameda       |                                      | Correct           |                                                                                                     | City Limit                              |
| Berkeley    | Alameda       |                                      | Correct           |                                                                                                     | City Limit                              |
| Dublin      | Alameda       | Urban Limit Line                     | Correct           | Uses city's western UGB, plus shows County's extended UGB, uses city limits on eastern side of city | UGB / City Limit                        |
| Emeryville  | Alameda       |                                      | Correct           |                                                                                                     | City Limit                              |
| Fremont     | Alameda       | Urban Growth Boundary                | Incorrect         | Uses city limits rather than existing UGB. Area east of existing urbanized extent is outside UGB.   | City Limit                              |
| Hayward     | Alameda       | Urban Limit Line                     | Incorrect         | Uses City Limit instead of existing UGB                                                             | City Limit                              |
| Livermore   | Alameda       | Urban Growth Boundary                | Incorrect         | Uses City Limit instead of existing UGB                                                             | City Limit                              |
| Newark      | Alameda       |                                      | Correct           |                                                                                                     | City Limit                              |
| Oakland     | Alameda       |                                      | Incorrect         | Unknown boundary extending into the hills east of city limits and SOI                               | Unknown                                 |
| Piedmont    | Alameda       |                                      | Correct           |                                                                                                     | City Limit                              |
| Pleasanton  | Alameda       | Urban Growth Boundary                | Incorrect         | Uses city limits rather than existing UGB                                                           | City Limit                              |
| San Leandro | Alameda       |                                      | Incorrect         | Unknown boundary extending into the hills east of city limits and SOI                               | Unknown                                 |
| Union City  | Alameda       |                                      | Correct           | Uses City Limit                                                                                     | City Limit                              |
| Albany      | Contra Costa  | Urban Limit Line                     | Correct           |                                                                                                     | UGB                                     |
| Antioch     | Contra Costa  | Urban Limit Line                     | Correct           |                                                                                                     | UGB                                     |
| Brentwood   | Contra Costa  | Urban Limit Line                     | Correct           |                                                                                                     | UGB                                     |
| Clayton     | Contra Costa  | Urban Limit Line                     | Correct           |                                                                                                     | UGB                                     |
| Concord     | Contra Costa  | Urban Limit Line                     | Correct           |                                                                                                     | UGB                                     |
| Danville    | Contra Costa  | Urban Limit Line                     | Correct           |                                                                                                     | UGB                                     |
| El Cerrito  | Contra Costa  | Urban Limit Line                     | Correct           |                                                                                                     | UGB                                     |
| Hercules    | Contra Costa  | Urban Limit Line                     | Correct           |                                                                                                     | UGB                                     |

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|                 |              |                       |           |                                                                                                                         |            |
|-----------------|--------------|-----------------------|-----------|-------------------------------------------------------------------------------------------------------------------------|------------|
| Lafayette       | Contra Costa | Urban Limit Line      | Correct   |                                                                                                                         | UGB        |
| Martinez        | Contra Costa | Urban Limit Line      | Correct   |                                                                                                                         | UGB        |
| Moraga          | Contra Costa | Urban Limit Line      | Correct   |                                                                                                                         | UGB        |
| Oakley          | Contra Costa | Urban Limit Line      | Correct   |                                                                                                                         | UGB        |
| Orinda          | Contra Costa | Urban Limit Line      | Correct   |                                                                                                                         | UGB        |
| Pinole          | Contra Costa | Urban Limit Line      | Correct   |                                                                                                                         | UGB        |
| Pittsburg       | Contra Costa | Urban Limit Line      | Correct   |                                                                                                                         | UGB        |
| Pleasant Hill   | Contra Costa | Urban Limit Line      | Correct   |                                                                                                                         | UGB        |
| Richmond        | Contra Costa | Urban Limit Line      | Correct   |                                                                                                                         | UGB        |
| San Pablo       | Contra Costa | Urban Limit Line      | Correct   |                                                                                                                         | UGB        |
| San Ramon       | Contra Costa | Urban Limit Line      | Correct   | Uses city's UGB                                                                                                         | UGB        |
| Walnut Creek    | Contra Costa | Urban Limit Line      | Correct   |                                                                                                                         | UGB        |
| Belvedere       | Marin        |                       | Correct   |                                                                                                                         | City Limit |
| Corte Madera    | Marin        |                       | Correct   |                                                                                                                         | City Limit |
| Fairfax         | Marin        |                       | Correct   |                                                                                                                         | City Limit |
| Larkspur        | Marin        |                       | Incorrect | Unknown boundary to the west of city limits and south of Ross                                                           | Unknown    |
| Mill Valley     | Marin        |                       | Correct   |                                                                                                                         | City Limit |
| Novato          | Marin        | Urban Growth Boundary | Incorrect | Unknown boundary extending S & SW of city limits. Non-conforming to existing UGB, city limits, SOI, or County corridor. | Unknown    |
| Ross            | Marin        |                       | Correct   |                                                                                                                         | City Limit |
| San Anselmo     | Marin        |                       | Incorrect | Includes areas of SOI in the north of the city, NW of San Rafael                                                        | SOI        |
| San Rafael      | Marin        |                       | Incorrect | Includes area of SOI to the east of the city, outside of city limits and County's urban corridor                        | SOI        |
| Sausalito       | Marin        |                       | Correct   | Area is smaller than existing city limits                                                                               | Unknown    |
| Tiburon         | Marin        |                       | Correct   |                                                                                                                         | City Limit |
| American Canyon | Napa         | Urban Limit Line      | Incorrect | Uses old UGB boundary. Unknown UGB identified around Napa airport north of American Canyon and South of Napa.           | Older UGB  |

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|                     |               |                           |           |                                                                                                                                        |                        |
|---------------------|---------------|---------------------------|-----------|----------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| Calistoga           | Napa          |                           | Correct   |                                                                                                                                        | City Limit             |
| Napa                | Napa          | Rural Urban Limit         | Incorrect | Includes areas of SOI in NW and SE corner of city. Additional area identified as UGB in far NE section outside of city limits and UGB. | Unknown                |
| St. Helena          | Napa          | Urban Limit Line          | Incorrect | Mapped UGB to City Limit, not existing UGB                                                                                             | City Limit             |
| Yountville          | Napa          | City Limit                | Correct   |                                                                                                                                        | City Limit             |
| San Francisco       | San Francisco |                           | Correct   |                                                                                                                                        | City Limit             |
| Atherton            | San Mateo     | Urban Rural Boundary      | Correct   |                                                                                                                                        | Rural Urban Limit Line |
| Belmont             | San Mateo     | Urban Rural Boundary      | Correct   |                                                                                                                                        | Rural Urban Limit Line |
| Brisbane            | San Mateo     | Urban Rural Boundary      | Correct   |                                                                                                                                        | Rural Urban Limit Line |
| Burlingame          | San Mateo     | Urban Rural Boundary      | Correct   |                                                                                                                                        | Rural Urban Limit Line |
| Colma               | San Mateo     | Urban Rural Boundary      | Correct   |                                                                                                                                        | Rural Urban Limit Line |
| Daly City           | San Mateo     | Urban Rural Boundary      | Correct   |                                                                                                                                        | Rural Urban Limit Line |
| East Palo Alto      | San Mateo     | Urban Rural Boundary      | Correct   |                                                                                                                                        | Rural Urban Limit Line |
| Foster City         | San Mateo     | Urban Rural Boundary      | Correct   |                                                                                                                                        | Rural Urban Limit Line |
| Half Moon Bay       | San Mateo     | Urban Rural Boundary      | Correct   |                                                                                                                                        | Rural Urban Limit Line |
| Hillsborough        | San Mateo     | Urban Rural Boundary      | Correct   |                                                                                                                                        | Rural Urban Limit Line |
| Menlo Park          | San Mateo     | Urban Rural Boundary      | Correct   |                                                                                                                                        | Rural Urban Limit Line |
| Millbrae            | San Mateo     | Urban Rural Boundary      | Correct   |                                                                                                                                        | Rural Urban Limit Line |
| Pacifica            | San Mateo     | Urban Rural Boundary      | Correct   |                                                                                                                                        | Rural Urban Limit Line |
| Portola Valley      | San Mateo     | Urban Rural Boundary      | Correct   |                                                                                                                                        | Rural Urban Limit Line |
| Redwood City        | San Mateo     | Urban Rural Boundary      | Correct   |                                                                                                                                        | Rural Urban Limit Line |
| San Bruno           | San Mateo     | Urban Rural Boundary      | Correct   |                                                                                                                                        | Rural Urban Limit Line |
| San Carlos          | San Mateo     | Urban Rural Boundary      | Correct   |                                                                                                                                        | Rural Urban Limit Line |
| San Mateo           | San Mateo     | Urban Rural Boundary      | Correct   |                                                                                                                                        | Rural Urban Limit Line |
| South San Francisco | San Mateo     | Urban Rural Boundary      | Correct   |                                                                                                                                        | Rural Urban Limit Line |
| Woodside            | San Mateo     | Urban Rural Boundary      | Correct   |                                                                                                                                        | Rural Urban Limit Line |
| Campbell            | Santa Clara   |                           | Correct   |                                                                                                                                        | City Limit             |
| Cupertino           | Santa Clara   | Urban Service Area        | Correct   |                                                                                                                                        | City Limit             |
| Gilroy              | Santa Clara   | 20 Year Planning Boundary | Incorrect | Uses city limits rather than existing UGB                                                                                              | City Limit             |
| Los Altos           | Santa Clara   |                           | Correct   |                                                                                                                                        | City Limit             |
| Los Altos Hills     | Santa Clara   |                           | Correct   |                                                                                                                                        | City Limit             |
| Los Gatos           | Santa Clara   |                           | Correct   | Uses smaller UGB footprint in map and their existing city limits                                                                       | Unknown                |

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|               |             |                               |           |                                                                                                |            |
|---------------|-------------|-------------------------------|-----------|------------------------------------------------------------------------------------------------|------------|
| Milpitas      | Santa Clara | Urban Growth Boundary         | Correct   |                                                                                                | City Limit |
| Monte Sereno  | Santa Clara |                               | Correct   |                                                                                                | City Limit |
| Morgan Hill   | Santa Clara | Urban Growth Boundary         | Incorrect | Uses city limits rather than existing UGB                                                      | City Limit |
| Mountain View | Santa Clara |                               | Correct   |                                                                                                | City Limit |
| Palo Alto     | Santa Clara | City Limit                    | Correct   | Boundary extent obscured by legend, but assumed to be correct                                  | City Limit |
| San Jose      | Santa Clara | Urban Growth Boundary         | Incorrect | Uses city limits rather than existing UGB                                                      | City Limit |
| Santa Clara   | Santa Clara |                               | Correct   |                                                                                                | City Limit |
| Saratoga      | Santa Clara |                               | Correct   |                                                                                                | City Limit |
| Sunnyvale     | Santa Clara |                               | Correct   |                                                                                                | City Limit |
| Benicia       | Solano      | Urban Growth Boundary         | Incorrect | Uses SOI                                                                                       | SOI        |
| Dixon         | Solano      |                               | Incorrect | Uses SOI                                                                                       | SOI        |
| Fairfield     | Solano      | Urban Limit Line              | Incorrect | Uses SOI. Existing UGB includes additional open space in north west of city limits.            | SOI        |
| Rio Vista     | Solano      |                               | Incorrect | Uses SOI                                                                                       | SOI        |
| Suisun City   | Solano      |                               | Incorrect | Uses SOI                                                                                       | SOI        |
| Vacaville     | Solano      | Growth Boundary               | Incorrect | Uses old UGB boundary. Additional open space land on east side of the city within updated UGB. | Older UGB  |
| Vallejo       | Solano      |                               | Incorrect | Uses SOI                                                                                       | SOI        |
| Cloverdale    | Sonoma      | Urban Growth Boundary         | Correct   |                                                                                                | UGB        |
| Cotati        | Sonoma      | Urban Growth Boundary         | Correct   |                                                                                                | UGB        |
| Healdsburg    | Sonoma      | SOI / UGB                     | Correct   |                                                                                                | UGB        |
| Petaluma      | Sonoma      | Urban Growth Boundary         | Incorrect | Isolated area SE of city with square urbanized area is not part of UGB                         | City Limit |
| Rohnert Park  | Sonoma      | 20 Year Urban Growth Boundary | Incorrect | Square area missing from SE corner of UGB                                                      | Older UGB  |
| Santa Rosa    | Sonoma      | Urban Growth Boundary         | Correct   |                                                                                                | UGB        |

Plan Bay Area 2040 Final Environmental Impact Report

|            |        |                       |           |                                                                                                       |         |
|------------|--------|-----------------------|-----------|-------------------------------------------------------------------------------------------------------|---------|
| Sebastopol | Sonoma | Urban Growth Boundary | Correct   |                                                                                                       | UGB     |
| Sonoma     | Sonoma | SOI / UGB             | Incorrect | Appears dark areas are continuing north of City of Sonoma, mixed with urbanized area. Outside of UGB. | Unknown |
| Windsor    | Sonoma | Urban Growth Boundary | Incorrect | Large area SW of city not in UGB labeled as such                                                      | Unknown |



**SAN MATEO COUNTY  
BUILDING & CONSTRUCTION TRADES COUNCIL**  
1153 Chess Drive #206 • Foster City, CA 94404 • Tel. (650) 358-9977 • Fax (650) 358-9979

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MTC

May 7, 2013

Steve Heminger, Executive Director  
Commissioners, Metropolitan Transportation Commission  
Ezra Rapport, Executive Director  
Board Members, Association of Bay Area Governments  
101 Eighth Street  
Oakland, CA 94607

Re: Comments to the Draft EIR of Plan Bay Area

Dear Mr. Heminger, Mr. Rapport, and Commissioners and Board Members:

As the Draft EIR notes, there is much to recommend about the proposed alternative and we are generally supportive of it. However, there are significant impacts around Increased transportation (Impact 2.1-3), Air quality and residential/business disruptions as a result of construction projects (Impacts 2.2-2--2.3-1), Significant and unavoidable impacts from temporary construction noise levels (Impacts 2.6-1) and Impacts on water resources as a result of construction waste water (2.8-1).

B3-1

First, while there will be some negative impacts from construction as a result of this plan, the draft EIR and the Plan itself have missed a critical positive impact as a result of the Proposed Alternative.

With \$256 billion to be invested in transportation projects alone between now and 2040, there will be approximately 7,680,000 jobs created.<sup>1</sup> Commercial and high-density residential construction in Transit Oriented Development projects will have similar multiplier effects.

B3-2

Second, the EIR in its mitigation measures should make policy recommendations, encouraging (or requiring) project sponsors to pay their workers Area Standard Wages and require local apprentices who are enrolled in State of California approved Apprenticeship Programs to be part of the construction team. (Local hire could be defined as residents who live within 25 or 30 miles of the job sites).

<sup>1</sup> The Federal Highway Administration (FHWA) estimates of jobs supported by federal highway investments indicates that a \$1 billion expenditure on highway construction in 2007 supported a total of 30,000 jobs: 10,300 construction-oriented jobs (i.e., jobs at construction firms working on the projects and at firms providing direct inputs to the projects, such as guard rails); 4,675 jobs in supporting industries (i.e., jobs at companies providing inputs to the firms directly supplying materials and equipment used in highway construction, such as sheet metal producers who supply guard rail manufacturers); and 15,094 induced jobs (i.e., jobs dependent on consumer expenditures from the wages of workers in "construction-oriented" and "industry-supporting" jobs). (<http://www.fas.org/sgp/crs/misc/R42018.pdf>)

Steve Heminger, Executive Director  
Ezra Rapport, Executive Director  
Comments-Draft EIR Bay Area Plan  
May 7, 2013  
Page Two of Two

There are at least four reasons to include labor standards in the Plan and EIR:

- 1) Without labor standards clearly articulated in the Plan and EIR the transit-oriented housing that will be developed as part of this plan will not necessarily benefit local workers or pay decent wages. Creating middle class jobs is a key to improving the health of our local communities.
- 2) Decent wages will ensure that construction workers can afford housing in the Bay Area. This will allow them to travel fewer miles per day to get to work, thereby improving their health and decreasing air pollution from vehicles.
- 3) Local hiring requirements will encourage the hiring of apprentices, thereby creating new training opportunities so that local residents will gain skills and access to careers in the construction industry.
- 4) Highly skilled and continuously trained local workers will be committed and accountable to implementing the best environmental mitigation measures envisioned by the EIR for construction projects. The outcomes of the proposed mitigation measures in the EIR will depend on the quality and commitment of the workforce who will implement them. Project labor agreements can ensure a high quality workforce.

In the final EIR, we urge you to include the positive economic impacts of local construction jobs and clear labor standards as mitigations to the negative impacts of the Plan.

Sincerely,



William A. Nack  
Business Manager

Carolyn Clevenger, MTC EIR Project Manager  
Metropolitan Transportation Commission  
101 Eighth Street  
Oakland, CA 94607  
By email: [eircomments@mtc.ca.gov](mailto:eircomments@mtc.ca.gov)

**Re: Comments on the draft Environmental Impact Report for Plan Bay Area**

Introduction

When the Metropolitan Transportation Commission (MTC) and Association of Bay Area Governments (ABAG) issued their draft Plan Bay Area (draft Plan), thousands of pages of documents and appendices went up on their website. Most of those pages are parts of the Environmental Impact Report (EIR) prepared to comply with the requirements of the California Environmental Quality Act (CEQA). These comments address concerns in each of the core components of the EIR:

- The basic function to fully inform the public.
- The project description.
- The analysis of alternatives.
- The analysis of project impacts.
- The mitigation measures.

**B4-1** A number of these concerns stem in part from the fact that there are key differences in how the land-use model, UrbanSim, was used to determine the housing distribution in the draft Plan, on the one hand, and in the Equity, Environment and Jobs (EEJ) alternative, and other alternatives on the other hand. Specifically, the EIR adjusted the modeling results for the draft Plan by using unspecified “calibration techniques,” but did not make the same adjustments in the modeling results for the other alternatives. The use of different methods obscures the comparison among Plan alternatives, and departs from the California Transportation Commission’s modeling guidelines for regional transportation plans.

The EIR is Inadequate as an Informational Document

**B4-1.5** The basic function of an EIR is to fully inform the public and decision makers about the environmental impacts of a project so that the public can provide informed input and the decision makers can make an informed decision. However, this EIR is so complex and confusing – so dependent upon unexplained assumptions embedded in computer models – that it is impossible for the public to fully understand its methodology and clearly evaluate its conclusions. To even attempt to decipher the methodology of the key land use models, the public has to plow through a technical appendix to the draft Plan document, which itself is an appendix to the EIR. Even academic modeling experts who have reviewed the technical appendices and asked for clarification from modeling staff at MTC and ABAG have been unable to determine the exact steps used to create the housing distribution for the draft Plan.

**B4-2** The EIR also falls short of its information function in even more basic ways. It does not inform decision-makers or the public of the health effects on disproportionately-impacted populations of the

increased emissions the EIR identifies as potentially significant. It also does not inform them of the disproportionate impacts on low-income populations that will result from economic displacement.

### The Project Description in the EIR is Inadequate

**B4-3** It is impossible for an EIR to adequately inform the public and decision makers about the impacts of a project unless the EIR clearly and consistently describes the project in the first place. This EIR does not pass that test. Unlike every other EIR that has been prepared for SB 375 plans, and for that matter almost every other EIR that is prepared for any purpose, this EIR does not have a separate chapter, or section, entitled “Project Description.” Instead, Chapter 1.2 of the EIR is called “Overview of the Proposed Plan Bay Area.” As its title suggests, it provides an overview of certain features of the plan, but not a complete project description. The description of the core land use component required by SB 375, the Sustainable Community Strategy (SCS), is woefully incomplete. The description of the SCS basically amounts to the statement that it “calls for focused housing and job growth around high-quality transit corridors, particularly within areas identified by local jurisdictions as Priority Development Areas” (DEIR, p. 1.2-24), without providing any specifics about how this focused growth will be achieved, and without even providing a list of the PDAs where the growth will be focused.

**B4-4** For “details” about the SCS, EIR readers are directed to the draft Plan document, which in turn directs readers to the “Jobs-Housing Connection Strategy” (JHCS) published a year before the EIR. The JHCS states that there are 198 PDAs, and the EIR and the draft Plan document both state that there are “nearly 200” PDAs. However, the PDA Readiness Assessment, one of the many support documents published at the same time as the EIR and draft Plan document, states that “a number of changes or modifications have been made since” the JHCS was published, so “the current number of PDAs is 169.” Even though the core feature of the draft Plan is to encourage growth around PDAs, neither the EIR nor any of the documents it references provide a list of PDAs (only maps that are not at a scale to allow one to distinguish individual PDAs in proximity to each other, or to count them individually). There is also an inconsistency in the description of how much housing and jobs will go into the PDAs under the Plan. Among the EIR, SCS and JHCS, the housing number is variously described as “77 percent,” “79 percent,” “over 80 percent,” “80 percent” and “about 80 percent.” The jobs numbers are expressed as 63 percent sometimes and 66 percent other times – a discrepancy of more than 40,000 jobs. The unspecified “calibration techniques” discussed above, which were used to generate the description of how many housing units will be in PDAs as a result of the draft Plan, suggest that the EIR uses an elastic project description that changes shape as necessary to produce various outcomes. That is not a recipe for a useful EIR.

### The EIR’s Identification and Analysis of Alternatives Falls Short

**B4-5** The EIR deserves praise for its inclusion of an Equity, Environment and Jobs (EEJ) Alternative, and for acknowledging that the EEJ alternative is the environmentally superior alternative. However, there are important differences between the robust EEJ alternative proposed to ABAG and MTC and the alternative analyzed in the EIR. These differences include: forcing housing into the desired infill zones in the preferred alternative, but not the EEJ alternative; failing to capture in the model the benefits the EEJ alternative would achieve through deed-restricted affordable housing and of OBAG anti-displacement protections; and assuming there would be no CEQA streamlining under the EEJ alternative. As result, the EIR has not in fact analyzed a fully-developed EEJ alternative.

B4-6

The analysis of the impacts of the EEJ alternative inappropriately masks how much better the EEJ alternative performs compared to the preferred alternative by representing those differences as seemingly-small percentage point differences and then repeating the misleading statement that its benefits are only “marginal.” In fact, when one focuses on absolute numbers rather than misleading percentages, the analysis in the EIR shows substantially better performance by the EEJ alternative. Compared to the proposed plan, the EEJ scenario would result in:

- 1,900 fewer tons of CO2 emissions per day and 568,000 fewer tons of GHG emissions per year
- 6.4 fewer tons of Toxic Air Contaminants (TACs) per year
- 1,290 fewer tons of carbon monoxide emissions per year
- Daily energy savings of 68 billion BTUs, the equivalent of burning 600,000 fewer gallons of gasoline each day.

Furthermore, Sustainable Systems Research LLC concluded that if the modeling had been applied consistently, the EEJ alternative would show improved performance even beyond the performance that caused the EIR to select it as the environmentally superior alternative.

B4-7

In addition, while the discussion of the EEJ alternative as the environmentally superior alternative drops hints that the alternative may be infeasible, it does not evaluate its feasibility at a level of detail that would be necessary for ABAG and MTC to make a finding of infeasibility. Any such analysis would need to individually evaluate the feasibility of the different major components, and not simply assume that one component can make an entire alternative infeasible. In fact, the VMT fee is not an essential part of the EEJ alternative. While it provides a useful tool for analyzing the benefits that a big boost in transit service would bring to the region, the bulk of those benefits can be achieved without a VMT fee through making \$3 billion in additional transit operating funds available in the final Plan, as recommended below. Because the issue here is only financial feasibility, a feasibility analysis would need to fairly apply the same feasibility standards to the preferred alternative, by, for example, acknowledging that it may not be feasible to assume that the same revenues that existed before redevelopment agencies were eliminated will be available now that they have been eliminated.

The EIR’s Analysis of Project Impacts is Inadequate.

B4-8

The failure to base the impact analysis on a fixed, consistent project description permeates all of the individual sections of the impact analysis. The “calibration techniques” used in the land use analysis of the draft Plan are one extreme example of the fact that the impact analysis conducted through complex computer modeling appears to be result-oriented rather than a fair effort to characterize the actual impacts of the actual policy decisions that are supposed drive the analysis. As noted above, Sustainable Systems Research, LLC evaluated the inconsistencies in the modeling approaches and determined that EEJ would show even greater performance benefits relative to the draft Plan had the two been analyzed using comparable methods.

B4-9

As discussed above, the impact analysis does not analyze the localized health effects on disproportionately-impacted populations of the increased emissions the EIR identifies as potentially significant. It also does not analyze the disproportionate health effects on low-income populations that will experience economic displacement, despite the fact that ABAG acknowledged in its 2007 to

2014 Housing Needs Plan that displacement caused by urban housing demand results in “negative impacts on health, equity, air quality, the environment and overall quality of life in the Bay Area.”

**B4-10** One important shortcoming in the impact analysis relates to the impact of economic displacement. The draft EIR notes correctly that CEQA does not require analysis of pure social or economic impacts. CEQA does, however, require analysis of the physical changes to the environment that are caused by the economic or social effects of a project. And yet the draft EIR does not analyze the social and economic effects of displacement, even though it acknowledges that “Changing development types and higher prices resulting from increased demand could disrupt business patterns and displace existing residents to other parts of the region or outside the region altogether.” Instead, these issues are given inadequate consideration in the Equity Analysis, which is not part of the CEQA analysis. There is no attempt in the draft EIR or in the Equity Analysis to model displacement and identify likely trends in displacement, including areas likely to face pressure, number of households affected, and the impacts on the communities expected to absorb these households, and no attempt to mitigate the impacts of the significant displacement risks that the Equity Analysis found.

The EIR’s Mitigation Measures Fall Short.

**B4-11** To the extent the draft EIR does identify certain localized displacement impacts as significant, it does not propose sufficient mitigation measures even in the context of the artificially-constrained impacts it does address. The displacement mitigation measures focus on enhancing pedestrian and bike access, and general planning. No mitigation is proposed that adds any actual protection against displacement pressures.

**B4-12** Many of the mitigation measures (particularly for air impacts) set forth in the draft EIR are already required by applicable state or local regulations, and thus already required by law to be in the project. For example, (a) use of Tier 2 off-road equipment, (b) anti-idling requirements, and (c) controlling fugitive dust. As the Attorney General pointed out in her lawsuit challenging SANDAG’s SB 375 plan, measures that are already legally required should have been assumed to be part of the baseline of the project. By inappropriately calling them out as mitigation measures, the draft EIR side-steps the consideration of other mitigation measures that could reduce pollution, improve public health, and save lives.

**B4-13** The draft EIR correctly points out in many places that mitigation of a number of the identified impacts is outside the jurisdiction of ABAG and MTC. Nevertheless, ABAG and MTC have not adequately leveraged the mitigation potential of programs that are within their jurisdiction, namely the One Bay Area Grant program (OBAG) and the Regional Housing Needs Allocation (RHNA). The EEJ alternative does a much better job of targeting those programs to achieve the objectives of SB 375 and state and federal transportation and housing laws than the preferred alternative.

**We recommend adding the following specific mitigation measures:**

- B4-14** • **Transit operations:** Provide \$3 billion in additional operating revenue for local transit service in the final Plan, and commit to adopt a long-range, high-priority “Regional Transit Operating Program” to boost transit operating subsidies by another \$9 billion over the coming years, as new operating-eligible sources of funds become available.

- B4-15** | • **SCS and RHNA housing distribution:** Shift 25,000 RHNA units from PDAs to “PDA-like places,” with a corresponding shift in the SCS.
- B4-16** | • **Displacement protections:** Develop and incorporate into the draft EIR strong anti-displacement policies that future OBAG grant recipients will be required to adopt and implement, and provide substantial regional funding for community stabilization measures, such as land banking and preservation of affordable housing in at-risk neighborhoods.

Sincerely,

**ACCE Riders for Transit Justice**

Roger Kim, Executive Director  
**Asian Pacific Environmental Network**

Kirsten Schwind, Program Director  
**Bay Localize**

Carl Anthony and Paloma Pavel, Co-founders  
**Breakthrough Communities**

Michael Rawson, Director  
**California Affordable Housing Law Project**

Ilene Jacobs, Director of Litigation, Advocacy & Training  
**California Rural Legal Assistance**

Wendy Alfsen, Executive Director  
**California WALKS**

Dawn Phillips, Co-Director of Program  
**Causa Justa :: Just Cause**

Tim Frank, Director  
**Center for Sustainable Neighborhoods**

Nile Malloy, Northern California Program Director  
**Communities for a Better Environment**

Amie Fishman, Executive Director  
**East Bay Housing Organizations**

**Genesis**

Gladwyn d'Souza, Project Director  
**Green Youth Alliance**

Joshua Hugg, Program Manager  
**Housing Leadership Council of San Mateo County**

Melissa A. Morris, Senior Attorney  
**Law Foundation of Silicon Valley**

John Young, Executive Director  
**Marin Grassroots/Marin County Action Coalition for Equity**

Myesha Williams, Co-Director  
**New Voices Are Rising**

Karyl Eldridge, Housing Committee Chairperson  
**Peninsula Interfaith Action (PIA)**

Richard Marcantonio, Managing Attorney  
Sam Tepperman-Gelfant, Senior Staff Attorney  
**Public Advocates Inc.**

Anne Kelsey Lamb, Director  
**Regional Asthma Management and Prevention**

Jill Ratner, President  
**Rose Foundation for Communities & the Environment**

Allen Fernandez Smith, President & CEO  
**Urban Habitat**

Brian Darrow, Director of Land Use and Urban Policy  
**Working Partnerships USA**

May 16, 2013

Amy Worth, Chair  
Metropolitan Transportation Commission  
Mark Luce, President  
Association of Bay Area Governments  
101 Eighth Street  
Oakland, CA 94607

RE: Draft Plan Bay Area & Draft Environmental Impact Report (EIR)

Dear Chairwoman Worth, President Luce, and Commissioners:

The American Lung Association in California commends the Metropolitan Transportation Commission and the Association of Bay Area Governments for the excellent work on the Plan Bay Area and for the first time incorporating critical public health goals through the regional planning process. The Sustainable Communities Strategy process has offered an unprecedented opportunity to maximize public health, social equity and other community benefits at the same time you are reducing greenhouse gases. Transportation and land use decisions have a deep impact on the health of our community, but especially the most vulnerable – the elderly, children and those with chronic diseases.

The American Lung Association in California has been engaged in the SB 375 planning process statewide to promote ambitious plans to achieve maximum public health co-benefits. Auto-related air pollution contributes to a spectrum of health incidences, including cases of chronic bronchitis; respiratory and cardiovascular hospitalizations; respiratory-related ER visits; acute bronchitis; work loss days; premature mortality; asthma exacerbation; and acute, lower, and upper respiratory symptoms.

B5-1

We are pleased to see that the Equity, Environment, and Jobs (EEJ) alternative analyzed in the Draft Environmental Impact Report (DEIR) was identified as the “Environmentally Superior Alternative.” The EEJ scenario outperforms the draft plan on critical public health performance measures that have been supported by the health community:

- **Air Quality** – As a result of placing a greater emphasis on aligning compact land use development with transit service and increased transit capacity, the EEJ alternative showed the **lowest criteria pollutant emissions** (1.7 percent fewer criteria pollutant emissions compared to the proposed plan). Additionally, the EEJ alternative resulted in the lowest Toxic Air Contaminant (TAC) emissions of all of the alternatives (1.9 percent fewer TAC emissions compared to the proposed plan).

American Lung Association in California

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- **Health Metrics** – The EEJ scenario also performed better than the proposed plan on health metrics relating to reducing premature deaths from fine particulates, reducing coarse particulate emissions, and increasing average time walking and biking. The EEJ alternative also resulted in lower increases in injuries and fatalities from collisions and in VMT densities (a measure of traffic impacts) in Communities of Concern.
- **Greenhouse Gas Emissions** – While the EEJ alternative and the proposed plan performed equally with respect to meeting per capita GHG reduction targets by 2035 (16.4%), the EEJ alternative showed greater overall GHG emission reductions (achieving a 17 percent reduction from 2010 to 2040), two percent better than the proposed plan.
- **Transit ridership** – The EEJ alternative resulted in the strongest transit ridership of all of the alternatives, five percent more than the proposed plan.
- **Vehicle Miles Traveled** -- The EEJ alternative had the lowest level of vehicle miles traveled, due to the elimination of highway expansion projects and greater focus on transit ridership.

Taken together, these benefits will translate into cleaner air, greater walking, cycling and transit, fewer traffic deaths, and less traffic than those offered in the proposed plan. Just as importantly, the EEJ plan will result in overall reductions in greenhouse gases, which is a critical goal of the SCS and the broader public health community.

We have joined with dozens of other organizations in urging you to incorporate the best elements of the EEJ scenario as you prepare a final plan to ensure it offers the greatest public health protections. Most importantly, we urge you to substantially increase funding for transit operations and new transportation choices (transit, vanpools, carpools, car sharing, and other alternatives to solo driving) as new operating-eligible funds become available (cap and trade, revenues from increased bridge tolls, HOT lane revenues, and other new sources.) We also urge you to fund more active transportation and complete streets programs to maximize health co-benefits of reduced air pollution and increased physical activity and reductions in chronic disease. By increasing funding for transit and active transportation infrastructure, it is likely that the injuries from cycling and walking would also decrease as well.

Incorporating these changes will assure that the Plan Bay Area will improve the health of Bay Area residents and provide healthier transportation choices now and in the future. We ask that you direct your staff to bring forward these recommendations as soon as possible for consideration by the joint MTC Planning Committee / ABAG Administrative Committee.

Thank you very much again for your work to create a healthier Bay Area.

Sincerely,



Jenny Bard

Regional Director, Programs and Advocacy



May 16, 2013

**VIA E-MAIL AND HAND DELIVERY**

Carolyn Clevenger, MTC EIR Project Manager  
Metropolitan Transportation Commission  
Plan Bay Area Public Comment  
101 Eighth Street, Oakland, CA 94607

eircomments@mtc.ca.gov  
info@onebayarea.org

**Re: Comments on March 2013 Draft Plan Bay Area and  
April 2013 Draft Environmental Impact Report for Draft Plan Bay Area**

Thank you for the opportunity to comment on the March 2013 Draft Plan Bay Area (“Plan”) and the April 2013 Draft Environmental Impact Report (“EIR”) prepared by the Association of Bay Area Governments (ABAG) and Metropolitan Transportation Commission (MTC) pursuant to the California Environmental Quality (CEQA).

Cargill, Incorporated (“Cargill”) and its predecessor have a long history in the San Francisco Bay Area, and we are very thankful and appreciative of that. To ensure factual accuracy in the Plan and in the environmental review process, and to serve CEQA’s goal of informed decision making by the public, ABAG/MTC, and local government agencies that may review and/or rely on these documents in the future, we request that the Plan and EIR be revised to take into account the following comments.

B6-1

**I. Comments Applicable to Both the Draft Plan Bay Area and the Draft EIR**

**A. The Plan’s “Protected Open Space” Designation is Undefined and Misleading**

The designation of “Protected Open Space” appears in several of the land use maps included in the Plan and EIR<sup>1</sup> and is central to the EIR’s analysis of potential impacts and proposed mitigation measures, particularly relating to Land Use and Development, associated

<sup>1</sup> See, e.g., Plan at 45 (“Map 1 SF Bay Area Resource Lands”), Plan Appendix 2: Maps 1-3 at 140-142; EIR at 2.3-3 (“Figure 2.3-1 Urbanized Land and Open Space”), 2.3-17 (“Figure 2.3-4 Regional Parks and Open Space”).

## Cargill Comments on Draft Plan Bay Area and Draft EIR

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with the proposed Plan.<sup>2</sup> However, despite being an apparently key land use designation in both the Plan and the EIR, “Protected Open Space” is undefined in both documents. Without a clear definition, the term “Protected Open Space” may be interpreted as a land use designation akin to “preservation”—i.e. where development and/or certain types of land use are precluded or severely restricted—even if local land use controls do not impose such restrictions. This is particularly problematic for a landowner such as Cargill, whose private property appears to be depicted in the Plan, and analyzed in the EIR, as “Protected Open Space.” This designation improperly suggests to the public and decision makers that certain types of land uses that are currently allowed at these sites, or that may be allowed in the future by the local government(s) with jurisdiction over the sites, are actually barred or restricted in some way by the “Protected Open Space” designation in this Plan.

Arguably, the most informative discussion of the term “Protected Open Space” appears in a footnote in the Alternatives discussion of the EIR: “Protected open space includes lands protected primarily as open space by an ownership interest of a governmental agency or non-profit organization (fee or easement). These lands may or may not offer public access.” Draft EIR at 3.1-51 FN 6. However, it is entirely unclear whether this statement is intended to describe a subset of the lands identified in the Plan as “Protected Open Space,” or instead to describe all such lands. If the former, nowhere do the Plan or the EIR identify the other types of lands at issue. If the latter, it is clearly incorrect, as Cargill properties appear to be designated as “Protected Open Space” in the Plan, but certainly do not fall within the EIR’s description. In addition, the EIR introduces further confusion by conflating “Protected Open Space” with “permanent open space”: “The agricultural lands and open space analysis identifies factors affecting development impacts at the county level and determines whether the proposed Plan would affect the relative ability of local jurisdictions to protect agriculture and **open space designated as ‘permanent.’**” Draft EIR at 2.3-34 (emphasis added).

B6-2

Finally, the source of information for the “Protected Open Space” designation is not clear. Cargill has reviewed the geographic dataset which it understands to be the source of information for the “Protected Open Space” designation, *California’s Protected Areas Database* (“CPAD”).<sup>3</sup> The properties owned by Cargill in Redwood City and Newark, which appear to be

<sup>2</sup> See, e.g., EIR at 2.3-52 (“Mitigation Measures ... 2.3(h) ... Requiring project relocation or corridor realignment, where feasible, to avoid protected open space. ... Requiring conservation easements on land at least equal in quality and size as partial compensation for the direct loss of protected open space.”), 2.3-35, 2.3-46, 2.3-50, 2.3-51, 2.3-52, 3.1-51, and 3.1-52.

<sup>3</sup> Plan Maps 1 “SF Bay Area Resource Lands” and Appendix 2 Maps 1-3 do not specify the source of information for the “Protected Open Space Designation.” Plan at 45, 140-142. However, EIR Figures 2.3-1 and 2.3-4 indicate one of the data sources as The Bay Area Protected Areas Database, Bay Area Open Space Council, which is available to view at <http://www.calands.org/map>.

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depicted in the Plan's maps as "Protected Open Space," are not designated as such in the CPAD database.<sup>4</sup> Nor are those properties designated as "Protected Open Space" in the general plans or zoning ordinances of the relevant local governments.

**B6-3** In sum, the Plan and EIR fail to provide a coherent definition of the "Protected Open Space" designation and fail to provide a factual basis for its use over large portions of the Bay Area, including over Cargill lands. As a result, the "Protected Open Space" designation is incomprehensible and, ultimately, misleading. Moreover, neither the Draft Plan nor the Draft EIR explain how this designation is intended to influence local government regulation of land, meaning that the public and decision-makers cannot understand the implications of this designation for current and future uses of the properties at issue. The Plan and EIR must provide a clear definition of "Protected Open Space," a complete explanation as to the source of information used to map this designation in the Plan and EIR, and a detailed analysis of how the designation will or may affect local regulation of designated lands. To the extent "Protected Open Space" is defined in a manner that suggests ABAG and MTC are imposing or identifying a "preservation" or "dedicated open space" land use restriction that does not exist and is inconsistent with underlying local land use designations -- which ABAG and MTC have no authority to impose or alter -- it will create a false impression of land use restrictions applicable to a particular site. Application of such a misleading designation to Cargill's lands could constitute a substantial impairment of Cargill's property rights that is not authorized by local, state, or federal law.

**B6-4**

**B6-5**

#### B. The "Protected Open Space" Designation is Inconsistently Applied

The ambiguity in the Plan and EIR created by the absence of a clear definition of "Protected Open Space" is compounded by inconsistencies in the depiction of this land use designation in different maps within the Plan, between the Plan and EIR, and between the Plan and other documents which it purportedly incorporates.

First, the Plan is internally inconsistent in its designation of "Protected Open Space." For example, the figure entitled "San Francisco Bay Area: Transportation and Land Uses," which appears immediately following the table of contents and prior to page 1 of the Plan, depicts "Open space" as opposed to "Protected Open Space." Some of the lands that are designated as "Protected Open Space" in Plan Map 1 ("SF Bay Area Resource Lands") and Plan Appendix Maps 2 and 3 are not designated as "Open space" in this map.<sup>5</sup> Although the term "Open space"

<sup>4</sup> Compare Plan at 45 ("Map 1 SF Bay Area Resource Lands), Plan Appendix 2 ("Map 2 Northeast and Central Bay: Resource Lands" and "Map 3 South and West Bay: Resource Lands") with same geographic area on map at <http://www.calands.org/>.

<sup>5</sup> Compare, e.g., the depiction of Newark and Fremont in this figure with their depiction in Plan Map 1 at 45 and Maps 2-3 in Appendix 2 at 141-142.

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is undefined, presumably “Protected Open Space” would be encompassed within the apparently more general “Open space” designation but this is not true based on a comparison of these maps. Either the “Open space” depicted in this figure somehow excludes certain “Protected Open Space”, or inconsistent data sets were used to create these maps.

**B6-6** There are also discrepancies between certain maps in the Plan and those in the EIR with respect to the “Protected Open Space” designation. For example, designations of “Protected Open Space” in Redwood City and Newark in Plan Map 1 “SF Bay Area Resource Lands” and Maps 2 and 3 of the Plan’s Appendix 2 are inconsistent with the depiction of “Protected Open Space” in Figures 2.3-1 and 2.3-4 of the EIR.<sup>6</sup>

**B6-7** Finally, the May 2012 *Jobs-Housing Connection Strategy*, which is incorporated by reference into the Plan and EIR<sup>7</sup>, includes maps differentiating between “Protected Open Space,” “Policy Protected Open Space,” and “Conservation Easement[s].” Unfortunately, these terms are also undefined in the *Jobs-Housing Connection Strategy*, but it appears, at least with respect to the “Protected Open Space” designation, there are inconsistencies between the maps included in the May 2012 *Jobs-Housing Connection Strategy* and those contained in the Plan.<sup>8</sup>

**B6-8** As shown above, the Plan and EIR contain conflicting information relating to the “Protected Open Space” designation and are, as a result, individually misleading and collectively incoherent. The depiction of “Protected Open Space” in both of these documents must be corrected to not only accurately reflect the definition of that term, however the term is ultimately defined in the Plan, but also to ensure that the designation is depicted consistently in maps throughout both documents and is not inconsistent with source documents that are incorporated by reference. To the extent these inconsistencies are not corrected, and to the extent Cargill’s property is improperly designated as “Protected Open Space” on any of the figures contained in the Plan and/or EIR, as described above, the Plan could substantially impair Cargill’s property rights in a manner that is not authorized by local, state, or federal law.

**B6-9** C. The Plan’s “Urban Growth Boundary” Designation is Ambiguous and Confusing

As with the “Protected Open Space” designation, the Plan’s “Urban Growth Boundary” designation requires clarification. The basis for the “Urban Growth Boundary” designation, as

<sup>6</sup> Plan at 45, 141-142, Draft EIR at 2.3-3 and 2.3-17.

<sup>7</sup> Plan at 26; EIR at ES-8.

<sup>8</sup> Compare, e.g., Plan at Appendix 2, “Map 2 Northeast and Central Bay: Resource Lands” showing the southern portion Newark as “Protected Open Space” that is not depicted as such in the map included in the Appendix C of the *Jobs-Housing Connection Strategy, Appendix*, in the map entitled “Place Type for Priority Development Areas in Alameda County.”

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depicted in various figures throughout the Plan and the EIR, should be clearly defined in both documents.<sup>9</sup> Instead, the Plan indirectly describes the term as follows:

To ensure that the Bay Area retains the landscapes that its residents value so highly, the Plan Bay Area aims to protect open space and agricultural land by directing 100 percent of the region's growth inside the year 2010 urban footprint, which means that all growth occurs as infill development or within established urban growth boundaries or urban limit lines. As the draft plan assumes that all urban growth boundaries/urban limit lines are held fixed through the year 2040, no sprawl-style development is expected to occur on the region's scenic or agricultural lands. This will help preserve the natural beauty of the Bay Area for future generations to enjoy.

Plan at 101. Similarly, the EIR refers to "Urban Growth Boundaries" as one type of local land use measure employed to limit sprawl:

With the exception of San Francisco, all counties in the Bay Area protect open space and agricultural lands by county-wide land use measures, such as urban service areas, environmental corridors, slope/density restrictions, stream conservation areas, or riparian buffers. Additionally, some cities have Urban Growth Boundaries (UGB) to limit sprawl and protect agricultural land. Generally, this means that if a project falls outside a UGB, there are regulatory measures in place to aid local jurisdictions in farmland protection. Still, there are many communities without growth limits in place, and those that do exist vary in quality, effectiveness, and enforcement. According to MTC/ABAG, of 101 Bay Area municipalities, 27 have UGBs as of January 2013. Additionally, countywide growth boundaries in Contra Costa and San Mateo counties apply to all cities within their jurisdiction. Counties and cities with measures protecting open space are summarized in **Table 2.3-14.**

EIR at 2.3-47. These descriptions do nothing to clarify either (1) the underlying factual basis for the single "Urban Growth Boundary" depicted in the Plan and EIR, or (2) what the term actually means in the context of implementation of the Plan and/or environmental impact analysis in the EIR.

B6-10

Although not clear in the Plan or EIR, the basis for the Plan's "Urban Growth Boundary" could be buried in one of the "Supplementary Reports and Additional Resources" listed in Appendix 1 of the Plan. It is unreasonable to expect that the public would be able to canvass all of these materials in the short time that ABAG and MTC has made available for public review and comment of the Plan and EIR, and, in fact, Cargill has not been able to complete such a comprehensive review. However, Cargill has determined that the *Draft Summary of Predicted Land Use Responses* ("Draft Summary") contains a discussion of "Urban Boundary Lines,"

B6-11

<sup>9</sup> See, e.g. Plan at 52 ("Map 4 SF Bay Area Household Intensities, 2010-2040") and Plan Appendix 2 Maps 1-15.

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although it is not clear whether that description of the “Urban Boundary Lines” is the basis for the Plan’s “Urban Growth Boundary.” As described at page 24 of the *Draft Summary*, “[f]or the purpose of building EIR Alternatives, a consistent set of ‘Urban Boundary Lines’ surrounding each city was established. *These are meant to function like urban growth boundaries in the EIR Alternatives that stress the implementation of regional urban growth boundaries*” (emphasis added).

Assuming this description of “Urban Boundary Lines” is the source for the “Urban Growth Boundary” described in the Plan and the Draft EIR, the designation apparently reflects a composite of various local land use designations, such that it is not readily apparent what the designation actually means for any particular parcel:

In some cases, the Urban Boundary Lines are drawn from true urban growth boundaries or urban limit lines. In other cases urban service lines that function much like urban growth boundaries are used. In some cases, cities have established no such lines. However, adjacent unincorporated county land is zoned to limit development and preserve agricultural and natural resource lands. In these areas, the current spheres of influence are used establish the Urban Boundary Line for EIR analysis.

*Draft Summary* at 24. Further, the caption of Figure 10 in the *Draft Summary* states that “Growth boundaries are defined by a city or county, where areas inside the boundary are intended for development and the area outside are for minimal lower density or no development.” *Draft Summary* at 25, Figure 10: “Urban Boundary Lines Across the Alternatives.” It is unclear whether this description of “growth boundaries” is consistent with explanation of “Urban Boundary Lines” in the preceding excerpt. Moreover, it is unclear whether any of these definitions apply to the “Urban Growth Boundary” depicted in the Plan and EIR.

B6-12

The *Draft Summary* also describes how “Urban Boundary Lines” are treated differently across the alternatives analysis in the EIR, suggesting an improper factual basis for the impact analysis, particularly to the extent it relies on assumptions regarding local land use decisions over which the Plan has no authority:

The Urban Boundary Lines are treated two different ways across EIR Alternatives. In the No Project Alternative they are assumed to be weakly enforced meaning that some suburban growth will be allowed to spill out past them. In the other four alternatives, the enforcement is assumed to be strict meaning that all Urban Boundary Lines are strictly enforced as urban growth boundaries and suburban growth is not allowed beyond them. In all Alternatives, low density rural residential growth is permitted beyond the Urban Boundary Line in locations where the base year zoning allows it. [*Draft Summary* at 24]

As currently drafted, the Plan and EIR lack a clear definition of the “Urban Growth Boundary” designation and fail to specify the source of the information for this designation. The

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Plan and EIR must clarify whether the “Urban Growth Boundary” reflects actual local land use restrictions, whether the designation is instead an amalgam of various types of local land use restrictions compiled by the authors of the Plan, or whether it is based on some other source of information altogether. To the extent the Plan and/or EIR depict Cargill’s property as being impacted by any purported “Urban Growth Boundary” that does not actually exist at the local level, the Plan could substantially impair Cargill’s property rights in a manner that is not authorized by local, state, or federal law. Moreover, to the extent the EIR’s impact analysis relating to the “Urban Growth Boundary” is based on the “Urban Boundary Lines” as described in the *Draft Summary*, the EIR must clarify this disparate terminology.

**B6-13** D. The Relationship Between the “Protected Open Space” and “Urban Growth Boundary” Designations is Unclear

In addition to a lack of clarity in the definitions and sources of information for the “Protected Open Space” and “Urban Growth Boundary” designations, the Plan and EIR fail to explain how these two designations interrelate. Specifically, what does it mean if a parcel is designated as both “Protected Open Space” and within the “Urban Growth Boundary”?<sup>10</sup> It is not clear whether the “Protected Open Space” designation somehow “trumps” the identification of a parcel as lying within the “Urban Growth Boundary,” or vice versa, or if there are other unstated assumptions underlying such a “dual designation.” This absence of key information, combined with the fact that it is not clear what is intended by either of these designations (as explained in detail above), renders it impossible for the public and decision makers to evaluate what it means if both designations apply to a site. To the extent those terms fail to accurately reflect existing local land use designations, the Plan could substantially impair Cargill’s property rights in a manner that is not authorized by local, state, or federal law.

**B6-14** E. The Plan Lacks an Adequate Description of the Locations and Extent of the “Priority Conservation Areas”

Priority Conservation Areas (PCAs) are described in the EIR as “compris[ing] over 100 regionally significant open spaces for which there exists broad consensus for long-term protection but face nearer-term development pressure. The PCAs designated in the proposed Plan will expand a regional greenbelt dedicated for preservation or protected by federal, state, and local policies. PCAs play a particularly important role in implementing the growth strategy in the North Bay—where they are central to the character and economy of many communities.”<sup>11</sup>

<sup>10</sup> See, e.g. Plan at Appendix 2 Maps 3 and 6. Some areas depicted as “Protected Open Space” in Map 3, apparently overlying the “Urban Growth Boundary” designation (for example lands near Redwood City, Menlo Park, Newark and Union City), are depicted as lying within the “Urban Growth Boundary” in Map 6.

<sup>11</sup> EIR at 1.2-26. See also Plan at 43.

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However, other than appearing as dots on a regional map (see, for example, Plan Map 1), the Plan and EIR contain no identification or description of the locations and geographic extent of each PCA. Without such information, the Plan and EIR provide no basis for evaluating the impact or extent of the PCAs, including whether the PCAs overlap lands designated as “Protected Open Space” or “Urbanized Areas” in the Plan.

In addition, according to the “FOCUS” website, only 98 PCAs were adopted by the ABAG Executive Board in July 2008 from over 100 nominated areas.<sup>12</sup> If 98 is in fact the correct number of PCAs actually adopted by ABAG, rather than over 100 as stated in the Plan and EIR, the documents should be revised to reflect this inaccuracy, in addition to providing an adequate description of the locations and extent of each PCA.

## II. Comments Specific to the Draft EIR

### A. The Incomplete Information and Inconsistencies Described Above Render the EIR an Inadequate Informational Document Under CEQA

Because of the deficiencies identified above, the EIR fails to fulfill its fundamental role under CEQA as an informational document that informs public agency decision-makers and the public of environmental effects associated with the proposed Plan. 14 Cal Code Regs. §15121. Because the key terms “Protected Open Space” and “Urban Growth Boundary” lack any clear definition, there is no way for the public maker or decision-maker to understand exactly what is being proposed or analyzed in the Plan as it pertains to lands covered by either or both of these designations. Without clear definitions of these key designations, including an explanation of how the designations related to one another, the EIR fails to provide an adequate basis for the public and decision-makers to evaluate the Plan. It is therefore inadequate under CEQA.

### B. Land Use Impact Analysis and Mitigation Not Supported by Substantial Evidence

Because the term “Protected Open Space” is undefined in the Plan and EIR, the impact analyses relating to lands falling under this designation are not supported by substantial evidence as required under CEQA. For example, the EIR maintains a finding of a less than significant impact with no mitigation required for Impact 2.3-3, “Implementation of the proposed Plan could conflict substantially with the land use portion of adopted local general plans or other applicable land use plans, including specific plans, existing zoning, or regional plans such as coastal plans or the Bay Plan.” EIR at 2.3-42—2.3-44. However, without an adequate definition of “Protected Open Space,” it is impossible to assess whether the Plan conflicts with local land use designations, zoning restrictions, and other land use controls. Moreover, if the EIR is based on an erroneous assumption regarding the term “Protected Open Space”—i.e. that development is currently precluded on those parcels when in fact it is not—this would render the analysis inadequate because it would be based on faulty factual information.

<sup>12</sup> <http://www.bayareavision.org/pca/>.

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B6-17

Similarly, portions of mitigation measure 2.3(h)—“Requiring project relocation or corridor realignment, where feasible, to avoid protected open space” and “Requiring conservation easements on land at least equal in quality and size as partial compensation for the direct loss of open space”—are infeasible because meaningless, absent a clear understanding of what “protected open space” means within this Plan.<sup>13</sup>

B6-18

In sum, the absence of a clear and cohesive definition of “Protected Open Space” renders any impact analysis that relies on this designation virtually meaningless and fails to comport with CEQA’s requirement that it be supported by substantial evidence.

**III. To the Extent ABAG/MTC Fail to Correct These Deficiencies, Cargill Reserves its Right to Pursue All Legal Remedies Necessary to Protect its Interests**

The designation of Cargill lands as “Protected Open Space” in the Plan may mislead the public and decision makers by suggesting the existence of significant restrictions on the current and future use of those properties, despite the fact that no such restrictions exist. Moreover, regulatory agencies and local jurisdictions evaluating future uses of these properties may believe they are under an obligation to view the designation in this light. To the extent the Plan is interpreted as “regulat[ing] the use of land” or could be “interpreted as superseding the exercise of land use authority of cities and counties within the region,” it runs contrary to the authorizing legislation of SB 375 and would be legally invalid.<sup>14</sup>

B6-19

MTC and ABAG should not adopt the Plan or certify the EIR so long as those documents improperly and misleadingly identify and analyze Cargill’s property as designated “Protected Open Space” and/or as impacted by any purported “Urban Growth Boundary” depicted in the

B6-20

Plan. For this reason, Cargill requests that MTC and ABAG: (1) define the “Protected Open Space” designation to include only those land use restrictions currently imposed by local regulation on a particular parcel, and include on the map only parcels currently subject to such

B6-21

restrictions, (2) clarify that the “Urban Growth Boundary” described in the Plan and EIR is not intended to reflect anything other than locally designated urban growth boundaries and remove it

B6-22

from the maps where none actually exists, and (3) clearly state that the Plan’s designation and

<sup>13</sup> EIR at 2.3-52.

<sup>14</sup> “Neither a sustainable communities strategy nor an alternative planning strategy regulates the use of land, . . . . Nothing in the sustainable communities strategy shall be interpreted as superseding the exercise of the land use authority of cities and counties within the region. . . . Nothing in this section shall be interpreted to authorize the abrogation of any vested right whether created by statute or by common law. Nothing in this section shall require a city’s or county’s land use policies and regulations, including its general plan, to be consistent with the regional transportation plan or alternative planning strategy.” Cal. Gov. Code § 65080(b)(2)(J).

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depiction of “Protected Open Space” and an “Urban Growth Boundary” does not impose any additional land use restrictions, and does not imply that any additional restrictions should or will be adopted in the future by MTC and ABAG -- who lack such regulatory authority -- or by the local governments that do have regulatory authority over the properties in question. In other words, the maps should not impose or suggest – directly or indirectly – any restriction on current or future use of a given parcel that is not supported by existing designations by a local agency with jurisdiction over that specific property.

B6-23

MTC and ABAG must define the terms “Protected Open Space” and “Urban Growth Boundary” to reflect only actual local land use designations and regulations currently in place, and the maps must only include in such designations parcels legally subject to such designations. In addition, regardless of how “Protected Open Space” and “Urban Growth Boundary” are defined, there are clear implications to these terms as presented on the Plan maps and in the draft EIR: namely, that current or future land uses are somehow limited or restricted. Where these implications are inaccurate because they are not an accurate reflection and characterization of the governing documents of the respective jurisdictional authorities, it is inappropriate to apply these designations. As such, these designations must be removed from all property where there is no factual basis to support them, as would be the case with Cargill’s properties. Should MTC and ABAG fail to take such action, the Plan could substantially impair Cargill’s property rights in a manner that is not authorized by SB 375 or any other local, state, or federal law. Cargill reserves its right to pursue all legal remedies necessary to protect its interests as a landowner, including its vested property rights and its right to challenge an uncompensated taking of private property.

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Thank you again for the opportunity to comment on the Plan and EIR. Should you have any questions regarding any of the comments contained in this letter, please do not hesitate to contact me.

Sincerely,



Paul Shepherd  
Cargill, Incorporated

May 16, 2013

Emailed to:

[info@OneBayArea.org](mailto:info@OneBayArea.org)

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The Hon. Members of the Metropolitan Transportation Commission  
and Association of Bay Area Governments Executive Board

Re: Comments on Draft Plan Bay Area and Draft Environmental Impact Report

Dear Commissioners and Members:

The Building Industry Association of the Bay Area (“BIA”) respectfully submits these comments on *Draft Plan Bay Area* (“Proposed Project”) and the Draft Environmental Impact Report for the Proposed Project (“DEIR”). This letter responds to MTC’s and ABAG’s requests for public comment on both the Proposed Project and the DEIR and should be included in the record for both.

B7-1

BIA believes the Proposed Project and DEIR are legally flawed in important respects, including:

- The DEIR improperly characterizes the No Project alternative, rendering key parts of the DEIR deficient and causing the DEIR to fail as an informational document.
- The Proposed Project does not comply with SB 375’s requirement that a Sustainable Communities Requirement (“SCS”) identify sufficient areas to accommodate the region’s housing need within the region. This violation of SB 375 also renders the DEIR insufficient as an informational document.
- During the public process for developing the Proposed Project, the agencies fundamentally changed their legal interpretation of SB 375’s housing requirement. This change to a fundamental “rule of the game” was made arbitrarily and without adequate disclosure or analysis.
- During the public process for developing the Proposed Project, the agencies fundamentally changed their methodology and assumptions about how many new housing units the region needs to produce to support differing levels of future job growth. This change to a fundamental “rule of the game” (formally adopted by ABAG’s Executive Board in November 2010) was made arbitrarily and without authorization, adequate disclosure or analysis. Relatedly, the DEIR improperly uses different jobs-to-housing methodological assumptions in Alternative 4 than

in the other alternatives, resulting in an artificial and prejudicial impression that Alternative 4's higher housing production will lead to only modest increases in regional job growth.

- The Proposed Project's projected land development pattern violates SB 375, CEQA, and federal law because there is uncontradicted substantial evidence that it is unrealistic and infeasible, and no substantial evidence to support a determination that it is realistic or feasible.
- With respect to the land development pattern of the SCS, there is a need for significant additional information, and clarification of the information presented, to enable the public and decision makers to be able to undertake a meaningful comparison of the Proposed Project and alternatives.

I. The DEIR's analysis of the No Project alternative violates CEQA.

CEQA requires an EIR to include an analysis of project alternatives that contains sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. One of the required alternatives is the no project alternative. The Guidelines specifically address the appropriate method for constructing and analyzing the no project alternative where, as here, the proposed project revises an existing land use or regulatory plan.

(e)(2) The 'no project' analysis shall discuss...what would reasonably expected to occur in the foreseeable future if the project was not approved, based on current plans....

(3) (A) When the project is the revision of an existing land use or regulatory plan, policy or ongoing operation, the 'no project' alternative will be the continuation of the existing plan, policy or operation into the future. Typically this is a situation where other projects initiated under the existing plan will continue while the new plan is developed. Thus, the projected impacts of the proposed or alternative plans would be compared to the impacts that would occur under the existing plan.

(C) After defining the no project alternative using one of these approaches, the lead agency should proceed to analyze the impacts of the no project alternative by projecting what would reasonably be expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services." CEQA Guidelines §15126.6(d)-(e).

The Proposed Project is a revision to the Bay Area's RTP. The RTP is regularly updated at 4-year intervals. The DEIR constructs and analyzes a No Project alternative.

**B7-2** However, the DEIR violates CEQA by (1) omitting a substantial number of transportation projects and programs that are part of the currently adopted financially constrained RTP from the No Project alternative; and (2) constructing the No Project alternative using a land use pattern based on (what the regional agencies describe as) a continuation of current development trends—a growth pattern that differs substantially from the one used in the adopted RTP. These errors result in a fundamentally flawed and highly misleading representation of the No Project alternative, its potential environmental impacts, and how it performs with respect to the project objectives and the relevant statutory requirements. As a result, whole parts of the DEIR, such as the crucial alternatives analysis, are deficient, causing the DEIR to fail as an informational document.

**B7-3** By artificially and improperly assuming that a large and significant category of transportation improvements and programs—so-called “discretionary/uncommitted” projects—representing almost \$60 billion in expenditures, will simply disappear and the funds remain unexpended, even though they are currently part of the financially constrained RTP, the DEIR and Proposed Project present an inaccurate and misleading analysis of the No Project alternative. As a result, the DEIR significantly understates the No Project’s potential impacts related to the construction and operation of transportation projects, including in areas such as air quality/construction emissions, localized disruption of businesses and residences, exposure to sea level rise, construction noise, and shadows. At the same time, this error significantly overstates the No Project’s potential impacts with respect to impacts directly affected by a transportation system’s capacity and effectiveness, such as GHG emissions, congestion, and auto emissions. These errors not only render the No Project alternative itself defective, they permeate the entire alternatives analysis and make it impossible for the public and decision makers to undertake an adequate comparison of the CEQA-mandated no project alternative and the Proposed Project and other alternatives. (DEIR at 3.1-1-31).

**B7-4** In addition, the Proposed Project and DEIR are significantly impacted by improper changes in the definition of committed projects. In spring 2011, MTC amended its existing Committed Funds and Projects Policy (on which the current RTP is based) via adoption of MTC Resolution No. 4006.<sup>1</sup> This was before the EIR scoping process even began. MTC’s governing body found the results of the new policy unacceptable because several favored projects that had been deemed committed now became uncommitted and therefore potentially subject to change or cancellation. As a result, MTC again amended the policy in spring 2012 to loosen the criteria for a project to be deemed committed. As shown above, these changes have a significant and direct impact on how the No Project alternative performs in the DEIR, and how the Proposed Project compares to the No Project alternative. However, they were adopted separately from the SCS and CEQA development processes, thus violating CEQA’s prohibition against project segmentation and taking pre-approval action that limits the choice of alternatives (CEQA Guidelines §15004(b)(2)).

<sup>1</sup> [http://apps.mtc.ca.gov/meeting\\_packet\\_documents/agenda\\_1645/tmp-4006.pdf](http://apps.mtc.ca.gov/meeting_packet_documents/agenda_1645/tmp-4006.pdf)

B7-5

The No Project alternative's improper land use pattern likewise precludes informed analysis. The DEIR pairs the truncated transportation investment program with what the Proposed Project unfavorably and prejudicially portrays as a business-as-usual growth pattern that represents a "notable exception" compared to the other alternatives and includes "sprawl-style development." (Proposed Project at 101). The DEIR goes so far as to assume that in the No Project alternative, cities and counties with urban growth boundaries will actually develop beyond their existing UGBs. The DEIR does not support this assumption with any evidence regarding why any specific UGB is projected to be breached, the legal requirements necessary to develop beyond any specific UGB, or any indication that a specific city or county is considering breaching its UGB.

B7-6

As with the exclusion of transportation projects and programs, this projected land use pattern is patently not reflective of the existing RTP and thus violates the governing provisions of the CEQA Guidelines. The adopted RTP uses a vastly different land use pattern that is variously referred to as "Projections 2009" or "Current Regional Plans." The adopted RTP land pattern is significantly more compact and "smart growth-oriented" than the pattern assigned to the No Project alternative. Again, this creates a seriously skewed set of results for the No Project alternative and the comparative assessment of the Proposed Project. Because its land pattern is "significantly more dispersed" than all of the other alternatives (and the adopted RTP), the No Project alternative's relative performance in crucial areas such as GHG reduction, open space consumption,

B7-7

agricultural land conversion, and natural resource protection appears relatively dismal. Its poor comparative performance is exacerbated by the fact that the agencies have incongruously assumed on the one hand that the No Project alternative will have the same population, housing, and employment growth as the other alternatives (and therefore all of the impacts associated generally with increased growth), while on the other hand assuming it will not have the benefit of \$60 billion in road, transit, and other programs expressly designed to mitigate the impact of such growth on things like GHG emissions and traffic congestion. The DEIR itself acknowledges this consequence repeatedly in the tables summarizing the alternatives.

B7-8

Under *Planning & Conservation League v. Department of Water Resources* (2000) 83 Cal.App.4<sup>th</sup> 892, the DEIR violates CEQA because it improperly assumes that key elements of the existing plan will be eliminated if the Proposed Project is not approved, and it is clearly unreasonable to assume that if the Proposed Project is not approved, the uncommitted programs and policies along with the adopted growth pattern in the existing RTP will simply go away. The DEIR should have conducted the alternatives analysis with a No Project alternative based on the full suite of programs and projects in the financially constrained portion of the existing RPT, and the existing RTP's land use pattern.

B7-9

II. The Proposed Project does not comply with SB 375's housing requirement.

SB 375 requires an SCS to identify sufficient areas for housing to accommodate the region's entire housing need over the RTP planning period within the region. (Gov't Code §65080(b)(1)(B)). The documents and analyses prepared by ABAG and MTC as part of the SCS development process contain substantial evidence demonstrating the following:

- Before the adoption of SB 375, the regional agencies consistently planned for insufficient housing to accommodate the job growth their plans projected and relied on exporting part of the region's housing needs to other regions, causing significant and persistent in-commuting with its attendant environmental and other impacts. The most recent manifestation is the existing RTP ("T2035"). T2035 plans for a 25-year housing increase of 634,000 new housing units supporting 1,190,000 new jobs. This is a ratio of 1.74 new jobs for each new housing unit.<sup>2</sup>
- This historical practice allowed the regional agency governing bodies to represent to the public that they were maximizing Bay Area job growth (politically popular) while minimizing the need for the region to plan for more housing (politically unpopular)—essentially conditioning the public that the region can have its cake and eat it, too.
- At the outset of the SCS development process, the agencies acknowledged that SB 375's housing requirement was specifically inspired by the Bay Area's chronic failure to plan for and produce adequate housing to support its job growth without relying on exporting its housing needs. The agencies acknowledged that post-SB 375, "we must demonstrate how all of the region's growth in housing demand can be met within our borders, not by surrounding counties via 'spillover' demand" and that "this requirement marks a fundamental change in how our region and surrounding communities have been planned and developed over the last several decades. Over the last 30 years, surrounding counties have been planning and building homes for Bay Area workers."<sup>3</sup>
- The agencies declared their understanding that compliance with the housing requirement meant the region's SCS must be based on "no increase in in-commuting." Their clearly articulated position was that the SCS must not be based on a projection that future Bay Area job and housing growth will result in an increase in the number of current in-commuters beyond the existing baseline which was the cumulative result of decades of insufficient housing in the region. Equally clear is that the agencies did not interpret SB 375 as simply requiring the

<sup>2</sup> [http://www.abag.ca.gov/abag/events/agendas/e111810a\\_packet.pdf](http://www.abag.ca.gov/abag/events/agendas/e111810a_packet.pdf)

<sup>3</sup> <http://www.abag.ca.gov/abag/events/agendas/d042810a.pdf>

region to maintain the existing “ratio” of commuting into the region, as that would result in significant increases in the actual level of in-commuting during the relevant planning period, thereby worsening the pre-existing on-the-ground condition—the very target of the statutory requirement.

- On Nov. 18, 2010, ABAG’s Executive Board established this interpretation of the housing requirement as the governing principle for developing the SCS in compliance with SB 375. The Executive Board approved a Resolution that fundamentally changed the regional agencies’ planning methodologies concerning jobs, housing, and the relationship between them. First, it changed the method for projecting regional job growth from the “current economic (IMPLAN) model” to a “shift share” method. As the staff memorandum accompanying the Resolution explained, the econometric methodology consistently vastly overstated the number of jobs the region can create without significantly increasing housing production, while the new methodology more accurately reflected the amount of housing needed to support a given level of job growth. The memorandum described the change as a “vast departure.” Second, it established that the agencies would comply with SB 375 by adopting an SCS that accommodates sufficient housing within the region such that the SCS does not project an increase in the number of in-commuters over the planning period.
- Critically important, the staff analysis illustrated the implications of the jobs/housing methodological shift. The analysis compared the jobs and housing projections through 2035 contained in T2035 (using the prior methodology) to the results that would occur under the new shift share method. The conclusions were remarkable: using the new methodology, the region would see about an 8% *increase* in housing production and a 16% *decrease* in jobs (707,390 fewer jobs). This analysis is very significant because at long last the regional agencies conceded that the region had historically engaged in “paper planning” that promised fictional levels of job growth with low levels of housing production within the region, and relied on other regions to provide part of the region’s housing need. ABAG staff recognized the sensitivity of this admission: “While staff acknowledge that the amount of housing in these assumptions may cause some temporary conclusions and consternation, we believe it is more important to ‘get the numbers right.’”
- Following the establishment of these key methodological and legal “rules of the game,” the agencies prepared the first iteration of the SCS—the Initial Vision Scenario (“IVS”)—in spring 2011. The IVS determined that complying with SB 375’s housing requirement requires the SCS to plan for 903,000 new housing units through 2040. Using the new “rule of the game” regarding the relationship between housing production and job growth, the IVS projected this level of

housing would support 1,222,000 new jobs—a ratio of 1.35 new jobs for each new housing unit.<sup>4</sup>

- Bearing out staff’s earlier apprehension, cities and counties opposed planning for this amount of new housing. In response, the agencies prepared new SCS scenarios, each with a dramatically lower housing projection of 770,000 new units. Again in keeping with the new “rule of the game” regarding the relationship between housing production and job growth, these scenarios projected that this level of housing would support 995,000 new jobs—a ratio of 1.29 new jobs for each new housing unit. Importantly, when presenting the new SCS scenarios, the agencies expressly recognized that the IVS housing number remained the actual need as defined by SB 375.
- The regional agencies described the 770,000 housing unit figure as follows: “The expected growth of 770,000 housing units by 2040 in the scenarios under discussion is lower than the equivalent one million units in Initial Vision Scenario. The former is the expected housing production while the latter reflects the housing need. The expected housing production addresses lower 2010 household and population counts (Census 2010), lower employment growth than previous forecasts, and reasonable assumptions on market trends, local and regional policies, and infrastructure. This level of housing reflects a reasonable job to household ratio for the Bay Area and would consider a reasonable pace of recovery of the housing market.” The agencies described these scenarios as representing “moderate” housing and job growth.
- When the regional agencies presented the final performance results for the three new scenarios based on 770,000 new housing units, they expressly found they did not satisfy SB 375’s housing requirement.
- Cities and counties opposed planning for 770,000 new housing units. In response, the agencies in 2012 adopted the Proposed Project that cut the number of projected new housing units to 660,000. Crucially, however, the agencies departed from the new “rule of the game” regarding the relationship between housing production and job growth, and projected that this reduced number of housing units would support 1,120,000 new jobs—far more jobs than the agencies had just determined would be supported by a higher housing figure and representing a ratio of 1.69 new jobs for each new housing unit.
- Business, affordable housing, and social equity organizations that had been heavily involved in the SCS process objected to the consistent reduction in

<sup>4</sup> <http://apps.mtc.ca.gov/events/agendaView.akt?p=1694>;  
<http://onebayarea.org/file10007.html>;  
<http://www.sfcta.org/sites/default/files/content/Programming/TWG/2011June/10-scsrtpupdatehandouts.pdf>; <http://onebayarea.org/related-materials/Document-Archive.html>

planned housing and testified that it was inconsistent with SB 375’s housing requirement and would exacerbate the existing in-commuting problems.

B7-10

- In response to the strong concerns expressed, the DEIR included an alternative that plans for about 778,000 new housing units within the region. The DEIR represents that Alternative 4 is the only alternative that satisfies SB 375’s housing requirement: “Compared to the Proposed Plan, it [Alternative 4] includes four percent more households and one percent more jobs. This higher growth total reflects the Senate Bill 375 requirement to house the region’s entire population (i.e., provide a house for every household employed in the region.” (DEIR, p. 3.1-10); “One alternative, the Enhanced Network of Communities, is designed to accommodate more growth as it is intended to identify areas sufficient to allow the region to meet the housing demand to meet projected employment growth projection, thereby reducing the in-commute.” (DEIR, p. 1.1-9)

B7-11

- The DEIR’s analysis of Alternative 4, however, again significantly departs from the established “rule of the game.” While the alternative has about 778,000 new housing units (18% more than the Proposed Project’s 660,000), the DEIR projects that this level of housing will support 1,165,000 million new jobs—only 45,000 more new jobs than projected for the Proposed Project and the other alternatives, all of which include a proportionately much lower housing figure. In effect, the DEIR assumes a radically lower marginal (incremental) jobs-housing relationship of 0.38 new jobs for each new housing unit uniquely for Alternative 4. Again, this presents a highly flawed and misleading characterization of the one alternative that at least makes an effort to meet the region’s actual housing need. The public and decision makers are left with the impression that there is little reason to plan for the region to eat an additional serving of broccoli if the reward is a crumb of cake.

B7-12

- The overwhelming evidence, including statements in the Proposed Project and DEIR themselves, shows that the Proposed Project does not meet SB 375’s housing requirement or the corresponding project objective. The DEIR appears to recognize this inconvenient truth belatedly, and therefore attempts to redefine what it means to meet SB 375’s housing requirement at the 11<sup>th</sup> hour. The DEIR asserts that compliance with SB 375 actually only requires the SCS to show that the “ratio” of in-commuting to the region will not increase over the planning period. The DEIR even goes so far as to question the entire premise of in-commuting, and posits that since it is illegal to stop people from commuting into the Bay Area, the in-commuting issue is not a legitimate one. (DEIR at 1.2-33).

B7-13

- The DEIR’s newly minted “ratio” test is invalid in many respects. It represents the kind of “ratio theory” cumulative impact methodology prohibited by CEQA because it masks severe worsening of actual on-the-ground impacts and conditions over time. Holding the in-commuting ratio constant over 25 years

B7-14

necessarily entails a significant actual increase in the overall number of in-commuters and the resulting environmental and other impacts. Second, it represents an arbitrary and inappropriate changing of a key “rule of the game” such that there has not been a stable and finite project description for the SCS through the development process. Combined with the other changed positions, the cumulative effect has been to make it impossible for the public and decision makers to make informed assessments of what the agencies are proposing.

B7-15

- Even on its own terms, the Proposed Project appears to violate the “ratio” standard because the region’s existing jobs-to-housing ratio is 1.21 but is projected to increase to 1.30 in 2040 because the Proposed Project adds 1.69 new jobs for every new house planned within the region. It would seem the ratio of in-commuting would necessarily worsen given this increase in the jobs-housing ratio. In addition, it is important to recognize that the 1.69 jobs-housing relationship assumed by the Proposed Project represents a clear abandonment of the “rule of the game” formally adopted in November 2010. The Proposed Project’s housing and job projections, and the relationship between them, are nearly identical to those in T2035. As discussed, those results were obtained using the methodology of the “paper planning” regime.

B7-16

- The return to the “paper planning” regime methodology cynically allows the regional agencies to proclaim that the Proposed Project satisfies SB 375’s housing target and the related project objectives. The Proposed Project and DEIR take great pains to proclaim to the public and decision makers that the Proposed Project fully complies with this “mandatory and vitally important” requirement and thus represents a “major milestone.” (Proposed Project, pp. 5, 19, 95, 97). The Proposed Project even goes so far as to suggest it ends the region’s historic reliance on exporting its housing needs to other regions: “In contrast to past trends that saw the outward expansion of urban growth in the region and spillover growth in surrounding regions, Plan Bay Area directs new growth within locally adopted urban growth boundaries to existing communities along major transit corridors.” (Proposed Project, p.45)

B7-17

- The Proposed Project and DEIR appear to suggest that a housing figure greater than 660,000 is somehow not reasonable or not feasible. Yet the 770,000 figure was expressly determined to be both by the regional agencies and there is no evidence supporting a retreat from that assessment. Furthermore, this argument incorrectly treats the SB 375 housing requirement as being qualified by the same “feasibility” consideration that applies to attaining the statute’s per-capita GHG reduction target. They also appear to suggest that exceeding 660,000 housing units would violate federal planning requirements requiring an SCS to be based on a “reasonable” set of planning assumptions. Again, the agencies have already determined a higher figure is reasonable. It was only after political pressure by ABAG’s members that the agencies manufactured an artificial question about reasonableness. Finally, to the extent there are concerns about the ability of the region to accommodate more housing than the Proposed Project calls for, the

constraint is self-generated by the Proposed Project’s unprecedented expectation that 80% of all new housing units in the region will take the form of ultra high density in the urban core (*averaging roughly 80 units/acre*). The Proposed Project itself even acknowledges the “constraints of an infill development pattern.” (PP, p.32).

B7-18

- The work of the planning and demographic experts retained by the agencies (Levy and Chappell) indicated a range of potential job and housing growth through 2040. The Proposed Project pairs the lowest end of the housing projection with the highest end of the job projection. The Levy and Chappell analyses do not support this conclusion nor does any other evidence the agencies have disclosed to date.

B7-19

- The fundamental changes in the agencies’ legal interpretations, methodologies, and assumptions throughout the course of the SCS development were arbitrary and without adequate disclosure or analysis. In some instances they even violated the agencies’ own formally adopted standards. The cumulative result is that the DEIR utterly fails as an informational document under CEQA. It contains inaccurate and biased representations of the Proposed Project and alternatives, as well as their performance in meeting key housing and regional planning requirements and objectives. Fundamentally, it represents a return to the “paper planning” regime of the past while at the same time assuring the public and decision makers that it does the opposite.

B7-20

III. The Proposed Project’s projected land development pattern violates SB 375, CEQA, and federal law because there is uncontradicted substantial evidence that it is unrealistic and infeasible, and no substantial evidence to support a determination that it is realistic or feasible.

- The Proposed Project does in fact have significant problems relating to feasibility and reasonableness. But, contrary to the impression created by the Proposed Plan and DEIR, these problems do not involve the region’s ability to accommodate sufficient overall housing levels to comply with SB 375. Rather, they relate to the Proposed Project’s radical assumptions about the type and location of future housing development in the region. Throughout the SCS development process, commentators warned the regional agencies that the density levels and concentration of future housing reflected in the Proposed Project are infeasible and unrealistic. BIA and others communicated to the regional agencies strong support for an SCS that would maximize the region’s potential to house future growth in infill and TOD areas. However, all of the available evidence shows that it is patently unrealistic to project—as the Proposed Project does—that 80% of all future housing growth in the region (528,000 units) will be developed at an

average density of 80 units/acre. Or that almost 50% of all new housing units will be concentrated in just three cities: San Francisco, Oakland, and San Jose.

- For almost two years, BIA and others urged the regional agencies to conduct an assessment of the feasibility of accommodating 80% of the region’s future housing in the Priority Development Areas (PDAs) identified by the Proposed Project. Such an assessment is essential to support a fully informed decision on the final SCS—as the agencies themselves acknowledged. However, it was not until late 2012—long after the agency’s decision makers had already decided on the Proposed Project’s growth pattern—did the agencies commission a feasibility assessment.
- The *PDA Development Feasibility & Readiness Assessment* represents the only thorough investigation of the feasibility of the PDA development assumptions that underlie the Proposed Project. The results show unequivocally that the Proposed Project vastly overstates the feasible housing capacity of the PDAs. Of 660,000 planned housing units, the Proposed Project relies on 528,000 in specific PDAs (80% of the total). The study indicates that 62% of the 528,000 PDA units can reasonably be considered feasible through 2040—roughly 328,000 feasible units. This figure can improve to 80% of the PDA units—422,400—but only if major policy reforms are enacted such as significant CEQA reform, redevelopment replacement, and modifications to Proposition 13. Reliance on these changed state policy changes is questionable under CEQA and federal planning requirements. These numbers likely overstate overall feasibility because the study drew its PDA sample exclusively from the 69 “Planned” PDAs. The 100 other PDAs remain “Potential” PDAs because they do not have the required local land use plans adopted. The study’s results suggest that a substantial amount of the specific planned housing in Proposed Project is not feasible: between 105,000 and 200,000 of the 528,000 PDA units. Even assuming a healthy margin of error, and recognizing the study’s admonition that all types of residential development in the Bay Area are challenging, these results are striking.
- Importantly, the PDA feasibility study fully accounted for all of the policy levers at MTC’s and ABAG’s disposal, including transportation incentives and funding such as the OBAG funding program specifically directed at supporting PDA development. To date, the agencies have simply disclosed no evidence or analysis supporting the determination that 80% of future housing can feasibly be expected to built in the PDAs. As currently configured by MTC and ABAG, the PDA program mandates very high densities even for small suburban jurisdictions. The least dense of the PDA “Place Types” is 20 units/acre and the average is 80 units/acre.
- Further substantial evidence that the Proposed Project’s projected growth pattern is unrealistic is found in *A Review of the San Francisco Bay Area’s Draft Plan Bay Area/Sustainable Communities Strategy* (attached) prepared by the nationally recognized expert firm John Burns Consulting. At BIA’s request, John Burns

B7-21

Consulting conducted a review of the Proposed Project’s projected housing pattern. Whereas the PDA feasibility study commissioned by the agencies analyzed feasibility on a PDA-by-PDA basis, the Burns report assessed the overall assumptions about housing demand and lifestyle choices underpinning the Proposed Project. The Burns report provides substantial evidence contradicting the Proposed Project’s assumptions and conclusions with respect to “macro” regional issues including housing location, housing demand, consumer preferences, builder costs, single-family housing inventory, and foreclosures. The critical conclusions reached in the Burns report render the Proposed Project’s continued reliance on the projected development pattern arbitrary and capricious.

IV. With respect to the land development pattern of the SCS, there is a need for significant additional information, and clarification of the information presented, to enable the public and decision makers to be able to undertake a meaningful comparison of the Proposed Project and alternatives.

During the SCS development process, BIA and other stakeholders identified the following information as critical to the public’s understanding of the Proposed Project and alternatives, and making an informed decision at the end of the process:

B7-22

- The number and % of the region’s total new housing units that will be multifamily
- The number and % of the region’s total new housing units that will be single family

B7-23

- The number and % of the region’s total new housing units that will be rental
- The number and % of the region’s total new single family units that will be “small lot” (<5,500 sq. ft. lot size)
- The number and % of each individual city or county’s new housing units that will be multifamily
- The number and % of each individual city or county’s new housing units that will be single family
- The number and % of each individual city or county’s new housing units that will be rental
- The number and % of each individual city or county’s new single family housing units that will be “small lot”

B7-24

- How do these figures differ from current conditions?
- How do these figures differ from the land use pattern projected in the No Project alternative?

B7-25

- Identification of areas planned for growth by a city or county that is not reflected in the Proposed Project’s projected land use pattern

B7-26

- Identification of the circa 30 PDAs that were included in the initial figure of 200 PDAs and explanation of how and why they are no longer considered PDAs.
- Identification and explanation of the specific financial and other subsidies assumed in the UrbanSim analysis to make the Proposed Project’s land development pattern purportedly achievable.
- Identify the 100 “Potential” PDAs What is the schedule for them to become “Planned”? What resources are needed for them to become “Planned”? How

many totally housing units does the Proposed Project assign to currently Planned PDAs?

BIA hereby reiterates these information requests.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Paul Campos".

Paul Campos  
Sr. V.P. & General Counsel



May 16, 2013

via email to [info@onebayarea.org](mailto:info@onebayarea.org)

Plan Bay Area Public Comment  
Metropolitan Transportation Commission (MTC) and Association of Bay Area  
Governments (ABAG)  
101 Eighth Street  
Oakland, CA 94607

*re:* Comments on Draft 2013 Regional Transportation Plan (RTP, “Plan Bay Area”), Sustainable Communities Strategy (SCS), and Draft Environmental Impact Report (DEIR)

Dear MTC Commissioners and ABAG Board Members:

The Sierra Club, represented jointly by the Loma Prieta, Redwood and San Francisco Bay Chapters writing as the Club’s voice for the nine-county Bay Area Region, is concerned that the proposed RTP and DEIR do not set out a path to meet California’s greenhouse gas (GHG) targets in future years, or to achieve improved quality of life and transportation goals as envisioned by SB 375 (The California Sustainable Communities and Climate Protection Act of 2008).

The Sierra Club and our thousands of local members support the value of coordinated land use and transportation planning as set forth in the legislative goals of SB 375. We recognize that our nine-county region is home to unparalleled natural beauty and diversity, world-recognized business and intellectual acumen, and communities that provide a way of life that other areas envy. But unless our decision-makers demonstrate the feasibility of a future that is sustainable and affordable for ourselves and our children, we stand to lose or waste the value and promise of our region. Thus Plan Bay Area must ensure the best possible outcomes for our built and natural environments.

**B8-1** Alternative #5 (“Environment, Equity, and Jobs,” EEJ) has been identified as the Environmentally Superior Alternative of the 5 options evaluated for the DEIR. We agree in general although we must take firm exception to components such as supporting growth in “high opportunity” areas that lack transit and are outside Priority Development Areas (PDAs). We believe MTC and ABAG should adopt this alternative -- appropriately modified -- and begin policy and implementation steps to achieve its goals. We fully recognize that “the devil is in the details,” and concepts such as the proposed Vehicle Miles Traveled (VMT) fee need further

refinement and shaping. The crafting of implementing legislation will require serious consideration of the environmental, equity, and financial elements to ensure that adequate revenues are realized, while protecting and rewarding those who have already shown actual commitments to respecting and protecting environmental and social goals. Our regional agencies have never allowed lack of political will to be an impediment to working towards a goal that they determine to be desirable. The Sierra Club offers its volunteer resources to assist with helping to design future implementation steps for these elements.

Unfortunately, we continue to be disappointed in the results shown by the Equity Analysis. Until this region is affordable and equitable for all current and potential residents, the principles of Environmental Justice cannot be realized. It is important for MTC and ABAG to act on the identified benefits of the EEJ alternative to minimize displacement, improve transit services, and control GHG emissions. It is also noteworthy that by emphasizing local jobs, at livable or better wages, the EEJ alternative helps to retain local spending for the local economy. The resulting significant benefits for local “self-help” transportation taxes and revenues from the Transportation Development Act (TDA) for transit operations can help to enhance the positive “multiplier” effect for transit funds.

### **The Regional Express Lane Network (MTC and Valley Transportation Authority (VTA))**

Sierra Club National Transportation Guidelines state in relevant part:

*No limited access highways ("freeways") should be built or widened, especially in urban-suburban areas or near threatened natural areas. High occupancy vehicle (HOV) and high occupancy vehicle/toll (HOT) lanes should come from converting existing highway lanes rather than constructing new lanes. This avoids constructing new lanes which are mixed-flow much of the day, or are converted to full-time mixed-flow after construction. Toll rates on HOT lanes should vary by time of day, and revenues above operating expenses should be used to improve travel opportunities for low income travelers and to operate public transit.*

Therefore we cannot support the proposed highway expansions, particularly in light of their enormous costs for limited benefit to communities, travelers, and GHG reduction. Two of the “Top 10” projects, by cost, in Plan Bay Area are for Express Lane development and construction (chart, page 13). Early statements by MTC personnel in their role with the Bay Area Toll Authority (BATA) indicated that that “excess” revenues from the Express Lane program would support improved public transit in the corridors, but these have since been repudiated. We note that the “Financial Assumptions” document states that “(o)ver the course of the Plan Bay Area period, these revenues will be wholly dedicated to meet the operations, maintenance, rehabilitation and capital financing of the Network.” This is an unacceptable use of public funds.

**B8-2** Further, any highway development, over our objections, must take into account the related health impacts. Epidemiological studies have shown that living near a freeway causes adverse health effects that are independent from and in addition to the adverse health effects of regional air pollution. Adverse health effects associated with living near freeways include increased coronary heart disease and asthma as well as diminished lung function development between age 10 and age 18. The relation between diminished lung function in adulthood and morbidity and mortality has been well established and efforts must be taken to minimize such effects.

### **Investment in Improved Public Transportation**

In order to optimize usability of public transit, it needs to be accessible, convenient, affordable, and well-connected. The vast majority of local transit riders use buses, and the network of local bus services needs to be improved and sustained. MTC's "Transit Sustainability" program has shown limited attention to the needs and preferences of actual riders, and should rely more on connectivity of all modes, rather than the apparent preference for steel-wheeled vehicles.

Further, the concept of "Complete Streets" must be part of community development investments. In addition to improving usability for all modes and users, including pedestrians accessing local transit, complete streets ensure the option for persons with disabilities who would otherwise use complementary paratransit under the Americans with Disabilities Act (ADA) to instead use local transit services, at only a fraction of the cost, and thus enhances true transit sustainability. Design and construction that promote active transportation are important considerations in achieving health benefits from the RTP without increasing GHG emissions.

In addition, use of flexible federal funding for "One Bay Area Grants" (OBAG) should ensure that adequate funds are dedicated to transit services, as a preference to speculative PDA development.

### **Priority Development Areas (PDAs)**

Plan Bay Area recognizes more than 160 "Priority Development Areas" that have been identified by local jurisdictions as "infill opportunity areas" within existing communities. These communities are expected to receive the majority of the region's planned population growth, focused in areas near existing or planned transit service. They are eligible to receive technical assistance, planning grants, other financial incentives, and opportunities for "streamlined" environmental review. Affordable housing and good school siting are additional important characteristics of PDAs that will become successful. However, there are no guarantees that the associated transit services or improvements will occur or be maintained; MTC has an obligation to ensure that this occurs, including the availability of regular, good-frequency connector bus or van transit service, as well as the associated ADA complementary paratransit required under federal

regulations. Please explain how this oversight, monitoring, and funding will occur. Also, what happens when a PDA falls short of its goals or is otherwise not adequately achieved? – how is the public investment to be recouped?

We reiterate at this point that we have strong concerns about proposals for “high opportunity” growth in areas outside PDAs, where public transit may be inadequate or insufficient to help change the behavior of residents and workers from single-occupancy autos. The RTP must have a clearly identified goal and outcome of preventing any increases in sprawl.

B8-3

Further, a significant number of PDAs are located in coast-adjacent areas that are vulnerable to sea- and bay-level rise from climate change as well as earthquake and other hazards. What will be done to ensure safety of these residents and infrastructure (see ABAG map titled “Priority Development Areas and Natural Hazards,” with the legend of “Liquefaction Susceptibility”)?

Just this week, the Government Accountability Office (GAO) released a report to the Senate Committee on Environment and Public Works entitled “Future Federal Adaptation Efforts Could Better Support Local Infrastructure Decision Makers” (GAO 13-242). Although directed at federal agencies, the report recognizes the importance of planning to counteract the impacts of climate change on local infrastructure and to incorporate climate change information into design standards. Bay Area regional officials would do well to incorporate these recommendations prospectively.

**Priority Conservation Areas (PCAs) and Habitat Protection**

Plan Bay Area achieves its goal for Target #6 (Open Space and Agricultural Lands) by directing population and jobs growth toward urbanized areas. Forward-looking policies that protect and expand conservation lands should continue to be a focus of the regional plan, and merit expanded attention in the implementation years. We share the concern expressed by other environmental organizations that the proposed \$10 million OBAG grant to support PCAs over the same 4 year period that would see \$310 million in PDA and infrastructure investments is unbalanced to the point of appearing paltry. Protection of open space requires focused effort, not mere tolerance. The funding for PCAs should be increased from appropriate sources including unnecessary highway expansion, and should be available more equitably in all counties. A full identification of PCA needs regionwide should be prepared in time for the 2017 SCS.

B8-4

Several PDAs and other TPPs (“Transit Priority Projects”) are located in areas that are adjacent to significant natural resources. Examples are the Newark/Dumbarton PDA that is located in the planned expansion area for the Don Edwards National Wildlife Refuge, and the Google expansion plans in Mountain View and Facebook construction in Menlo Park adjacent to the already existing Reserve. Every measure should be taken to ensure that wildlife and

habitat are fully protected from encroachment by such developments, while remaining accessible for respectful human interaction.

### **Preparing for the 2017 RTP**

The Sierra Club recognizes that the 2013 RTP and SCS is the region's first step in defining an integrated transportation/land use vision. The unprecedented coordination between ABAG and MTC staff deserves commendation for professional effort and we look forward to continuing improvements in subsequent planning rounds. However, as this letter and other commenters point out, the Plan remains insufficient in truly achieving the environmental, societal, and economic goals that this region's quality of life require and deserve. We will be monitoring the regional agencies' actual performance from this and subsequent RTP/SCS efforts. No "excuses" will be acceptable henceforth.

We request that the working notes of questions and comments that have been generated from the Regional Advisory Working Group (RAWG) and the Regional Equity Working Group (REWG) meetings be compiled and made available in a format that interested participants as well as staff can sort to provide guidance and input for framing the next RTP process.

It would be especially helpful if major documents such as the Transportation Improvement Program (TIP) clearly identify what has been changed from a previous version, so that the public can know what is actually being achieved from one planning exercise to the next.

Similarly, there should be a regular report, at a minimum annually as to how the RTP is actually being implemented and how goals are being achieved, or not. For one example of how this can be done, see the Delaware Valley Regional Planning Commission's report on "Connections 2040 Tracking Progress" at: [http://www.dvrpc.org/asp/pubs/publicationabstract.asp?pub\\_id=13044](http://www.dvrpc.org/asp/pubs/publicationabstract.asp?pub_id=13044)  
Surely our regional agencies can do at least as well.

The regional definition of "Committed Projects" also needs to be reconsidered in preparation for the 2017 RTP. No matter what its funding source or previous local support, if a project has not moved forward substantively in the intervening years, it no longer merits any protection, and identified funds should be re-programmed for projects that will truly reduce GHGs and reduce the devastating impacts from climate change on our region.

Finally, while the "Financial Assumptions" and other reports in the multitudinous documents associated with this project, including handouts at the public meetings, mention the existence of current federal law in MAP-21, most of the descriptions are based on previous authorization in SAFETEA-LU. We would certainly hope that the next RTP is more consistent with existing law.

We look forward to MTC and ABAG responses to these comments, and request that such responses be emailed to Patrisha Piras of the Sierra Club at [patpiras@sonic.net](mailto:patpiras@sonic.net). If you have any questions regarding our comments, please do not hesitate to contact Ms. Piras.

Until the trend toward higher GHG emissions is reversed, issues such as congestion will mean little. The Sierra Club sees Climate Change as the most important problem to tackle. It would be laudable if MTC and ABAG can clearly demonstrate achievement of that outlook throughout this process.

Sincerely,



Arthur Feinstein  
Chair, San Francisco Bay Chapter



Victoria Brandon  
Chair, Redwood Chapter



Melissa Hippard  
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May 16, 2013

Amy Worth, Chair  
Metropolitan Transportation Commission  
Mark Luce, President  
Association of Bay Area Governments

**Subject: Comments on Draft Plan Bay Area and Draft EIR**

Dear MTC Chair Worth and ABAG President Luce:

On behalf of Chinatown CDC, I would like to submit our comments on the Draft Plan Bay Area for consideration and further analysis during this Draft EIR process, especially as it relates to the Community of Concern that we serve, San Francisco's Chinatown.

The mission of Chinatown CDC is to build community and enhance the quality of life for San Francisco residents. We are a place-based community development organization serving primarily the Chinatown neighborhood, and also serve other areas including North Beach, Tenderloin, the Northern Waterfront, the Western Addition, Japantown, Polk Gulch, the Richmond, Civic Center and the South of Market area. We play the roles of neighborhood advocates, community organizers, planners, developers, and managers of affordable housing.

After reviewing the Draft Plan Bay Area and its Draft Environmental Impact Report, we have identified a variety of concerns that we feel will negatively impact our community and the residents who live here. Our concerns are as follows:

**Plan Bay Area significantly increases displacement pressures on low-income communities – Encouraging and promoting increased density of housing and jobs in Chinatown (one of San Francisco's densest communities) will accelerate displacement of those most at-risk.**

The Plan and its Draft EIR, as currently written and analyzed, include some outright indictments of the increased displacement pressures that will be created on low-income people, particularly in these sections:

- The Draft EIR cites "residential or business disruption or displacement of substantial numbers of existing population and housing" as a significant impact (Chapter 2.3, 36-38)
- Page 102 of the Plan bluntly states that Plan Bay Area will miss its target on equitable access to housing and transportation by saying that "the share of household income needed to cover transportation and housing costs is projected to rise by 3 percentage points to 69% for low-income and lower-middle income residents."
- Page 117, Table 5 concludes that there will be a 36% chance of displacement in Communities of Concern, significantly higher than the remainder of the region (which has an 8% chance) and significantly higher than other alternatives.

**B9-1** Plan Bay Area and its DEIR has analyzed the displacement of low-income people and explicitly acknowledges that it will occur. This is unacceptable for San Francisco and for Chinatown, where the pressures of displacement have been a constant over the past 20 years.

Plan Bay Area’s intentions of directing major new regional housing growth into San Francisco’s core through the encouragement of increased density limits and streamlined CEQA review processes will exacerbate the current situation that San Francisco’s low-income communities are currently facing. Today, the Chinatown community and other similar low-income communities of color are constantly facing displacement pressures due to high demand in the housing real estate market. In 2012, the number of evictions due to the Ellis Act in San Francisco nearly doubled compared to the previous year as speculators aggressively purchased existing housing stock and flipped it quickly for a profit on the hot housing market. Such actions have always been disastrous for low-income communities at-risk of displacement, like Chinatown, and Plan Bay Area will encourage even more major new housing development in these very communities that Chinatown CDC is seeking to protect. With a projected growth of 92,410 new households and 190,740 new jobs for San Francisco, the same old problems our communities are facing will only multiply in their intensity.

**B9-2** This Plan must look at alternative strategies for regional growth, including growth that is spread out more across the region, as in Alternative 5, and also must create some concrete methods for creating affordable housing. Despite the Plan’s prediction of creating higher demand for housing that will lead to the displacement of existing low-income communities, this Plan has no concrete strategy for creating and funding affordable housing or for preventing displacement and protecting tenants.

**B9-3** Plan Bay Area has no concrete plan in place to create new resources or tools to mitigate its adverse impacts

*Plan does little to actually increase resources for affordable housing*

Contrary to what is cited on page 97, we would argue that Plan Bay Area does not meet its performance target of housing 100% of the region’s population growth. The Plan claims to succeed in "identifying housing opportunities for all of the region’s population" through the RHNA (pg 97). However, identifying what we must produce is one task. Finding and creating resources to help produce *actual* new housing units, especially affordable housing units, is an entirely different story. In San Francisco, we are all too familiar with this situation. The RHNA has consistently identified a significant need for very-low, low, and moderate income housing units, and year after year the City fails to meet its goals due to inadequate resources.

Unfortunately, this Plan does nothing to identify actual methods of bridging the gap between what is identified in the RHNA and what resources we need to actually produce affordable housing units as a region.

**B9-4** *No new tools to help protect low-income tenants from being displaced*

Plan Bay Area recognizes that Communities of Concern will experience disproportionate displacement pressures (see above), however, it does nothing to create new tools for protecting tenants and ensuring existing communities will be able to remain in place. Recently, Chinatown CDC’s housing counseling program has seen a spike in eviction cases due to the Ellis Act as the real estate market recovers from the recent recession. As a PDA where density and growth is

being targeted, real estate speculators will increasingly look to use this extremely effective tool to vacate people from their housing and flip properties for a profit. As part of the regional plan, policy-makers must look at reforming state level laws that are currently enabling landlord and speculator abuse.

**B9-5** **Plan will damage neighborhood character and quality**

This Plan includes a proposal for congestion pricing in downtown San Francisco that has conceptually grouped the neighborhoods of Chinatown and North Beach, two neighborhoods with thriving small business economies, together with the corporate Financial District when identifying a potential taxable zone. This is yet another example of poor planning and of the regional perspective failing to understand its real, ground-level impacts. Discouraging commuter travel by car into the downtown financial district may have the desired effect of moving commuters onto transit, however, this move will discourage small business customer bases from visiting Chinatown and North Beach. For small businesses that operate on thin margins, a small change in the customer base could result in large impacts and possibly closure. We do not support congestion pricing for the Chinatown neighborhood.

**B9-6** **Plan Bay Area will create some serious health challenges for Communities of Concern – Plan will shift regional automobile travel into dense PDAs where existing Communities of Concern will disproportionately shoulder the burden of increased automobile traffic and pollution.**

Despite this Plan's commitment to reducing auto emissions, its EIR actually predicts an increase of Vehicle Miles Travelled (VMT) up to 71% on Level of Service (LOS) F roadways, which are the most congested roads in the Bay Area. Many LOS F roadways fall within San Francisco's Eastern Neighborhoods, such as Chinatown, where this Plan is encouraging new growth. At the local, grassroots level of analysis, which this regional plan misses, the impacts of this type of planning will be ruinous for communities that are currently planning for pedestrian safety and other streetscape improvements. In Chinatown today, many of the neighborhood's low-income seniors contest daily with an onslaught of commuter traffic that rolls through their neighborhood streets en route to San Francisco's Financial District. The projected increase to VMT on LOS F roadways near Chinatown will mean more commuter traffic clogging neighborhood streets, additional pedestrian fatalities, more automobile emissions and pollution, and a lower quality of life for people who live here today.

Additionally, Plan Bay Area inadequately addresses its requirement of reducing emissions. Despite a regional decrease in coarse particulate matter emissions, low-income Communities of Concern will actually experience an increase in emissions. Plan Bay Area (page 98) acknowledges that it will miss its target of reducing coarse particulate emissions and the Plan Bay Area DEIR (Chapter 2.2, page 36) recognizes that this Plan will cause a regional increase of course particulate matter emissions from mobile sources due to a 20% increase in VMT. For LOS F roadways, many of which are located in or around existing dense, low-income communities, like Van Ness Ave near Chinatown, this increase in emissions will be substantially higher.

**B9-7** **Plan Bay Area overlooks local democracy and control – Regional policy-making is top down and dismisses experiences of local communities in favor of regional benefits.**

This draft of the Plan Bay Area is largely based on a regional policy-making perspective that considers how to accommodate growth over the next 30 years. While we do feel that it is important to plan for regional demographic changes and jobs/housing growth, we feel that this Plan goes beyond its scope and charge by not just planning for growth, but by actually encouraging and incentivizing it in some of the Bay Area's most established communities, despite what negative impacts these local communities may experience.

Sincerely,

Steve Woo  
Senior Planner, Chinatown CDC  
[swoo@chinatowncdc.org](mailto:swoo@chinatowncdc.org)



May 16, 2013

Amy Worth, Chair, and Members  
Metropolitan Transportation Commission  
Mark Luce, President, and Members  
Association of Bay Area Governments

**Re: Ditching Dirty Diesel Collaborative Comments on Draft Environmental Impact Report 2013**

Dear MTC Chair Worth, ABAG President Luce and Members:

The Ditching Dirty Diesel Collaborative (DDDC) is a regional coalition representing over a dozen community groups, health departments, and allied organizations working to reduce diesel pollution in the Bay Area. The DDDC's work reduce the impacts on populations that bear the highest burden from disproportionate exposure to diesel pollution in the state. The DDDC Freight Transport Committee is working to provide a regional environmental justice voice and public health and safety perspective on any processes related to freight transportation, and regional scale land use and transportation planning.

We appreciate the diligent and thoughtful work of the Metropolitan Transportation Commission (MTC) and Association of Bay Area Governments (ABAG) staff's efforts in developing an in-depth assessment of the Alternative Scenarios. We especially applaud the Bay Area Air Quality District (BAAQMD) for developing a critique in the Air Quality section that includes the impacts of diesel emissions for the Alternative Scenarios. This analysis begins to addresses DDDC's main concern about the implementation of the Plan Bay Area Process – how best to promote infill without unduly exposing new residents to

unacceptably high levels of diesel pollution. However, this analysis falls short of adequately identifying these health impacts or the measures necessary to mitigate these impacts.

B10-1

The DDDC is interested in more thoroughly evaluating the public health and safety issues related to each of the Alternative Scenarios presented in the Draft EIR. One persistent challenge is there is not enough time to adequately evaluate the entire Plan Bay Area EIR. We respectfully request additional time (one month) to provide additional substantive comments on many of the sections we were not able to evaluate in this letter. We believe this is a very important document and an important process that warrants an appropriate and thorough evaluation.

B10-1.5

We encourage all MTC Board Members and staff to consider the role of public health as the staff proceeds toward final recommendations. We strongly urge the MTC Board Members and the staff to select the ***Equity Jobs and the Environment, Alternative Scenario #5*** that has been proven through the modeling to be the strongest model of all of the alternatives. Further we have found that regional and statewide public health associations have determined an increase in transit investment results in an increase in physical activity and safety co-benefits that lead to successful health outcomes. This will ensure the SCS's goals produce sound transportation infrastructure investments and better social equity outcomes.

The DDDC's comments and recommendations regarding the alternative scenarios models are detailed in the attached document and **summarized below**. The DDDC strongly emphasizes that transportation planning needs to ensure low-income and communities of color have access to reliable affordable and safe transportation without compromising their health by exposing them to unacceptably high levels of diesel pollution. It is also essential to have access to building pathways to jobs and services by providing comprehensive healthy and affordable housing.

The DDDC encourages the MTC board members and staff to consider the following:

### 1.) Air Quality Chapter 2.2

B10-2

- I. **The draft EIR failed to conduct an analysis of the number of new residential units and other sensitive receptors likely to be built in the areas at highest risk from the impacts of diesel pollution. This omission is significant because people living in those units will likely experience negative health outcomes from excess diesel exposure.**

- B10-3** II. The draft EIR failed to conduct a Health Impact Assessment for the people, especially sensitive receptors, projected to live or spend significant time in new residential units or other buildings located in the areas at highest risk from the impacts of diesel pollution.
- B10-4** III. The draft EIR failed to conduct an analysis of the demographics of new residents likely to live or spend significant time in new residential units or other sensitive receptors located in the areas at highest risk from the impacts of diesel pollution. This omission is significant because low-income communities and communities of color are already disproportionately impacted by diesel pollution and the associated health impacts.
- B10-5** IV. The draft EIR fails to address preventing further logistics sprawl in the coming years and mitigating the congestion and CO2 impacts of logistics in urban areas. As more warehouses are built/ or leave core urban areas and locate in suburban and exurban areas that inherently suggest increases truck commutes to the aforementioned areas.
- B10-6** V. The draft EIR fails to address the interregional CO2 and PM due to the projected increased commutes of low-income wageworkers that have been displaced outside of the Bay Area.
- B10-7** a) The proposed mitigation measures contained in the Air Quality section are inadequate. According to the draft EIR on page 2.2-36, Impact 2.2-3(b) of the Air Quality Section identifies a 12% increase in PM10 as a result of the project as significant and unavoidable. However, only two measures, 2.2(b) and 2.2(c), both related to retrofitting trucks, locomotives and port-related emissions are offered as mitigations. Since the draft EIR acknowledges the fact that PM10 emission are strongly influenced by the 20% projected growth in Vehicle Miles Travelled (VMT), it is logical that additional measures to reduce VMT are called for to mitigate this impact.
- B10-8** VI. To help determine the appropriateness of project and site-specific mitigations, MTC/ABAG recommends that implementing agencies and/or project sponsors follow BAAQMD’s most recent Recommended Methods for Screening and Modeling Local Risks and Hazards guidance and BAAQMD’s Google Earth screening tool to identify areas/sites that may surpass health-based air quality thresholds and thereby be appropriate for mitigation.

2.) Land Use and Housing Chapter 2.3

- B10-9** 1. The draft EIR fails to consider residential and commercial displacement caused by increased housing costs. The draft EIR explicitly states that the land use and transportation changes proposed by the plan may affect affordability and cause displacement: “Changing development types and higher prices resulting from increased

demand could disrupt business patterns and displace existing residents to other parts of the region or outside the region altogether.”(2.3-35) Yet it fails to evaluate these impacts. (They are instead given inadequate consideration in the Equity Analysis.)

B10-10

2. **The draft EIR does not provide effective measures to mitigate displacement.** As noted above, the draft EIR finds that the plan could push people out of their neighborhoods or the region. However the mitigation measures proposed do not provide any policies to reduce displacement due to rising housing costs.

B10-11

3. **The draft EIR assumes that no displacement will take place from the region entirely,** despite evidence that this assumption is not realistic. The result is an analysis that masks the contribution of affordable housing to decreasing VMT, GHG and toxic air pollution.

B10-12

4. **The draft EIR incorrectly assumes that there will be no displacement out of the region** (because the plan “houses” 100% of projected growth) and that all the scenarios will be the same in this regard. Unfortunately, MTC/ABAG’s empirical analysis suggests that the first assumption is inaccurate. It is reasonable to assume that There will be projected growth outside of the PDAs.

B10-13

5. **The draft EIR also incorrectly assumes the alternatives studied will all perform the same in this regard.** The alternatives show different levels of housing affordability.

B10-14

### 3.) Climate Change and Green House Gas Chapter 2.5.

**1. The MTC-developed targets do not get us to AB32 goals (despite the fact these goals are clearly implied though not directly linked in SB375 sections 1 and 4)<sup>1</sup>.** While the proposed Plan actually achieves marginally better reduction rates per capita (10%) than even the limited MPO targets (7%) the EIR still obfuscates the fact that the plan, looking at the transportation sector, ***will not reduce annual GHG emissions in***

<sup>1</sup> Even though SB375 allows the ARB to set the targets that the SCS must comply with, SB375 itself refers and implies a tie between the MPO sustainable community strategies to AB 32. Sec 1 and 4 have strong references and suggestions that this bill is tied directly to the overall goal of implementing AB 32 and thus, a goal for target setting. For example, see section 1b with a direct reference that this action is pursuant to State mandate for 2020; 1c states a need to change land-use and transportation pattern to achieve goals of AB32; 1f connects CEQA to AB32 and in Section 4.3: states an expected relationship to targets to be adopted by ARB to reduce GHG emissions in affected regions... and [to be] consistent with the regulations promulgated pursuant to the Global Warming Solutions Act of 2006 [AB32].

**our region**<sup>2</sup> Looking at the ARB target numbers provided in ARB documentation, we would actually need an approximately 25.5 per capita reduction target to correspond to a 18% reduction in annual GHG emissions (which is half of a projected 36% needed based on AB32 but which can be coupled with other statewide actions, as was demonstrated in the technical appendix to the City of Oakland ECAP 2011 to achieve AB32 goals). The proposed Plan reduction level is off by more than twice as much as needed to address IPCC climate change projections and this fact needs to be openly acknowledged and addressed .

Given the limitations of the Plan, the Alternate Plan Scenario (APS), as the established mechanism to develop planning solutions that can achieve the goals beyond political or other limitations, should be utilized in the One Bay Area planning process and evaluated in the EIR. Instead of avoiding this important visioning opportunity that can fully incorporate the best SB375 transportation strategies, the ARB/MPO should require such planning in this case to critically understand exactly what we are up against as far as regional planning and how much our efforts should start incorporating adaptation strategies and stronger efforts to reverse the 80%:20% ratio of highway to transit spending and dramatically bolster the marginal resources allocated to bike and pedestrian infrastructure. The APS can also better tie in the Priority Conservation Areas (PCAs) as part of the SCS planning process i In addition to the PDAs. An APS can be seen as a roadmap to creating healthy communities and highlighting other community co-benefits.

B10-15

1. **The EIR (Chapter 2.5) Rejection of Criterion 3 assessment of “Non Significance” is objectively erroneous and needs to be reevaluated.**

Criterion 3 evaluates whether the Plan substantially impedes attainment of goals set forth in Executive Order S-3-05. This executive order sets targets for California including the AB32 goals for 2020 and 2050. The EIR tries to state that this order does not really apply to this planning effort as the order has a benchmark which is ten-years past the plan’s horizon and given that executive orders apply to executive branches and not MPOs. Irrespective of actual application of the order to the SCS, clearly this Plan impedes attainment of this statewide order by not directing sufficient changes in the transportation sector for the necessary foundational changes necessary to achieve its 2020 and 2050 goals. To reiterate: the Plan does not *conflict* with the order but, by not explicitly calibrating to its requirements by a grossly significant factor (per comment above) **the Plan actually sets in motion**

**40-year transportation-system investments as part of a foundation that will fail to reduce GHG (by ARB calculations) and as the approved plan tied to regional transportation funding allocations creates an impediment (given competition for limited resources) for funding of alternative projects that will be needed to achieve statewide goals per AB32. Pragmatically, this may be an unavoidable impediment but it is objectively significant.**

B10-16

**2. Adaptation Strategies are inadequate for addressing resiliency/adaptation to projected Climate Change effects.**

- The included adaptation strategies are geared for mitigations mostly to sea-level rise. There should also be strategies that combat general climate change effects tied to other overall mitigations such as for urban heat island.
- For example, “Adaptation protection” strategy #2 should apply zoning to include areas for flood risk in general/flood plains and linkages to local drainage ways/watersheds to reduce runoffs, protect waterways to wetlands themselves.
- #10 which stipulates incorporating open space into urban fabric should not just be for low-lying areas but also along all watersheds and flood-risk areas and also recognize need for urban forests and include urban agriculture as potential open space protection (also see p. ES-24).
- There should be a clear strategy to increase accessible non-motorized activity (bike and walk mode share) through target investments, especially in under-served areas and areas that are divided by freeways, railroads and separated from natural resource areas.

4.) Hazards Chapter(s) 2.13 and 2.14: Public Services and Recreation

B10-17

The major impacts associated with these sections are focused on the increase in the Bay Area population (an additional 2 million residents and 1.1 million new jobs by 2040) and the resulting increased land use needs for public services, housing, roadways, businesses, the transport of hazardous materials, and building on hazardous material sites - causing hazardous materials to be released (during construction and potentially long term).

Mitigation measures focus on following multiple existing federal and state laws that protect the public from exposure to hazardous materials. Impacts from development on groundwater and soil contamination could negatively impact construction workers and the public both short term and long term. Mitigation measures require site review to determine if sites are hazardous, and if so, existing laws need to be followed.

B10-18

In addition there is likely to be land use development and transportation projects near airports

(within two miles), which depending on these developments could be in conflict with airport operations but are defined as "less than significant with mitigation". If mitigation measures are taken, the impact would be minimal.

**B10-19** | There is "potentially significant" impact on ensuring adequate park and recreation facilities - and capacity for local entities to meet levels and maintenance of parks and recreational facilities.

**In addition to the comments above, we have two overarching concerns:**

**B10-20** | **1) Major Concern:** There are several references in the draft EIR that state that MTC/ABAG cannot require local implementing agencies to adopt mitigation measures. This is a failure within the draft EIR plan. While it is true that regional agencies may not be able to require mitigation recommendations at the local level there is established protocol that regional consensus (multiagency) can be achieved. Sound large projects can be identified and implemented if consensus is reached.

**B10-21** | **2) Major Concern:** Regional agencies can incentivize public health measures as criteria when considering favorable projects. Incentivizing the development of housing and sensitive land uses like parks and schools outside portions of PDAs with higher health risk from toxic air contaminants is essential to building healthy and safe communities. MTC and ABAG should encourage siting more suitable land uses such as commercial land uses within higher health risk portions of PDAs.<sup>3</sup>

**B10-22** | **Please see attached comments for further details.**

<sup>3</sup> J:\SECTION\ALLSTAFF\RESOLUTION\MTCResolutions-4035\_Attach-A.doc

As you know, all the members of our collaborative have been involved in this process from the very beginning and have worked with the staff to see this process serves all of the residents of the Bay Area. We believe our input on these issues will help guide staff toward the most well informed decisions.

Sincerely,

Azibuike Akaba, (on behalf of Ditching Dirty Diesel Collaborative) Policy Analyst

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Working together to reduce the burden of asthma


**EBHO**
**EAST BAY HOUSING ORGANIZATIONS**


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May 16, 2013

Amy Worth, Chair  
 Metropolitan Transportation Commission  
 Mark Luce, President  
 Association of Bay Area Governments

Dear MTC Chair Worth and ABAG President Luce:

East Bay Housing Organizations (EBHO) is pleased to submit these comments on the Plan Bay Area and the Draft Environmental Impact Report. We believe it is important to plan affirmatively for future growth and honor both the spirit and the letter of Senate Bill 375. We understand that Plan Bay Area is a massive undertaking with huge implications for how our region grows, and so we urge that MTC and ABAG take steps *now* to ensure that the plan promotes healthy, affordable, diverse, and prosperous communities.

East Bay Housing Organizations (EBHO), a 29-year-old non-profit membership organization, is the leading affordable housing advocacy coalition working throughout Alameda and Contra Costa Counties. EBHO's mission is to preserve, protect and expand affordable housing opportunities for the lowest income communities through education, advocacy, organizing and coalition building. Our membership includes more than 300 organizations and community leaders advocating for affordable housing development and favorable housing policies at the local and regional level. Members of our East Bay Regional Policy Committee have been following the Plan Bay Area process and have reviewed the draft Plan and the Draft Environmental Impact Report. Our committee is composed of planners, architects, non-profit housing developers, local jurisdiction staff, advocates and other experts with decades of collective experience in land use, transportation and housing.

**B11-1** Based on our review, we urge that critical adjustments be made in the plan to incorporate elements of the Environment, Equity and Jobs Alternative (Alternative 5), which outperforms the draft Plan on a number of key targets. The DEIR's alternative analysis finds that the EEJ would result in the lowest emission of criteria pollutants and the greatest decline in forecast GHG emissions (17% from 2010-2040). Apart from these findings, which go to the heart of Sustainable Communities Strategies' goals, the EEJ Scenario offers the best chance to ensure that all residents of the Bay Area enjoy improved health outcomes, equitable neighborhoods, and access to opportunity. It follows the same rigorous analysis as the Draft Plan, includes the same projects, includes only eligible funding sources, and yet arrives at stronger outcomes for affordability, health, and access to opportunity.


**EBHO**
**EAST BAY HOUSING ORGANIZATIONS**

Alameda and Contra Costa counties contain many communities of concern with residents who are at risk of being displaced if TOD investment is not accompanied by strong provisions for affordable housing and anti-displacement. While the Plan assumes that a local revenue source for housing and infrastructure will emerge, the loss of redevelopment and other funding mechanisms currently create a very difficult environment for affordable housing development. Therefore, it is all the more important to link the Plan's transportation investments to mechanisms that ensure affordability and recapture increased land value for the public good.

While Plan Bay Area "succeeds in identifying housing opportunities for all of the region's population," this is not the same as equitably distributing this housing in places with access to jobs and transit, or ensuring that lower-income communities won't be involuntarily displaced. Compared to the EEJ Alternative, Plan Bay Area performs worse on the "potential for displacement" and "equitable access" targets. The Plan's forecast of housing and transportation costs rising to 74% of income for low-income households and of 36% of households in high-growth communities of concern described as rent-burdened speaks to the need for stronger affordability and anti-displacement provisions.

**B11-2** This is why we join our partners in the 6 Wins Network in proposing adjustments to the Plan Bay Area that will incorporate key components of the EEJ, including:  
**shifting 25,000 RHNA units from PDAs to PDA-like places, with a corresponding shift in the SCS, and modifying the conditions of One Bay Area Grants grants to ensure that recipients adopt and implement strong anti-displacement protections and provide substantial regional funding for community stabilization measures.**

In 2012, EBHO and our partners worked closely with the Alameda County Transportation Commission to ensure that strong affordability and anti-displacement measures, would be part of the criteria for the first round of OBAG funding in Alameda County. Directly linking TOD funds to local actions such as affordable housing construction and tenant protections will reward those jurisdictions who are trying to think and act regionally, while offering incentives for other cities to take on their fair share of growth.<sup>1</sup> Working with advocates and local jurisdictions, ACTC took some small steps in this direction with the first round of OBAG criteria, and while more could be done, we think this could serve as a model for other Congestion Management Agencies.

**B11-3** The DEIR's statement that "some local jurisdictions may be unlikely to implement" the levels of residential growth in Alternative 5 is not sufficient reason to fail to incorporate the environmentally superior alternative. Measures such as incentives built into OBAG can help encourage local jurisdictions to plan for and anticipate a level of growth that will be necessary to meet shared goals of equitable development and reducing GHG emissions. Affordable housing policies and incentives could include innovative "public benefit zoning" ideas such as affordable housing overlay zones, which are being tested in California communities as a way to achieve

<sup>1</sup> Anti-displacement policies could include preservation of existing affordable & deed-restricted housing with extended affordability mechanisms, rent control, rental assistance, strong relocation assistance requirements, relocation benefits, enforcement of tenant protections in foreclosed properties, right-of-first refusal policies, just cause for eviction ordinance, and requiring one-for-one replacement of low-income or assisted units removed by TOD/PDA projects).



**EBHO**

**EAST BAY HOUSING ORGANIZATIONS**

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affordability goals through incentive-based mechanisms that encourage jurisdictions and developers to work together.

**B11-4**

We urge you to take a closer look at the community disruption and displacement issues raised by the DEIR, to include affirmative policies and incentives for affordable housing, and adopt the elements of the EEJ scenario that will better meet performance targets pertaining to the health and opportunity of residents in impacted communities. These measures can help create a Plan Bay Area that will truly meet the needs of our region.

Sincerely,

A handwritten signature in black ink, appearing to read "Amie Fishman", is enclosed in a thin black rectangular border.

Amie Fishman  
Executive Director  
East Bay Housing Organizations



May 16, 2013

Steve Heminger  
Executive Director  
Metropolitan Transportation Commission  
101 Eight Street  
Oakland, CA 94607

Ezra Rapport  
Executive Director  
Association of Bay Area Governments  
101 Eight Street  
Oakland, CA 94607

Dear Mr. Heminger and Mr. Rapport;

Thank you for the opportunity to review and comment on the draft Plan Bay Area and draft EIR. We appreciate your outreach and Native American consultation throughout the process. The Federated Indians of Graton Rancheria supports a long range transportation plan that addresses Bay Area needs while balancing environmental responsibility through greenhouse gas emissions reductions and responsible land use planning and transportation projects.

The Federated Indians of Graton Rancheria (FIGR) ancestral territory encompasses all of Marin County and the southern half of Sonoma County and therefore this Plan falls within our territory and trust land. This area has an abundance of cultural resources and numerous sacred sites that should be addressed within Plan Bay Area.

For your information, FIGR Tribal government currently administers the Temporary Assistance for Needy Families (TANF) program for all Native Americans in Sonoma and Marin Counties. This program is similar to the CalWorks welfare program administered at the County level. Thereby, FIGR Tribal government serves a significant number of very-low and low income families throughout Sonoma and Marin Counties. The Tribe is also currently drafting a long range transportation plan in order to create an economically stimulating, environmentally conscious and sustainable FIGR Tribal Transportation-Plan that empowers Native Americans throughout the FIGR territory (especially low income families and elders) to have increased access to existing tribal programs, employment, education, healthcare and tribal office services. The Tribal Council has also recently approved pursuit of a Tribal EV Car Share and EV Network expansion project.

In review of the draft Plan Bay Area, the Tribe supports:

- All efforts to preserve the environment, cultural and natural resources, agricultural land, and reduce GHGs throughout the Plan;

- The focus of balancing land use, transportation, health, mobility, equity and GHG reduction incorporated into long range transportation planning throughout the region;
- The consultation provided through the planning process. The Tribe would like to help expand future consultation to ensure meaningful participation by more Native American tribes within the Bay Area. Specifically, at the earliest possible phases of the planning process.

Plan and Project List Comments:

- B12-1** • Cultural sensitivity- Please keep in mind that cultural resources and sacred sites are not addressed within the Plan or DEIR. For example: the Overview on page 15 should include: Preserving open spaces, cultural resources, natural resources, agriculture and farmland. This theme of cultural preservation should be weaved throughout the Plan and DEIR.
- PDAs-The design of PDAs does not take into account that Sonoma and Marin Counties have demonstrated that focused growth can be achieved in small cities outside the PDA format. We support treating Sonoma and Marin Counties as place types that would receive the same benefits and priority funding as the PDAs in the next funding cycle.
- Project List-A user-friendly version of the project list should be made available online for public and agency use.

Please add the following projects into the Plan and Project List as appropriate:

- B12-2** • Large North Bay Area Projects-The regional urban growth model UrbanSIM has not included several large north bay area projects including Sonoma Mountain Village, Sutter Hospital and our FIGR Resort and Casino project slated to open in October of 2013.
- B12-3** • Draft Tribal Transportation Plan- Inclusion of this plan within the Plan Bay Area project list as our long range transportation plan within our territory is necessary.
- B12-4** • Tribal Electric Vehicle Car Share and EV Charging Station Network Project-Please include this project the Tribe is currently working on that expands on existing Sonoma County and Marin County EV networks, including an innovative EV car share program. This important project encourages Tribal members in Sonoma and Marin Counties to develop healthy habits for transportation rather than incentivizing purchases of single occupancy vehicles.
- B12-5** • SMART-The environmental review is incorporated but the full project for passenger rail service from Marin to Cloverdale should be included in the project list.
- B12-6** • WeGo Rideshare-Please add this program to the list of projects as the Tribe fully supports it.

Please feel free to contact Gillian Hayes, Deputy Director of the Environmental and Cultural Preservation Department at (707) 566-2288, ext 117 with any questions. Once again, the Tribe appreciates your coordination and consultation during this process and looks forward to working with MTC and ABAG in the future as the Plan and DEIR move forward.

Sincerely,



Lorelle Ross  
Tribal Administrator



May 16, 2013

*Via Electronic Mail*

Metropolitan Transportation Commission  
Plan Bay Area Public Comment  
101 Eighth Street  
Oakland, CA 94607  
eircomments@mtc.ca.gov

**Re: Comments on Environmental Impact Report to Plan Bay Area**

Dear MTC:

**B13-1** The Draft Environmental Impact Report (“Draft EIR”) for Plan Bay Area (“Plan”) issued by the Association of Bay Area Governments (“ABAG”) and the Metropolitan Transportation Commission (“MTC”) contends that implementation of the Plan Bay Area will allow the region to attain the greenhouse gas (“GHG”) emissions reductions targets mandated by California’s Sustainable Communities and Climate Protection Act of 2008 (“SB 375”) and other state laws and policies. (Draft Plan Bay Area, Draft Environmental Impact Report, State Clearinghouse No. 2012062029 (April 2013)).

However, these claimed reductions are not supported by the Plan or the EIR. Rather than developing a “sustainable communities strategy” that reforms the transportation infrastructure of the Bay Area and decreases the region’s reliance on carbon-intensive modes of transit, the Plan continues to rely on automobiles as a mode of transit and even expands highways. (*See* Draft EIR at 1.2-25, 2.1-26, 2.1-49-50.) Based on the contents of the DEIR, the claimed reductions appear to be achieved by taking credit for reductions that will be achieved under separate statutory mechanisms aimed at reducing greenhouse gas emissions and not as a result of the Plan. The Draft EIR does not satisfy the requirements of the California Environmental Quality Act (“CEQA”), since it does not adequately or accurately describe the extent to which implementation of the Plan will result in an increase in GHG emissions, and fails to conclude that “significant adverse impacts” will result from implementation of the Plan.

**B13-2** The Draft EIR also fails to satisfy CEQA, due to its cursory consideration of alternatives which result in greater levels of GHG reductions, increased usage of public transit, and a decrease in automobile usage. Specifically, the Draft EIR gives short shrift to the “Environment, Equity and Jobs” Alternative (“EEJ Alternative”), which makes meaningful investments in housing and transit developments which result in the EEJ Alternative outperforming the Plan in its ability to reduce GHG emissions, reduce automobile dependence and promote transit ridership. (*See* Draft EIR at 3.1-60-62.)

It is essential that the region adopt a Plan which reforms the transportation infrastructure and reduces GHG emissions. The world is approaching an ominous milestone, as carbon dioxide in the atmosphere hovers around 400 ppm for the first time in perhaps three million years.<sup>1</sup> The Plan continues this trend by causing a cumulative aggregate increase of more than four million tons of greenhouse gas emissions. (See Draft EIR, Table 2.5-9). Not only does the Plan fail to find this significant, the DEIR uses improper accounting to mask the true nature of the Plan's emissions.

B13-3

This letter focuses its commentary on the inadequacies of the GHG analysis in the Draft EIR, and how the agencies' evaluation of the "significance criteria" in the EIR is flawed in the following ways: (1) the agencies utilize questionable methodology to conclude that the per capita emissions reductions required by SB 375 have been achieved; (2) the analysis in the EIR improperly utilizes GHG reductions that will be achieved under other regulatory schemes to conclude that the Plan will achieve net GHG reductions by 2040; (3) due to these methodological flaws, the plan conflicts with the mandates of executive orders S-3-05 and B-16-2012, as well as other statutes intended to reduce GHG emissions; and (4) the agencies fail to adequately evaluate alternative proposals which lessen the impacts of sea level rise, and fail to propose enforceable mitigation measures. While many other flaws in the Plan and DEIR exist, those issues are addressed by other parties.

B13-4

We write this letter on behalf of Communities for a Better Environment ("CBE"). CBE is an environmental health and justice organization, promoting clean air, clean water and the development of toxin-free communities. CBE works for social justice by helping low income communities of color to self-empower by offering assistance with organizing, science/research, and law. Urban communities where CBE members live and work are bombarded by pollution from freeways, power plants, oil refineries, seaports, airports, and other industrial pollution sources. The people who live in these areas suffer from very high rates of asthma and respiratory illnesses, heart problems, cancer, low birth weight, and miscarriages. Traditionally, these communities lack the power to change siting and operation decisions concerning polluting facilities. In California's Bay Area, CBE organizes in East Oakland and Richmond.

### 1. Statutory Framework Governing Preparation of EIR

B13-5

CEQA requires the EIR to provide full and accurate information about the ability of the Plan Bay Area to achieve the greenhouse gas reductions targeted by the Plan, as well as to consider alternatives which might provide a better means of attaining those objectives. (Cal. Pub. Res. §§21000-21002.)

CEQA was intended to promote California's policy to "develop and maintain a high-quality environment now and in the future, and take all action necessary to protect, rehabilitate, and enhance the environmental quality of the state." (Cal. Pub. Res. §21001.) CEQA must "be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language." (*Laurel Heights Improvement Assn. v. Regents*

<sup>1</sup> See Justin Gillis, *Crucial Carbon Dioxide Reading Revised Downward*, New York Times, May 13, 2013; available at [http://www.nytimes.com/2013/05/14/science/earth/crucial-carbon-dioxide-reading-revised-downward.html?\\_r=0](http://www.nytimes.com/2013/05/14/science/earth/crucial-carbon-dioxide-reading-revised-downward.html?_r=0)

of *University of California*, 47 Cal. 3d 376, 390 (1988)). Among the goals of CEQA are to “inform governmental decision makers and the public about the potential, significant environmental effects of proposed activities,” and to “identify ways that environmental damage can be avoided or significantly reduced.” (14 C.C.R. §15002.)

The EIR is “the heart of CEQA,” and functions as an “environmental alarm bell whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.” (*Laurel Heights*, 47 Cal. 3d at 392 (internal citations omitted)). Furthermore, “it is a document of accountability,” which provides the public with a basis for understanding the decision-making process of public agencies. (*Laurel Heights*, 47 Cal. 3d at 392 (internal citations omitted)).

To that end, the EIR must contain a statement of “all significant effects on the environment of the proposed project,” as well as statements relating to unavoidable and/or irreversible effects, mitigation measures to minimize impacts on the environment, alternatives to the proposed project, and the “growth-inducing impact” of the proposed project. (Cal. Pub. Res § 21100; 14 C.C.R. §§15120-15132). It must contain a “sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences.” (CEQA Guidelines, §15151).

B13-6

## **2. The Draft Plan Should Have Found “Significant Adverse Impacts” From The Projected Greenhouse Gas Emissions from Plan Bay Area**

ABAG and the MTC developed the Plan Bay Area as part of the RTP process and to fulfill the goals of SB 375. As stated in the Draft EIR, “Plan Bay Area reinforces land use and transportation integration per SB 375 and presents a vision of what the Bay Area’s land use patterns and transportation networks might look like in 2040.” (Draft EIR at 1.2-21; *see also*, Draft EIR at 1.2-1.)

The Draft EIR prepared for the plan shows that the plan will result in an increase of greenhouse gas emissions by over four million tons from the transportation sector. (*See* Draft EIR, Table 2.5-9.) Yet, the plan concludes that implementation will not produce any “significant adverse impacts” on the environment, because it meets per capita greenhouse gas reduction targets mandated by SB 375 and claims to meet other greenhouse gas significance criteria set out in the plan.

As set forth more fully below, the Draft EIR’s finding that there will be no significant effects resulting from the plan’s greenhouse gas emissions proposal is contrary to the facts in the EIR and a violation of the disclosure requirements of CEQA. Moreover, the Draft EIR fails to sufficiently consider alternatives to the Plan.

B13-7

### **a. The DEIR’s Analysis of Criterion 1 Is Inadequate**

The Draft EIR concludes that there is “no adverse impact” under Criterion 1 from the implementation of Plan Bay Area, since it is able “to reduce per capita passenger vehicle and light duty truck CO<sub>2</sub> emissions by 7 percent by 2020 and by 15 percent by 2035 as compared to

2005 baseline, per SB 375.” (Draft EIR, 2.5-41, 50.) However, as explained further below, even if this criteria is met, the Plan’s GHGs emissions should be found significant.

The Draft EIR concludes that Plan Bay Area will result in a 10.3 percent decline in per capita emissions from 2005 to 2020, and a 16.4 percent decline in CO<sub>2</sub> emissions from 2005 to 2035. (Draft EIR, 2.5-50.) Even though implementation of the Plan is expected to increase the total vehicle miles travelled (“VMT”) by 20 percent by 2040, and the population is expected to increase by 30 percent during that time, the EIR projects reductions in emissions due to the Plan’s investments in transit operations and expansion. *Id.* It attributes these emissions reductions to “the integrated land use and transportation plan in which the land use pattern focuses growth in higher-density locations near transit services,” which “allows more efficient use of the existing transportation infrastructure.” *Id.* It also credits an increase in transit expansion and frequency improvement, and an increase in trips made by transit and walking. *Id.*

However, the EIR fails to sufficiently explain or support the conclusion reached that there is no significant impact under Criterion 1, despite increases in VMTs and regional population. CEQA requires that an EIR contain sufficient information which allows the public to understand how the agency reached its conclusions. (*Gray v. County of Madera*, 167 Cal. App. 4th 1099, 1109 (2008)(“[t]he EIR must contain facts and analysis, not just the bare conclusions of the agency.”); *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova*, 40 Cal. 4th 412, 442 (2007)(information in an EIR must be “presented in a manner calculated to adequately inform the public and decision makers...” and “information scattered here and there in EIR appendices or a report buried in an appendix is not a substitute for a good faith reasoned analysis.”)).

**B13-8** First, there is little explanation in the Draft EIR as to how the projected increases in VMTs and other transportation-related factors are offset by measures taken by the Plan to reduce GHGs. According to the DEIR, automobile usage and transit usage will increase by 2040. Daily vehicle trips are expected to increase by 22%. (Draft EIR at 2.1-27.) In analyzing the significance criteria related to transportation, the Draft EIR concludes the following: that commute travel times are expected to increase by 3%, non-commute times are expected to increase by 2%, that VMTs during peak travel times would increase by 51% (even as per capita VMTs decrease by 6%), and that utilization of transit services would increase by 33 %. (Draft EIR at 2.1-30-36.)

Yet, despite these projected increases in the load on the transportation system, the measures undertaken pursuant to the Plan only partially reform the transportation system. Of the funds available for transportation investments, 88% are allocated to operations and maintenance of roads and transit, 5% to expansion of roads and bridges, and only 7% to the expansion of public transit. (Draft EIR at 1.2-49-50). The Plan will add 3% to the total roadway lane-miles, and focuses on increasing capacity in high occupancy toll lanes, as well as widening highways. (Draft EIR at 2.1-26). Given the increasing population of the Bay, and the projected increases in automobile usage and VMTs, the emphasis of the Plan on maintenance and expansion of highways does not fulfill the structural changes contemplated by SB 375.

**B13-9** Furthermore, the EIR relies in large part on expected GHG reductions that will be achieved through the MTC’s Climate Policy Initiatives, and yet provides little support for whether these measures will be successfully implemented, and will be able to achieve the projected GHG

reductions. (See Draft EIR at 2.5-42, Table 2.5-5, Table 2.5-9). Additional analysis should be set forth in the Draft EIR as to how the reductions in GHGs were achieved, even with the increase in VMTs and highway expansions, and how measures like the Climate Policy Initiatives will contribute to the GHG reductions goals.

B13-10

Second, there is little explanation in the Draft EIR as to how the Priority Development Areas (“PDA”) are able to contribute to GHG reductions. PDAs are seen as an important aspect of the Plan, and are intended to concentrate housing expansion in areas which are pedestrian-friendly and have ready access to employment centers and transit. (See, Draft EIR at 1.2-25). However, some areas designated as PDAs – i.e., Treasure Island, Alameda sites such as the Naval/Air Station, Vallejo, Benecia<sup>2</sup> – do not presently have ready access to rail transit, and residents rely instead on other modes of transportation. Some of the proposed transportation investments – i.e., new ferry routes between Treasure Island and San Francisco, improved bus transit between Alameda and Oakland, Treasure Island congestion pricing – are aimed at serving these PDAs, but the EIR does not sufficiently explain how these investments will ensure GHG reductions. (Draft EIR at 1.2-37, Table 1.2-9). Additionally, the Plan contemplates that OneBayArea Grants (“OBAGs”) will provide funding for and create additional incentives for local planning agencies to create housing near transit, develop PDAs and support initiatives such as the Regional Bicycle Program and Transportation for Livable Communities. (Draft EIR at 1.2-51). Yet there is not any detailed analysis in the EIR as to how OBAG projects interact with other transit investments, or contribute to reductions of transit GHGs.

The Draft EIR does not contain any detailed analysis as to how PDAs and the transportation infrastructure that will be built to serve them affect the trajectory of GHGs in the region. The Criterion 1 analysis in the Draft EIR mentions briefly that the “integrated land use and transportation plan,” which “focuses growth in higher-density locations near transit services,” will lead to GHG reductions. (Draft EIR at 2.5-50). Yet, there is no detailed analysis in the EIR of how PDAs and proximate transit services will actually contribute to GHG reductions, or how residents of PDAs will shift their transportation patterns in a way which reduces GHGs.

B13-11

Finally, the Draft EIR does not adequately account for the effects of local agencies’ implementation of aspects of the Plan or propose enforceable mitigation measures. The Draft EIR states that variations may occur from policies or projects implemented at the local level, which would create uncertainty about the conclusions made in the EIR – for example, the EIR notes that local agencies may not effectively implement measures to mitigate peak travel increases in VMTs, and also notes that transit utilization issues may be better addressed by local agencies. (Draft EIR at 2.1-34, 35). ABAG and MTC are required by CEQA to propose enforceable mitigation measures as part of the plan. According to CEQA guidelines, “mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments. In the case of adoption of a plan, policy or regulation, or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design.” (CEQA Guidelines, § 15126.4(a)(2); see also, §15126.4(c)(5)). Additionally, “[f]ormulation of mitigation measures should not be deferred until some future time.” (*Id.* §15126.4(a)(1)(B)). Indeed, regional agencies’ deference to local planning agencies to

<sup>2</sup> Draft Plan Bay Area; <http://geocommons.com/maps/141979>

implement measures to reduce GHGs has been criticized by at least one court as an attempt to “kick the can down the road” which “perverts the regional planning function” of the agency, “ignores the purse string control” held by the agency over project funds, and “conflicts with Govt. Code section 65080(b)(2)(B).” (*See, Cleveland Nat’l Forest Found. v. San Diego Ass’n of Gov’ts*, Case No. 2011-00101593, Ruling on Petitions for Writ of Mandate (Dec. 3, 2012)). ABAG and the MTC are required to evaluate and propose appropriate mitigation measures, and are not excused from fulfilling those obligations by deferring to the actions of local agencies.

**B13-12** The Draft EIR does not contain information which would allow the public to understand how the Plan achieves the ARB GHG targets, and has not met the requirements of CEQA.

**b. The DEIR’s Analysis of Criterion 2 Should Have Resulted in A Finding of “Significant Impact”**

**B13-13** The Draft EIR improperly concludes that there is “no significant impact” under significance Criterion 2.<sup>3</sup> The EIR claims that the implementation of the Plan would not result in “a net increase in direct and indirect GHG emissions in 2040 when compared to existing conditions.” (Draft EIR, 2.5-41, 2.5-57.) This makes little sense because implementation of the Plan results in the emission of an additional 4,347,000 MTCO<sub>2e</sub> by 2040. (Draft EIR, Table 2.5-9). This is the equivalent of some additional 911,250 passenger vehicles on the road by 2040.<sup>4</sup>

The Draft EIR’s focus on “net” GHG emissions is misleading, since it masks the fact that implementation of the Plan will actually increase aggregate GHG emissions by 2040. Net reductions are only attained by improperly taking credit for reductions that would be achieved under other programs also intended to reduce GHGs, such as the Pavley and LCFS standards, and AB 32. This is contrary to the statutory intent of SB 375, as well as other statutes aimed at reducing GHGs. SB 375 requires the SCS to focus on reducing GHG emissions in the transportation sector, and the agencies cannot use reductions achieved under other statutory schemes to mask the total emissions.

CEQA requires an EIR to contain an accurate description of the scope and effects of a project. (*San Joaquin Raptor Rescue Center v. County of Merced*, 149 Cal. App. 4th 645, 655, 658-59 (2007)(EIR insufficient when it did not accurately identify scope of mine operations or groundwater usage); *Communities for a Better Environment v. City of Richmond*, 184 Cal. App. 4th 70, 84-85 (2010)(EIR should contain more than “vague subjective characterizations” of scope and impacts of project); *Sunnyvale West Neighborhood Assn. v. City of Sunnyvale City Council*, 190 Cal. App. 4th 1351, 1374 (2010)). It also requires an EIR to consider and discuss “feasible project alternatives that would substantially lessen the project’s significant environmental effects.” (Cal. Pub. Res. §21061; 14 C.C.R. §15126.6; *Sunnyvale*, 190 Cal. App. 4th at 1375-76).

<sup>3</sup> Under Criterion 2, implementation of Plan Bay Area would have a potentially significant adverse impact if it would “[r]esult in a net increase in direct and indirect GHG emissions in 2040 when compared to existing conditions.” Draft EIR at 2.5-41.

<sup>4</sup> <http://www.epa.gov/cleanenergy/energy-resources/calculator.html>

In evaluating Criterion 2, ABAG and MTC should find that the aggregate increase in GHGs is significant.

B13-14

*i. The DEIR Should Not Use Reductions Achieved Through Implementation of Pavley and LCFS Standards As Part of Its Analysis*

ABAG and MTC should not be utilizing GHG reductions attained through the Pavley and LCFS standards to achieve GHG reductions in connection with Plan Bay Area.

The Draft EIR projects an increase in 18% from transportation GHG emissions, “as a result of the growing number of residents and jobs in the region.” (Draft EIR at 2.5-55, Table 2.5-9). However, with the application of “Pavley and LCFS regulations,” the Draft EIR projects that GHG emissions will actually be reduced by 19% by 2040.

The RTP/SCS was intended to fulfill the goals of SB 375. (Draft EIR at 1.2-21; *see also*, Draft EIR at 1.2-1.) Therefore, only reductions attained through implementation of the Plan Bay Area (i.e., increasing transit ridership, the concentration of housing and jobs in/near PDAs) should be counted towards the reductions achieved by 2040.

The statutory mandate of SB 375 is clear that GHG reductions should be achieved by reforming the transportation infrastructure to reduce emissions from cars and light trucks, not by consideration of emissions reductions from other GHG reductions programs. (Cal. Gov’t §65080(b)). The legislative history of the statute emphasizes that reductions should be achieved through reducing reliance on automobiles and trucks, and not through consideration of other GHG reduction programs: “[T]his bill provides a mechanism for reducing greenhouse gases from the single largest sector of emissions, cars and light trucks...[a]lthough greenhouse gas emissions can be reduced by producing more fuel efficient cars and using low carbon fuel, reductions in vehicles miles travelled will also be necessary.” (Senate Rules Committee, Bill Analysis SB 375 (August 30, 2008)(emphasis added)).

The Pavley and LCFS standards create separate programs to address greenhouse gas emissions from the transportation sector. Assembly Bill 1493 (“AB 1493” or “Pavley”) sets GHG emissions caps for passenger vehicles and light trucks.<sup>5</sup> Executive Order S-01-07 established a Low-Carbon Fuel Standard (“LCFS”), which set a goal to reduce by 10% by 2020, the “carbon intensity” of California’s transportation fuels.<sup>6</sup>

The Pavley and LCFS standards were meant to be implemented separately from SB 375, and projected reductions achieved by programs undertaken to fulfill these standards should not be counted as part of the projected GHG reductions under the Plan Bay Area’s SCS.<sup>7</sup> Furthermore,

<sup>5</sup> *See* Assembly Floor, Bill Analysis AB 1493 (July 1, 2002); 13 C.C.R. 1961.1 - 1961.3; Health & Safety Code 43018.5; *see also*, Draft EIR at 2.5-24.

<sup>6</sup> Office of the Governor, Executive Order S-01-07 (January 18, 2007); 17 C.C.R. 95480-95490.

<sup>7</sup> As noted in the Draft EIR, these regulations have been challenged by litigation, and the Ninth Circuit has allowed ARB to move forward with finalizing the LCFS regulations, while it rules on the enforceability of the LCFS standard. Draft EIR at 2.5-26; California Air Resources Board, Press Release (April 24, 2012). The Ninth Circuit appeal of the enforceability of the LCFS standard is still pending, which leaves open the possibility that the LCFS

counting emissions reductions from these programs prevents the public from understanding the scope of the project and precisely how the Plan contributes to an increase in GHGs, and is contrary to CEQA. (See *San Joaquin Raptor Rescue Center*, 149 Cal. App. 4th at 655, 658-59; *Communities for a Better Environment*, 184 Cal. App. 4th at 84-85).

Implementation of the Plan, and excluding consideration of reductions achieved under other programs, will result in an additional 4.3 million MTCO<sub>2e</sub> of GHG emissions from cars and light trucks by 2040. (Draft EIR, Table 2.5-9). This means that ABAG and MTC should revise their significance finding for Criterion 2, and conclude that there will be a significant effect.

**ii. *The DEIR Should Not Use Reductions Achieved Under AB 32 As Part of Its Analysis***

B13-15

The Draft EIR projects a 28% increase by 2040 in GHG emissions from various sources related to land use (i.e., electricity and natural gas, residential GHGs, nonresidential GHGs and waste). (Draft EIR at 2.5-51, Table 2.5-8). This would mean an increase by over 6.7 million MTCO<sub>2e</sub> by 2040. However, it is able to achieve a 12% reduction of GHGs in this sector only by “application of [Air Resources Board] scoping measures related to electricity and natural gas and recycling and waste.”<sup>8</sup> *Id.*

ABAG and MTC should not be utilizing GHG reductions attained through programs implemented under the Air Resources Board (“ARB”) Climate Change Scoping Plan (“Scoping Plan”) to net GHG emissions from the Plan.

The Scoping Plan facilitates implementation of the California Global Warming Solutions Act (“AB 32”), and recommends a variety of measures to reduce GHGs across a variety of sectors, from transportation to expanding energy efficiency programs, achieving a mix of renewable energy sources, developing a cap and trade program, adopting measures for clean cars and low carbon fuel, and creating targeted fees to incentivize GHG reductions.<sup>9</sup> It treats “Regional Transportation-Related Greenhouse Gas Targets,” and the measures required by SB 375, as but one of the various mechanisms needed to achieve AB 32’s GHG reduction goals: “[SB 375] reflects the importance of achieving significant additional reductions of greenhouse gas emissions from changed land use patterns and improved transportation to help achieve the goals of AB 32.” (See, Scoping Plan at 47).

The Plan Bay Area must focus on reducing emissions from the transportation sector, and cannot factor in reductions from other programs under the ARB Scoping Plan to account for GHG

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will ultimately be unable to be implemented. Therefore, even if it is permissible to count reductions achieved through other programs, this uncertainty calls for excluding any LCFS reductions.

<sup>8</sup> The specific ARB scoping measures included in the Draft EIR’s calculations were: energy efficiency programs (utility energy efficiency programs, building and appliance standards, efficiency and conservation programs), heat and combined power use program, renewables portfolio standards, solar roofs program, solar water heating, and landfill methane control. Table 2.5-6, Draft EIR at 2.5-45. To account for the scoping plan reductions, the agencies apply the Bay Area’s expected statewide populations share (the Bay Area is expected to house 19% of the State’s population by 2020) to the reductions expected to be achieved by the scoping plan (50.7 MMTCO<sub>2e</sub>), and attribute 9,633,000 MTCO<sub>2e</sub> of reductions to the scoping plan measures.

<sup>9</sup> [http://www.arb.ca.gov/cc/scopingplan/document/adopted\\_scoping\\_plan.pdf](http://www.arb.ca.gov/cc/scopingplan/document/adopted_scoping_plan.pdf)

reductions under the SCS. Without the reductions achieved from the ARB Scoping Plan programs, the Draft EIR projects that land use GHG emissions will increase by 28% by 2040, and the Draft EIR cannot support the conclusion that there will be “no significant impact” through implementation of the Plan. Moreover, the use of the scoping plan reductions to achieve the GHG reductions claimed in the EIR is contrary to CEQA, since such practice misstates the true impact of the Plan, which is to cause an increase in GHGs. (*See San Joaquin Raptor Rescue Center*, 149 Cal. App. 4th at 655, 658-59; *Communities for a Better Environment*, 184 Cal. App. 4th at 84-85).

***iii. The DEIR Does Not Adequately Evaluate Whether Alternative Proposals Reduce GHGs More Effectively***

B13-16

The Draft EIR has an abbreviated analysis of how alternative proposals compare to the Plan, in their ability to reduce GHG emissions. Several of the alternative proposals fare better than the Draft EIR at reducing GHGs and increasing transit ridership, and the skimpiness of the EIR’s analysis in this respect prevents the public from making a meaningful comparison between alternatives and the proposed plan.

CEQA requires an EIR to consider “feasible project alternatives” that would lessen a project’s environmental impacts. (Cal. Pub. Res. §21061; 14 C.C.R. §15126.6; *Sunnyvale*, 190 Cal. App. 4th at 1375-76). The EIR “shall include sufficient information about each alternative to allow meaningful evaluation, analysis and comparison with the proposed project.” (14 C.C.R. § 15126.6(d)).

The EIR chapter on “Climate Change and Greenhouse Gases” contains no discussion of how the alternative plans would contribute to GHG reductions. The alternatives are discussed in a separate chapter, but only an exceedingly brief analysis is given to how the alternatives compare to the proposed Plan. (*See* Draft EIR at 3.1-57-62).

Even based on the information in the EIR, there appear to be a number of ways in which the alternatives outperform the Proposed Plan in reducing GHGs.<sup>10</sup> Alternative 3, the “Transit Priority Focus” Alternative, and Alternative 5, the “Environment, Equity, and Jobs” Alternative, both have lower levels of vehicle miles travelled (“VMT”) than the Proposed Plan. (Draft EIR at 3.1-19). In fact, Alternative 5 has the lowest VMT of any plan, 2% less than the Proposed Plan. (Draft EIR at 3.1-22). Alternative 5 has the greatest transit ridership out of any plan (5% more than the Proposed Plan). (Draft EIR at 3.1-19). Alternative 5 is expected to have the greatest reduction in on-road transportation GHG emissions from 2010 to 2040. (Draft EIR at 3.1-60). Alternative 5 is also expected to have 17% GHG emissions between 2010 and 2040 (2% more than the Proposed Plan). (Draft EIR at 3.1-85). The Draft EIR even admits that Alternative 5 is the “environmentally preferred alternative.” (Draft EIR at ES-11).

<sup>10</sup> In evaluating alternative proposals, the Draft EIR utilizes the same assumptions regarding reductions from the AB 32 Scoping Plan, Pavley and LCFS Standards, as it does when evaluating the Proposed Plan. For the reasons discussed above, reductions achieved according to these measures should not be credited when evaluating the impacts of GHGs. In revisiting their evaluation of significant impacts under the Draft EIR chapter related to GHGs, ABAG and MTC should also revisit their analysis of the trajectory for GHG reductions under the alternative plans.

The EIR's analysis of the alternative proposals is insufficient for the purposes of CEQA, particularly since the alternative proposals appear better able to achieve the GHG reductions goals of SB 375.

B13-17

*iv. The DEIR's Analysis of Impacts From Airport-Related Infrastructure Is Incomplete*

The Draft EIR also projects an increase in GHG emissions from airport use, due to an increased number of flights, related to an increase in regional population and employment. (Draft EIR at 2.5-55.) However, its analysis of the impacts of air travel, as well as any impacts that might result from increased loads on roadways and public transit serving regional airports, is cursory at best, and relies on reductions from other transportation-related GHG emissions to conclude that there is no adverse impact. (Draft EIR at 2.5-56.)

CEQA requires that an EIR contain sufficient information to explain how an agency reached its conclusions. (*Gray*, 167 Cal. App. 4th at 1109; *Vineyard*, 40 Cal. 4th at 442). Given the cursory nature of analysis, as well as the flaws discussed above in the Draft EIR's analysis of transportation-related GHG reductions, the analysis regarding airport usage impacts is inadequate.

B13-18

**c. The DEIR's Analysis of Criterion 3 is Flawed, and Should Not Reflect Attainment of the Goals from the Executive Orders S-3-05 and B-16-2012**

Since the analysis of significance under Criterion 3 is based on the analysis conducted under Criterion 1 and Criterion 2, it is flawed for the same reasons. The projected reductions are achieved through offsetting GHG reductions achieved under other statutory frameworks (AB 32, Pavley, LCFS), and are not actually due to proposals made under Plan Bay Area.

Under Criterion 3, a significant impact will be found if the plan will “[s]ubstantially impede attainment of goals set forth in Executive Order S-3-05 and Executive Order B-16-2012. (Draft EIR at 2.5-42). Executive Order S-3-05 recognized the need to reduce greenhouse gas emissions to combat the effects of climate change, and set the following targets for emissions reductions: “by 2010, reduce GHG emissions to 2000 levels; by 2020, reduce GHG emissions to 1990 levels; by 2050 to 80 percent below 1990 levels.” Executive Order B-16-2012 recognizes the importance of encouraging the development and adoption of zero emissions vehicles, and sets a “California target for 2050 a reduction of greenhouse gas emissions from the transportation sector equaling 80 percent less than 1990 levels.”

As previously noted, without the reductions from AB 32 Scoping measures, Pavley and LCFS, land use GHG emissions are expected to increase by 28% by 2040 (over 6.7 MTCO<sub>2</sub>e), and transportation sector GHG emissions are expected to increase by 18% by 2040 (over 4.3 MTCO<sub>2</sub>e). (Draft EIR, Tables 2.5-8, 2.5-9). On average, this represents an increase in 23% of GHG emissions from 2010 levels by 2040. With this trajectory, the Plan Bay Area will not meet the “80 percent below 1990” goal set forth in the executive orders.

B13-19

Alternatively, even assuming that the AB 32 Scoping Measures, Pavley and LCSF can be considered, these reductions cumulatively amount to 7,503,000 MTCO<sub>2</sub>e between 2010 and 2040, but this still leaves a projected 41,344,000 MTCO<sub>2</sub>e emissions in 2040. In tracking total emissions reductions, the Draft EIR projects a reduction from more than 50,000,000 MTCO<sub>2</sub>e in emissions in 1990, to little less than 40,000,000 MTCO<sub>2</sub>e emissions in 2050 – which does not attain the 80% reduction required by the executive orders. (Draft EIR, Figure 2.5-8.). If the Bay Area is to attain the goals of the executive orders and attain 80% of 1990 levels of GHG emissions by the year 2050, it will need to emit only 16,226,000 MTCO<sub>2</sub>e emissions by 2050<sup>11</sup> – and as can be seen from the Draft EIR, the Plan does not come anywhere near achieving that goal. *Id.* Similarly, in analyzing per capita emissions from cars and light trucks, the Draft EIR only projects a 30% reduction in per capita emissions from 1990 levels by 2050. (Draft EIR, Figure 2.5-7). Additionally, only looking at per capita reductions is misleading, and the Draft EIR should also track aggregate reductions -- since the area's population is expected to increase, some of the projected reductions in emissions are achieved by dividing the total emissions by a larger population. (Draft EIR, 2.5-50). Thus, the analysis set forth in the Draft EIR does not support the agencies' conclusion that the goals of the executive orders will be met.

The Draft EIR itself acknowledges that the reductions required to fulfill the mandate of these Executive Orders are not projected to occur under the current Plan. It relies on expected but unquantified technological developments to achieve the reductions, “[b]ecause the goals of executive orders S-3-05 and B-16-2012 are more than 35 years into the future, and new innovations in technology and science are expected, along with continued market shift towards green building and zero emission vehicles, it is reasonable to determine that, given the downward trajectories identified, the Bay Area is heading in the direction of achieving the executive order goals.” (Draft EIR at 2.5-59.) The Draft EIR's analysis even admits that “[w]hile modeling may not be able to show achievement of an 80 percent reduction today, given the overall downward trajectory beyond 2040, which indicates that implementation of the proposed Plan would not impede achievement of executive order goals, the impact is considered less than significant (LS). No mitigation measures are required.” (Draft EIR, 2.5-60.)

Due to flawed assumptions, the Draft EIR's analysis of Criterion 3 makes the wrong conclusion. This should be a significance finding.<sup>12</sup>

<sup>11</sup> This figure is calculated as follows: 1990 emissions levels were 427 million MTCO<sub>2</sub>e statewide (ARB Scoping Plan at 5); and an 80% reduction of that level is 85.4 million MTCO<sub>2</sub>e. The EIR estimates that the Bay Area will have 19% of the state's population (the same assumption used by the Draft EIR, 2.4-44), therefore the Bay Area's proportionate share of GHG emissions is 16,226,000 MTCO<sub>2</sub>e. It is important to note that this number will also include Bay Area industrial sources, further demonstrating that the GHG trajectory is deficient.

<sup>12</sup> Furthermore, it is also questionable whether this Criterion sets forth goals which are best able to protect public health. Scientists have questioned the belief that the 80 percent reduction in emissions below 1990 levels by 2050 will be sufficient. A paper by Matthews, H.D., and Caldeira, K. “Stabilizing climate requires near-zero emissions,” 35 *Geophys. Res. Letters* L04705 (2008), suggests that in order to stabilize atmospheric levels of greenhouse gases, CO<sub>2</sub> emissions must be reduced not just to 80 percent below 1990 levels but to “nearly zero” by mid-century.

Available at,

[http://www.soe.ed.ac.uk/~shs/Climate%20change/Data%20sources/Matthews\\_Caldeira\\_%20Instant%20zero%20C%20GRL2008.pdf](http://www.soe.ed.ac.uk/~shs/Climate%20change/Data%20sources/Matthews_Caldeira_%20Instant%20zero%20C%20GRL2008.pdf)

B13-20

**d. Plan Bay Area Conflicts With Other Plans, Policies And Regulations Aimed at Reducing Emissions**

The Draft EIR concludes that there would be no conflict with the GHG reduction goals of SB 375, AB 32, EO S-3-05 and EO B-16-2012. (Draft EIR, 2.5-60.) The Draft EIR declines to make any definitive conclusions about the specifics of local climate change plans, but does state “it is expected that local climate action plans and the proposed Plan would be complimentary efforts towards the reduction of GHG emissions in line with State goals and mandates.” (Draft EIR, 2.5-61.)

However, the Draft EIR conflicts with other statewide regulatory schemes, since it should be focused on attaining GHG reductions in the transportation and land use sectors as contemplated by SB 375, but it improperly takes credit for GHG reductions achieved under other statutory schemes. Thus, the Draft EIR’s conclusion regarding the significance of this Criterion should be changed to significant.

**e. The Plan Bay Area Results In Transportation Investments, Population Increases, and Land Use Development In Areas Subject to Sea Level Rise**

B13-21

The Draft EIR concludes that “significant and unavoidable” impacts would result under Criteria 5 through 7, even after mitigation measures are implemented, since there will be an increase in transportation investments, population increase and land use development, in areas that are projected to be inundated by sea-level rise. (Draft EIR at 2.5-68, 71 and 76). Yet, the Plan Bay Area proposes projects that will occur in high-risk areas, and refuses to take responsibility for enforcing that risk mitigation measures are undertaken for these areas.

B13-22

The Plan Bay Area remains committed to a number of transportation and infrastructure investments which are squarely within inundation zones. Despite acknowledging that proposed developments will most certainly occur in inundation zones, the Draft EIR does not adequately consider whether alternative proposals will be less impacted by sea-level rise. Nor does it adequately explain why “overriding considerations,” justify proceeding with the proposed Plan, even in the face of unavoidable environmental effects. The EIR is required to fully consider alternatives, and state why the proposed plan remains the most suitable alternative. (CEQA Guidelines, § 15093; *City of Santee v. County of San Diego*, 214 Cal. App. 3d 1438 (1989)(holding that agency must balance benefits of proposed project against adverse effects, and must state why “overriding considerations” justify the project)).

B13-23

The Draft EIR evaluates a number of risk mitigation measures, which include conducting risk assessments and partnering with local agencies to plan for sea level rise in new construction. (Draft EIR at 2.5-67). However, ABAG and MTC state that they cannot ensure adoption of mitigation measures by local agencies, which makes impacts “significant and unavoidable.” (See Draft EIR at 2.5-68). As noted previously, ABAG and MTC are required by CEQA to propose specific and enforceable mitigation measures. (CEQA Guidelines, § 15126.4(a)(2), (a)(1)(B); see also, §15126.4(c)(5)). The agencies cannot wash their hands of responsibility for the failure of local agencies to follow these mitigation measures -- the agencies

control some of the budget that will be used for these development projects, and are obligated by statute to propose enforceable mitigation measures.

B13-24

### 3. Conclusion

For the foregoing reasons, the EIR should conclude that implementation of the Plan would have a potentially significant adverse effect for GHGs. With that finding, the EIR will need to evaluate all feasible mitigation measures for GHGs. At least some of the feasible mitigations and structural reforms are already identified in the “Environment, Equity and Jobs” alternative; and those measure should be adopted.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Irene Gutierrez', with a long horizontal line extending to the right.

Irene Gutierrez  
William Rostov



May 16th, 2013

Amy Worth, Chair -- Metropolitan Transportation Commission  
Mark Luce, President -- Association of Bay Area Governments  
101 8<sup>th</sup> Street  
Oakland, CA 94604

Sent via email to [info@onebayarea.org](mailto:info@onebayarea.org)

Subject: Comments on Draft Plan Bay Area and Draft EIR

Dear Chairperson Worth and President Luce:

We write as organizations with many years of experience representing tenants of San Francisco. We are deeply concerned that both MTC and ABAG may approve a plan for growth and development that will, by your own analyses, increase displacement of low income, minority, and other disadvantaged communities. Compared to all the other alternatives, including the option of doing nothing, the so-called "preferred alternative" will put "communities of concern" at *greatest* risk of displacement (Draft Plan Bay Area, p.117).

**B14-1** From our work with the victims of displacement, we know that displacement does not merely mean moving from one apartment to another in the region as is suggested by the EIR. Displacement generally means moving to housing that is more costly and is in more dilapidated condition and is generally to a city or neighborhood that is less safe and farther from transit. For all tenants, but particularly for seniors and the disabled, displacement also results in extraordinary stress and suffering. An intentionally adopted plan that will increase such suffering is wrong, unjust and inhumane.

**B14-2** For this reason, the plan's response to its own findings is completely inadequate. While the plan proposes to dedicate a relatively small sum of funding to prevent displacement, there is no attempt to show that such funding would be sufficient to mitigate the harm caused by the plan.

B14-3

Additionally, the plan offers the following solution: “displacement risk could be mitigated in cities such as San Francisco with rent control and other tenant protections in place (p. 118) “. Rent control has indeed been essential over the past thirty years to slow displacement, but more recently, rent control has been substantially weakened by state laws including the Ellis and Costa-Hawkins Acts and by court cases that undermine local government’s capacity to adopt and enforce anti-displacement protections.

B14-4

Clearly, MTC and ABAG should adopt an alternative that causes less displacement than the present “preferred” alternative. But irrespective which alternative is selected, we are asking MTC and ABAG to include in its “Platform for Advocacy” a recommendation that would reform state law to enable local jurisdictions to adopt the protective policies needed to prevent displacement. Without such changes, tenants will be displaced by the thousands by your plan.

Sincerely,

Sara Shortt, Executive Director  
*Housing Rights Committee of San Francisco*  
417 S Van Ness, SF, CA 94103

Ted Gullicksen, Director  
*San Francisco Tenants Union*  
558 Capp St, SF, CA 94110

Plan Bay Area 2040 Final Environmental Impact Report  
**LAFAYETTE HOMEOWNERS COUNCIL**

649 Los Palos Drive  
Lafayette, CA 94549

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May 14, 2013

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Mr. Mark Luce, President  
Association of Bay Area Governments  
(ABAG)  
P.O. Box 2050  
Oakland, CA 94607-4756

Subject: Request for ninety-day extension of Public Review Period for *Draft Plan Bay Area, March 2013*, and its *Draft Environmental Impact Report, April 2013*.

✓ Honorable Chair Worth, President Luce, and Members of MTC and ABAG:

The Board of Directors of the Lafayette Homeowners Council (LHC) is gravely concerned regarding the public review process and timeline for the *Draft Plan Bay Area, March 2013 (The Plan)* and its *Draft Environmental Impact Report (DEIR)*. As a board that advocates on behalf of our residents and represents over fifty homeowners associations within the city of Lafayette, we believe that the time allotted for public review by your respective bodies is too tightly constrained and should be extended by at least ninety (90) days beyond the current deadline of May 16, 2013.

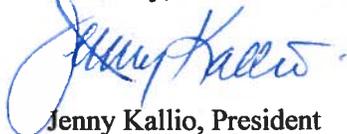
*The Plan* is almost 160 pages in length; *The Plan's DEIR* exceeds 1,300 pages with its many lengthy, supporting technical papers.

Staff from Bay Area agencies, jurisdictions and stakeholder groups have been working on *The Plan* for over a decade. Most recently, your two bodies extended release of both *The Plan* and its *DEIR* by three months for further internal study and fine-tuning. Allowing an equivalent extension of public review time for what may be the most consequential planning document in recent times is only equitable: providing parity between the general public and those other interests cited in *The Plan* as stakeholders.

There are those who insist that a plan of this magnitude and potential impact should be submitted for public vote, with the opportunity for expanded information presentations by all perspectives. For instance, there are questions about the reliability of the models and data upon which *The Plan's* various assumptions rest. These questions need to be supported or disproved. That takes time. A working public needs more than 45-55 days. However, it is our conviction that the credibility of *The Plan/DEIR* and confidence in their review process will be enhanced with a good-faith extension of the public review time by a minimum of ninety days.

Thank you for your diligent efforts on behalf of Bay Area planning. Thank you, also, for your consideration of our request.

Sincerely,



Jenny Kallio, President

cc: Lafayette City Council

B15-1

May 14, 2013

To: Amy Worth, Chair, MTC  
Mark Luce, Chair, ABAG

The League of Women Voters of Diablo Valley strongly supports the process of regional planning that has successfully coordinated land use and transportation planning for the draft Plan Bay Area.

The League places a high priority on reducing carbon and other emissions from cars and light trucks that worsen air quality and the impacts of climate change. We are pleased that a reduction in harmful emissions is expected to be achieved as a result of the plan's encouragement for more compact development in areas with good transit service, in order to reduce the need to drive. In particular, we believe that the concept of Preferred Development Areas will encourage communities to plan for more compact and transit-efficient development and avoid sprawl. We hope that cities such as Lafayette and Danville will see the wisdom of using this concept for future development plans.

To accomplish its purpose, Plan Bay Area must relate transportation and land use in a way which makes both more efficient. On the transportation side, we believe the plan can be improved. Draft Plan Bay Area places primary emphasis on maintaining the existing transportation system. However, neither of the top two expenditures (BART to San Jose/Santa Clara and a regional express lane system) is rated highly in terms of cost effectiveness or effectiveness in meeting goals of the draft Plan.

**B16-1** Also, the funds allocated to transit operations in the draft Plan do not appear to be adequate to restore the service cuts made during the past few years or to meet the needs of the Bay Area's growing population. In areas such as Contra Costa County, with existing sprawl, there are diverse needs for affordable transit which cannot be served if agencies are focusing merely on cost-cutting. Transit agencies achieve their highest productivity at times of peak demand – rush hours -- and in directions of peak travel – usually to job centers. But transit services are also needed in off-peak hours and to multiple kinds of destinations to serve the needs of a diverse population, including school children and the elderly. We urge that consideration be given to shifting draft Plan funding from high-cost, less cost-effective projects to transit operations and transit system maintenance.

**B16-2** We commend the regional agencies for their collaborative work to study the rise in sea and Bay water levels that will increase at an accelerating rate over the Plan's duration. Unfortunately, areas most vulnerable to the rise contain some of the Bay Area's most significant transportation infrastructure, and the draft Plan includes projects to expand and improve many of these facilities.

-2-

All proposed projects in vulnerable areas need to be evaluated for their designs and their needs for mitigation.

**B16-3** Four alternatives to the “preferred” draft Plan were evaluated as part of the draft EIR, and several among them include elements that perform somewhat better than the draft Plan. We strongly urge that the elements of the alternatives that offer superior benefits to the environment, provide robust incentives for affordable housing, and enhance the services of the transit systems be included in the draft Plan.

Sincerely,

Lee Lawrence, President



# Marin Audubon Society

P.O. Box 599 | MILL VALLEY, CA 94942-0599 | MARINAUDUBON.ORG

May 15, 2013

Plan Bay Area  
101 8<sup>th</sup> Street  
Oakland, CA 94607

RE: Comments on PLAN BAY AREA DEIR

Dear Sir/Madams:

Marin Audubon Society appreciates your consideration of our comments on the Draft Environmental Impact Report for Plan Bay Area. Our comments focus on the natural resource impacts of the project. We have generally supportive of regional planning such as BCDC's plan. With this plan, however, we find many inadequacies and general lack of regard for the natural environment, the very basis of a healthy and desirable population for both people and other creatures we with which we share this earth. Generally we found that potential impacts to natural habitats around the Bay and specifically in Marin County, are ignored or not clearly recognized, addressed or protected by Plan Bay Area.

B17-1

According to the DEIR, the "program-level analysis" presents a general analysis of potential regional and local impacts on biological resources based on the location of proposed land use changes and transportation projects relative to the known and potential distribution of sensitive biological resources throughout the Bay Area. We do not find this to be the case, because the locations of the PDA's, transportation projects, and biological resources are not sufficient to adequately analyze and evaluate the potential adverse impacts. The PDA's should be discussed and shown in the DEIR.

We have the following issues and concerns that should be addressed:

B17-2

1. The project area is not accurately defined.

The project proposes to concentrate development in Priority Development Areas with anticipated benefits of reducing greenhouse gasses by encouraging use of public transportation and locating housing near public transportation and jobs. There is little recognition of the fact that the transportation corridor in Marin and most of the Bay Area is along San Francisco Bay, a Ramsar designated wetland of international importance which supports important wetland and upland habitats and fish populations. Also many freshwater streams necessarily travel through urban areas enter the Bay at the current locations of highways and public transit. Just because a development might be near a transportation corridor and in an urban area does not mean it would have no or minimal impacts.

B17-3

Counties and cities have recommended certain PDA's, however, ABAG appears to be encouraging development in other areas as reflected in the grant to at least one jurisdiction, the city of Larkspur, to consider development of high density housing newer the Larkspur Ferry Terminal. Putting aside the appropriateness of encouraging more housing in the Larkspur Landing area, because this PDA is not identified, the impacts of locating more housing in this location have not been considered in developing this DEIR. The DEIR should address this and all other areas are there where this or similar circumstances indicate that development under this plan is being encouraged or considered. The analysis should be revised to consider the broadened impacts caused by development in additional PDAs.

*A Chapter of the National Audubon Society*

Specifically, the Larkspur area is on San Francisco Bay adjacent to a tidal marsh that has an important core population of endangered species. Increased development in this area has the potential to significantly impact these wetlands and endangered species by direct loss, increased water pollution, increased human activity and domestic animals.

**B17-4** The Marin PDA's are reportedly two areas in San Rafael, Civic Center and Downtown San Rafael, Marinwood and Tam Junction. All of these areas have the potential to impact endangered and other special status species, except perhaps for Central San Rafael –

**B17-5** 2. How the Plan will be implemented needs clarification.  
The DEIR should clarify and address how the plan would be implemented. It is likely some if not all jurisdictions would have to change their general plan land use and zoning designations to implement all or most of the plan. The process whereby this would occur should be discussed. Would or can ABAG require such changes to be made?

**B17-6** How can it be assured that development would be concentrated in PDA's? Property owners can propose whatever they like, including massive developments or small in areas where they are not zoned, and they can request zoning and general plan policy changes. How can ABAG assure the Plan Bay Area would be followed? They or other members of the public can sue if they don't like proposed changes.

**B17-7** 3. Biological resources are not adequately identified and described  
The DEIR addresses specific natural communities. Each of these individual communities taken together comprise the San Francisco Bay Area ecosystem. The bay itself is the largest estuary on the west coast of our continent on which millions of birds depend for rest and refueling on migratory routes, populations of anadromous and marine fish species depend. These populations also feed and enrich our human population. Yet there is no discussion of San Francisco Bay and its overall importance to the people of the Bay Area and to the wildlife that depend on it.

**B17-8** The DEIR should discuss the importance of the Bay regionally, nationally and internationally. The use of the Bay by migratory waterfowl and shorebirds of the Pacific Flyway that depend on it for refueling and overwintering habitat and those that stay here to breed should also be described. There is virtually no recognition of the importance of the Bay habitats for the survival of migratory waterfowl, shorebirds and other water birds such as Terns and migratory land birds that migrate such as swallows and raptors. The worldwide population of many of these species would be severely reduced if Bay habitats were significantly diminished.

**B17-9** The project area has extensive tidal marshes with extensive coastal marsh and slough systems. In the South and North Bay, Sonoma County has the largest ancient tidal marsh that has never been diked in the state, more than 3,000 acres, and Gallinas Creek has largest population of endangered clapper rails in North Bay. These resources warrant mention in the DEIR.

**B17-10** There is no discussion of diked baylands. These are lands that are historic tidal marshes that were diked off for agriculture between 1900 and the 1950's. The existence and importance of these diked lands should be addressed. Under current conditions, they provide habitat. Some are used for growing oat-hay and they present an opportunity to restore tidal marshes.

**B17-11** The wetlands discussion on page 49 references the fact that tidal wetland loss in the Bay area and California has been pronounced due to urban development. This Plan Bay Area should not be yet another reason for wetlands to be lost.

**B17-12** 4. The DEIR does not adequately address special status wildlife

Appendix H includes a list of special status species, however, the discussion makes only a passing mention of endangered and special status wildlife that depend on coastal salt marshes and there is no discussion of the habitat needs of these species.

**B17-13** An essential component of the habitat for endangered species that are dependent on tidal salt marshes, California Clapper Rail and Salt Marsh Harvest Mouse, is the adjacent upland, often referred to as a transition zone. These species depend on finding refuge cover on well-vegetated adjacent uplands to protect themselves from predators during very high tides. These adjacent uplands are also the primary habitat for various species of Song Sparrow that depend on them for that foraging and nesting. These adjacent uplands are at risk of being lost to development of housing or transportation facilities if they are not recognized as being an essential part of the endangered species habitat.

Several of Marin's PDAs, at the Civic Center and Tam Junction, in addition to the Larkspur Landing Area, have the potential to impact tidal marshes, endangered species and their adjacent upland habitats. These potential impacts should be addressed.

**B17-14** The agency that has the primary responsibility for protection our nation's endangered species, the US Fish and Wildlife Service (USFWS) Office of Endangered Species is barely mentioned. The Sufism's recently completed *Draft Recovery Plan for Salt Marsh Species of Central California* should be consulted regarding the habitat needs and threats of San Francisco Bay endangered and threatened species, and recommendations for actions to work toward delisting. The USFWS should also be consulted about the location of endangered species populations, rather than depending on inadequate and limited references such as the NDDDB and NWI maps.

**B17-15** Critical Habitat is identified by the USFWS OES. The discussion seems to imply that this is the only endangered species habitat that needs to be or would be protected. This fails to recognize that critical habitat is not identified for many species because resource limitations have not allowed the USFWS to go through the lengthy process necessary to identify and have public input to designate or update critical habitat designation areas and, in some instances, political influences.

**B17-16** 5. Sources and methods of identifying and analyzing impacts inadequate lead to faulty information and assumptions  
The DEIR assumes that the analysis "greatly overestimates actual impact acreages due to the coarse level of analysis. p 53 We disagree – due in large part to the very limited and faulty sources of data NDDDB and NWI maps. The opposite is probably the case. That there may be wetlands and special status species in locations where they are not currently identified in these systems/documents.

The NWI maps were produced in 1991. Although adequate with some limitations at the time they were produced, with the passage of time wetlands can expand or contract, be restored or filled, so this cannot be considered current information. The DEIR states that the California Natural Diversity Data, (CNDDDB) may include historic references that are no longer extant in a given location leading to an overestimate of species. Just the opposite may be the case. The CCNDDDB is well known to under report the presence of species because of staff limitations, inadequate reporting etc. Its information is commonly recognized as being incomplete and inadequate.

**B17-17** In addition, this assumption/discussion does not consider that all of the potential PDAs are not identified and therefore their impacts have not been considered. Developing PDAs may induce growth nearby in sensitive areas outside of PDAs (ala Larkspur increased development). How can the analysis even be considered to be complete when other areas that are not on the list are being encouraged for development? It is especially troublesome because the Larkspur Station Areas is immediately adjacent to an historic tidal marsh that supports a core population of endangered Clapper Rails. How

many other areas are there like this in the project Area boundaries? How many other areas are there with similar circumstance?

**B17-18** The Plan would encourage and consolidate growth and land use changes along existing transportation already urbanized transportation corridors and it is assumed this strategy would gradually minimize impacts on biological resources. We note that in Marin and most of other counties this is along the Bay which is highly sensitive. Overall the loss of sensitive habitats (tidal, fresh water marshes and riparian habitats) could actually be higher. There should be a discussion of the potential for growth inducing impacts from increased development that would be encouraged due to development of PCAs.

**B17-19** 6. The analyses of impacts and mitigation measures is inadequate  
The mitigation measures cannot not be considered adequate for a number of reasons:

- it is uncertain that they would even be implemented, and even if they are it is unclear whether the proposed measures would be effective. Further, there are qualifications/loop holes such as “where possible” “when feasible” that would allow implementing jurisdictions to not carry out the specific mitigations.

**B17-20** Some conclusions are highly questionable and not supported by any data or explanation. One example is the consistent conclusion that biological/natural resource impacts would be more significant in rural areas, outside of urban areas. Resource impacts in rural areas could be more significant and would be different but not necessarily more significant. Streams and grasslands would be the primary habitats impacted in rural areas, while the urbanized corridors surround San Francisco/San Pablo Bays and have the rural potential to impact tidal and seasonal marshes and several endangered and special status species. Impacts on these habitats could be even more significant than in rural areas. Further affected by the fact that these habitats have already been significantly impacted and reduced in size making remaining habitats even more important to retain and not to further impact.

**B17-21** The DEIR relies on government agencies, the CDFW, USFWS mitigation guidelines and regulation as mitigation for species impacts. First, to enable the public to evaluate their adequacy, the guidelines/regulations should be provided. On page 2-9, it is stated that these laws and regulations are effective incentives for project proponents to design projects that either avoid or substantially reduce impacts on natural resources. It cannot be assumed, and there is no documentation to support, that actual impacts of future projects would be far less substantial than would be suggested by analysis at this stage. Often protection of endangered species ends up being a negotiation between the potential developer and agency and the ultimate loser can be the species.

**B17-22** Transportation dedicated lands; including rail extensions and road widening along existing right-of ways, are assumed to have minimal potential biological impacts. This is not the case, particularly with railroad rights of way. In this case, the lowlying areas adjacent to the tracks are wetlands. This should be acknowledged in the DEIR.

Indirect impacts can also result discussion should also address increased impacts from the presence of increased numbers of people , lights, noise of transportation and urban development

**B17-23** 7. Assessment of impacts and mitigation measures  
Impact: Regional Impacts of transportation projects on resources  
Mitigation 2.9(a) requires a biological assessment to be prepared which would recommend whether mitigation is needed. This EIR should recommend that mitigation be provided for all habitat loss and impacts to special status and migratory species and their habitats. Mitigation should not be put off to be recommended at some later date. This mitigation has number of components that contribute to its uncertain success in mitigating adverse impacts to habitat:

Reconfiguring the project design is recommended to address impacts, however, this requirement is qualified by the statement “whenever practicable”. This is big loophole and it should be deleted.

Allowing the use of a wetland mitigation bank, if there is one available simply sets up for losing wetlands and should not be encouraged or allowed. Using a bank makes wetland loss easier. The first mitigation alternative should be to demonstrate that impacts have been avoided to the maximum extent possible. In addition, we recommend that a “no take” approach be required for special status species. For wetlands a “no net loss” policy should be required. This is the policy of the state of California and should be the policy for Plan Bay Area. Negative effects of light and noise should be avoided, not just minimized.

**B17-24** We agree this impact remains significant. A finding cannot be made that this impact would be mitigated adequately because ABAG and MTC cannot require local agencies to adopt adequate mitigation measures

**B17-25** Mitigation 2.9-b We strongly disagree, for the reasons noted above, that the actual impacts anticipated from anticipated future development would be far less due to potential absence of species. Since no surveys have been conducted and Plan Bay Area is using inadequate source data, the loss of habitat locations for endangered and special status species impacts should be considered to be significant.

Special status species should be presumed to exist where suitable habitat exists. There is an assumption here and in the background discussion that only endangered species habitat that needs to be protected is that designated as critical habitat. This is in error, federal and state laws protect all endangered, special status, migratory and other native species. This should be further discussed and clarified.

No information is provided to support the assumption that the GIS-based analysis overestimates the acreage likely to be affected by future development. If anything, the DEIR should be taking the precautionary approach to ensure protection of habitats that are suitable for the special status species even if it is not known whether they are present. Judging from the lists in the appendix, we would say the list of potential habitats are substantial underestimates of the locations of special status species.

Special status species habitats should first be avoided and mitigation should be acceptable only after thorough evaluation of avoidance alternatives. We agree that these impacts would continue to be significant even with mitigation.

**B17-26** Mitigation 2.9c, construction activities that would adversely affect non-listed raptor species and nesting bird species considered special-status by USFWS or CDFW. The discussion states that mitigation would be consistent with CEQA, USFW and CDFW guidelines and regulations is and that these mitigation measures shall be considered by implementing jurisdictions. The guidelines and regulations should be stated for the reader to be able to evaluate them. This is no certainty, however, at all that they would be used by jurisdictions.

It should be noted that the San Francisco Bay Regional Water Quality Control Board also regulates wetlands.

#### 2.9-2 Impact on jurisdictional wetlands

**B17-27** We agree that impacts to these resources should be avoided. A “no net loss: of wetland acreage and value should be implemented. Proposed projects should be required to avoid wetland loss by locating outside of wetlands, except for water dependent projects.

The discussion should address the role of the Army Corps of Engineers and Regional Water Quality Control Board, both of which regulate wetlands.

Because PDA's are located in urban areas adjacent to or in wetlands, regional impacts of development on special-status communities cannot be expected to be relatively minor since majority of proposed development is in urbanized areas, in or near wetlands.

Impacts to special status species should be expected to occur not only when projects are developed in previously undeveloped areas, but also when they are located adjacent to or near tidal marshes. Even if the wetland itself is not filled, if the project is adjacent to the marsh then it is destroying the essential transition zone needed by Clapper Rails and Harvest Mice. So the potential for impacts in urban areas correctly cannot be ruled out – in fact, they must be anticipated.

**B17-28** Mitigation measures for wetland impacts should be required, not just considered “where feasible”

A minimum 1:1 ratio mitigation is insufficient. Mitigation should be required by restoration 2:1 in a location near the site of loss so the same species can benefit.

**B17-29** Impact 2.9-3 Interfere with the movement of native resident or migratory fish or wildlife species, wildlife corridor or impede use of native wildlife nursery site.  
We disagree that this impact would be less than significant

The combined affect of land and transportation development should be considered significant

**B17-30** 2.9 (e) Essential Connectivity Areas

All wetlands and riparian corridors along the bay and riparian corridors along streams should be considered movement corridors, along with existing open space lands. We agree this impact would remain significant after mitigation.

**B17-31** Impact 2.9-4 The project would conflict with local conservation policies – HCP, NCCP

This impact should not be limited to HCPs and NCCPs. Local general plan policies and ordinances local ordinances addressing wetland loss, transition habitats, migratory and special status species should be complied with. Local jurisdictions should not be required to have weaker standards than they have adopted, and mitigation should not be left for some future threshold currently undefined threshold. Avoidance should be the goal. Unless avoidance is required this impact should remain significant'

**B17-32** 8. Climate Change Impacts not adequately addressed

The potential impacts of sea level rise and climate change are not adequately addressed. In fact, some of the PDA's are located in lowlying areas that are clearly identified in BCDC and other sources predicting sea level rise to be inundated. Marin County PDA sites in San Rafael and Tam Junction are in this category.

Many of the listed Protection Strategies are would be useful to consider and use. We have a few questions:

**B17-33** - The setback/buffer strategy addresses the value of buffers, but it does not seem to consider the value of using tidal wetlands and adjacent upland transition zones as buffers against sea level rise. Please address this option.

**B17-34** - Raising the floor level of structures is an option used in other flooded areas. How would you deal with people getting around with flooded streets?

**B17-35** We support locating development outside of high-risk areas. This could be combined with funding to purchase properties and restore wetlands or open space lands.

**B17-36** The DEIR should discuss the public safety, economic and environmental impacts of directing increased housing and transportation development to unsafe-at-risk locations. Although many laudable alternatives are included, the DEIR should address how many other PDA's are at risk of flooding from sea level rise and recommend how these should be dealt with.

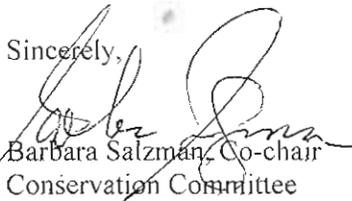
**B17-37** Further, although SB 375 apparently focused completely on transportation as a way to reduce greenhouse gasses. Plan Bay Area should not make that mistake. Vegetation also helps to reduce greenhouse gasses. A strategy or mitigation measure should be presented that also includes wetland and other habitat restorations that would provide air quality benefits along with increasing habitat, and improving aesthetic and recreation opportunities.

**B17-38** 9. There should be a discussion of Priority Conservation Areas  
The Plan describes PCAs as planning strategies that have been "identified to help protect and maintain natural habitats and water resources." There is no evidence in the plan or the DEIS, that we could find, that demonstrated that the PCAs will do this. The DEIS should address how the PCAs have been chosen and how they have been evaluated to comply with this strategy. It appears they have been largely chosen and rather than through any scientific analysis or process.

**B17-39** The third strategy is the only one that would apply to natural resources. It only deals with planning, mapping and other studies. The DEIR should explore a more active, aggressive program to assure the important natural resources are protected. A meeting convened with wildlife agencies should yield the essential information about the areas needing to be protected and the restoration/enhancement work that needs to be done.

Thank you for considering our comments

Sincerely,

  
Barbara Salzman, Co-chair  
Conservation Committee



Phil Peterson, Co-chair  
Conservation Committee

**From:** Rod Diridon <rod.diridon@sjsu.edu>  
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**Date:** 5/30/2013 11:03 AM  
**Subject:** Letter sent to MTC and ABAG from SCCLCV

MTC Chair Amy Worth and ABAG President Mark Luce and Members,

The Board of the Santa Clara County League of Conservation Voters (SCCLCV) carefully reviewed the MTC/ABAG Plan Bay Area recently and generally supports the plan with the addition of the positions taken by the Sierra Club, SPUR, and TransForm. While the Board did not take a formal stand on the issues, that not being the Board's role, I was asked to share some universally held concerns. Points of significant disagreement with the plan are the HOT lane policy and the need for an enforcement component.

The sad lack of equity in a "use-if -you-can-pay" HOT lane system is obvious so will not be discussed here. Following are four other interrelated HOT lane issues for your consideration.

**B18-1** First, a system of HOT lanes will increase access on the inter-regional highways but will dump those added single passenger vehicles into the intra-regional highway and feeder street networks on the employment end of the trips. The employment access highway and feeder street capacity can not be significantly expanded with the pavement already against the sound walls and back yards. Indeed, the employment sites' access roads can't handle the current traffic. Those cities don't even have funds to maintain let alone expand the streets even if there was lane expansion space. So the HOT lanes will soon create terminal grid lock on the employment end of the commute.

**B18-2** Second, an expansion of the inter-regional highway capacity promotes the development of housing far from jobs...that is the worst kind of "leap-frog urban sprawl". The more access to remote housing the less the local cities' "green line" sprawl barriers will mean as low density sprawl leap frogs into the central valley while industry continues to concentrate in Silicon Valley, Oakland, and San Francisco. That not only eliminates open space and farm land but creates a tax base dichotomy leaving the central valley towns the expensive-to-serve sprawl housing spread out far from the core area tax-rich job-base.

**B18-3** Third, climate change is exacerbated not only by the longer distance single-passenger-vehicle commutes but because single family dwellings and sprawl road patterns are much less energy efficient than are modern, multiple-unit transit oriented developments (TODs).

**B18-4** Finally re the HOT lane issue, by promoting the use of HOT lanes and related sprawl, concomitantly demand for TODs and related transit will be reduced. On the contrary, allowing the inter-regional highways to reach capacity encourages the in-fill development and purchase or rental of TODs and guides ridership into the safer, more economical, and less polluting mass transit systems. Importantly, the increased transit ridership increases the user-revenue generated by the systems recovering more of the cost of operations and reduces the taxes needed to support those systems.

**B18-5** Finally, on a related aspect of the plan, unless enforcement procedures are included, the plan will only be adhered to by the jurisdictions that are already implementing good regional planning. The cities with the most egregious jobs/housing imbalance will tend to continue to compete for jobs while using restrictive zoning to force higher density housing to occur in other communities by avoiding TOD and other in-fill options. A plan without an enforcement component is really only a concept without a consistent implementation motivation.

**B18-6** Please rethink your support for the HOT lane system's expansion and add an enforcement component.

Rod

Rod Diridon, Sr., President  
League of Conservation Voters of Santa Clara County

<rod.diridon@sjsu.edu>



May 16, 2013

The Honorable Amy Worth, Chair  
Metropolitan Transportation Commission

The Honorable Mark Luce, President  
Association of Bay Area Governments

101 Eighth Street  
Oakland CA 94607

RE: Comments on the Draft Plan Bay Area & Draft Environmental Impact  
Report (EIR)

Dear Chair Worth, President Luce, Commissioners and Members:

We appreciate very much your diligence and all the time and effort that have gone into producing the Bay Area's first Sustainable Communities Strategy. We are committed to the effective coordination of land use and zoning for housing with the transportation planning for our region.

The Non-Profit Housing Association of Northern California (NPH) respectfully submits these comments on behalf of our members. NPH is the collective voice of those who support, build and finance affordable housing in the San Francisco Bay Area and we have significant concerns with the feasibility of the Draft Plan Bay Area (Plan).

The work your agencies commissioned to develop the Plan, as well as independent economic analyses, all conclude that the greatest constraint to job creation and housing affordability is a lack of adequate housing production in the nine counties of the Bay Area. We therefore urge you to plan for a higher housing number and a more equitable distribution of those numbers across the region than currently proposed.

**B19-1**

The reality is that too many Bay Area communities produce low-wage jobs, but oppose development of affordable multifamily housing, thereby forcing the local workforce to drive long distances and live in overcrowded conditions. Plan Bay Area must forcefully address this situation and promote policies and planning that remedy this jobs-housing imbalance and reduce substantially forced in-commuting. This is the only way to significantly reduce vehicle miles traveled and the associated greenhouse gas emissions.

A more just and equitable distribution of the Regional Housing Needs



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Allocation (RHNA) would place more affordable housing in suburban jurisdictions that are job centers, receive major public transportation investments and enjoy quality schools and other amenities.

B19-1.5

Unfortunately, the Draft Plan places 95% of the housing growth into just fifteen cities with Priority Development Areas (PDAs) and concentrates 70% of the RHNA in these PDAs. A modest reduction in that concentration would allow us to plan for an adequate number of new affordable homes in *all* transit-connected suburban job-centers, where they are desperately needed. These are the “PDA-like places” which ABAG’s executive board agreed to emphasize in its unanimous July 2011 vote. **Therefore, we call for a shift of 25,000 RHNA units from PDAs to “PDA-like places,” with a corresponding shift in the Plan.**



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B19-2

Adopting a final SCS that expands housing and job opportunities beyond those set forth in the Plan is particularly urgent given the results of the “PDA Development Feasibility & Readiness Assessment.” We greatly appreciate MTC commissioning this study. It is an excellent work product that represents a rigorous assessment of a representative sample of PDAs. Importantly, the study confirms our concerns about overestimates of the feasibility—even through 2040—of a significant number of PDA housing units. **The study’s results suggest that a substantial amount of the specific planned housing in the Plan is simply not feasible: between 105,000 and 200,000 of the 528,000 PDA units.** Clearly, these results mandate planning for a correspondingly higher number of overall units in the final Plan to account for this remarkable feasibility gap.

In addition, we would like to emphasize our support for some of the key state level reforms identified in the “PDA Development Feasibility & Readiness Assessment” and call for these to be included immediately in the advocacy agenda for MTC and ABAG. **In particular, the creation of an effective replacement for redevelopment and ongoing, dedicated state funding for affordable housing are imperative to the success of this Plan. Without new sources of funding for affordable housing at every level of government the feasibility gap in the Plan will be even greater.**

B19-3

We also note that, in discussing Alternative 4, the DEIR appears to agree with our view of SB 375’s requirements: “Compared to the Proposed Plan, it [Alternative 4] includes four percent more households and one percent more jobs. **This higher growth total reflects the Senate Bill 375 requirement to house the region’s entire population (i.e., provide a house for every household employed in the region).**” (DEIR, p. 3.1-10)



THE NON PROFIT HOUSING ASSOCIATION OF NORTHERN CALIFORNIA

While we understand that the Regional Transportation Plan will be revisited in four years. The key connection between land use and transportation planning is the RHNA, which runs on an eight-year cycle. This means that we will not have an opportunity to change this land use plan until 2022. Therefore, we must get it right now.

Thank you for your kind consideration of these comments.

Sincerely,

A handwritten signature in black ink that reads "Dianne J. Spaulding". The signature is written in a cursive, flowing style.

Dianne J. Spaulding  
Executive Director  
The Non-Profit Housing Association of Northern California



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May 16, 2013

Metropolitan Transportation Commission  
Plan Bay Area Public Comment  
101 Eighth Street  
Oakland, CA 94607

**RE: Draft Plan Bay Area Comments: Climate Initiatives Program; DEIR Air Quality Mitigations; DEIR and SB 375 CEQA Streamlining**

B20-1 On behalf of NRDC (Natural Resources Defense Council), which has 1.2 million members and activists, 250,000 of whom are Californians, we submit the following comments regarding the Draft Plan Bay Area and the Plan's Draft Environmental Impact Report (DEIR). NRDC has joined an April 30th, 2013 sign-on letter to MTC/ABAG calling for the inclusion of high-performing aspects of the Environment, Equity and Jobs EIR alternative in the final Plan Bay Area, as well as a May 16<sup>th</sup>, 2013 sign-on letter from the 6 Wins Coalition and others regarding transit operations, housing allocations and anti-displacement policies. This letter contains comments regarding the Climate Initiatives Program, the DEIR's Air Quality Mitigations and the importance of developing an EIR and Plan that convey SB 375's CEQA streamlining benefits to qualifying Transit Priority Projects.

As co-sponsors of both AB 32 and SB 375, NRDC has been active in the development and implementation of Sustainable Communities Strategies throughout the state. With the issuance of the Draft Plan Bay Area, the Bay Area once again has shown itself to be a leader in regional planning and sustainable development. Already a region committed to open space preservation, public transit and encouraging compact development, the Draft Plan Bay Area reveals a vision for the Bay Area that continues this legacy. We provide the following comments and recommendations on three specific aspects of the Draft Plan Bay Area and DEIR in the spirit of improving what is already a quality effort.

## CLIMATE INITIATIVES PROGRAM

The per capita GHG emissions reduction target for 2035 assigned to the Bay Area by the California Air Resources Board is 15%. According to the Draft Plan Bay Area, per capita GHG emissions will be reduced by 16% by 2035, surpassing the CARB target. This will be accomplished by a combination of land use changes and transportation system investments, and a set of innovative programs contained in the Climate Initiatives Program (CIP), which includes car sharing, incentives for clean vehicle purchases and commuter incentives.

The Bay Area is to be commended for its ambition in support of the CIP. It is vital that new and promising transportation strategies be explored, brought to scale, and analyzed. In putting forward these programs and committing to their meaningful implementation, the Draft Plan Bay Area is providing a service to sustainable transportation innovation, both in the Bay Area and nationally. There is a lot to be excited about here.

**B20-2** Nevertheless, there remains the very real possibility that the CIP's failure to perform to the Draft Plan Bay Area's expectations could jeopardize the Plan's legal responsibility to meet CARB's 2035 targets. The CIP is held responsible for reducing per capita GHGs by 6.6%. If the CIP's projections are off by as little as even a fifth, the Bay Area's 2035 GHG target will not be reached. It is therefore essential to be as specific as possible in describing the CIP elements and including reasonable, careful assumptions about travel preferences and the likelihood of the recommended strategies achieving the targets.

From NRDC's perspective, the two CIP elements that need the most attention are **Car Sharing (-2.8% per capita GHG)** and **Smart Driving Strategies (-1.6% per capita GHG)**.

**B20-3** Car sharing is a relatively new transportation innovation, and although there is some academic study of car sharing, the record is not particularly deep. For example, while research has shown steady growth in car sharing memberships, car sharing is disproportionately concentrated in urban areas and, particularly, in college and university settings. Applying assumptions from this limited set of users to the general adult population is therefore problematic. While the Draft Plan Bay Area does distinguish between likely membership densities in urban and suburban areas, there are more questions in need of consideration. It is unclear, for example, whether a car sharing member who signs up in their early twenties will continue to use car sharing the same way, or to the same extent, as they move through their lives, particularly the high VMT decades of the 30s and 40s when work and family-related travel spike household VMT. Further consideration of this dynamic, among others, as well as more documentation about the assumption of 15% adoption in dense urban areas by 2035, is therefore recommended. Car sharing is given a significant share of the Draft Plan's 2035 emissions reductions—17% of the *total*—so it is essential that the assumptions and analysis underlying the strategy be sound.

**B20-4** Smart Driving Strategies, also known as "eco-driving," have significant potential for reducing GHG emissions by improving the efficiency of vehicle operations. Unfortunately, there is no evidence of which we are aware that shows that widespread changes in driving behavior (such as driving at the speed limit, trip linking, keeping tires inflated or trunks empty, etc.) can be accomplished, or sustained, through a public information effort or advertising campaign, as envisioned in the Draft Plan Bay Area. Assigning such a significant emissions reduction to a largely unproven strategy is problematic.

MTC is in the midst of a pilot program to test whether and how a public information approach can change driving behavior, and will presumably adjust this emissions reduction target based on the outcomes. However, given the significant lack of technical support for such significant

reductions, we would recommend adjusting the projection now to a more modest level, or even eliminating the strategy altogether as a “line item” reduction. We do know that the installation of meters and other types of real-time driving information—which is an element of the Smart Driving Strategies program—can impact driving speed and miles travelled. Perhaps a revised projection can be based solely on that aspect of the Smart Driving Strategies approach; in that case, the empirical basis for the reduction would be on more solid footing.

NRDC supports, and is excited by, the other Climate Initiatives Programs. The Commute Benefit Ordinance strategy is particularly well-supported, the Bay Area already relies on a robust system of employer vanpools, and we strongly support ABAG/MTC’s efforts to implement a vehicle buy-back program (and are at your service to help with such a program, if it would be helpful). The Bay Area is also a natural place to commit to the expansion of our EV charging infrastructure and to encourage the purchase of clean vehicles. The emissions reduction projections for these strategies in the Draft are reasonable.<sup>1</sup>

## DEIR AIR QUALITY MITIGATIONS

B20-5

Concentrating all new development within the existing urban footprint is among the signature accomplishments of the Draft Plan Bay Area. No other Sustainable Communities Strategy adopted so far has zero greenfield development. This is a tremendous accomplishment. The DEIR acknowledges, however, that siting new development in this way can place sensitive receptors in close proximity to existing high volume roadways, increasing their exposure to vehicle-based pollutants. Such exposure has been associated with elevated cancer risk, the development and onset of asthma, and premature mortality. In Mitigation 2.2(d), the DEIR lays out a set of recommended site-specific mitigations that we support. The filtration, site configuration recommendations, tree planting and limitations on land uses are all consistent with recommendations NRDC has made in other forums.

We would only recommend that Mitigation 2.2(d) provide more specific guidance as to *when and under what circumstances* such project-specific mitigations would be appropriate. Providing no guidance in this area may imply that there are no sites that necessarily require mitigation or, conversely, that all sites should be subject to the mitigation. To clarify, then, we propose the following language to be added to Mitigation 2.2(d):

To help determine the appropriateness of project and site-specific mitigation, MTC/ABAG recommends that implementing agencies and/or project sponsors utilize the BAAQMD’s most recent *Recommended Methods for Screening and Modeling Local Risks and Hazards* guidance and BAAQMD’s Google Earth screening tool to identify areas/sites that may surpass health-based air quality thresholds and thereby be appropriate for mitigation.

<sup>1</sup> This is not to say that any decrease in the projected reductions from Car Sharing or Smart Driving Strategies can necessarily be recouped simply by scaling the other CIPs up.

## SB 375 and CEQA STREAMLINING

B20-6

As the Draft Plan Bay Area notes, “to encourage integrated land use and transportation planning, Senate Bill 375 sets up a process whereby certain projects consistent with the adopted Plan Bay Area may qualify from relief from some CEQA requirements.” Indeed, a fundamental premise of SB 375’s environmental review provisions is that certain environmental impacts can and should be analyzed, and mitigated, at the regional level. Projects that are consistent with the Plan can then save time, money and minimize legal vulnerability by “tiering” off of the Plan’s EIR.

While the Draft Plan Bay Area notes that these benefits are part of SB 375, and that exploring them is an option for Bay Area localities, there is no detailed treatment of how the Plan and the DEIR can *facilitate* tiering and promote quality development. While it is indeed only an option for localities to utilize the SB 375 CEQA streamlining provisions, that option is not truly available if the Plan Bay Area EIR does not satisfactorily address environmental impacts and mitigations. We have also learned from other Sustainable Communities Strategies that “consistency” with an SCS is not self-evident, so guidance is needed here, as well.

The overall highest priority is that the Plan Bay Area FEIR contains sufficient analysis to convey CEQA streamlining benefits to qualifying projects. This could include, of course, a comprehensive analysis of all Transit Priority Areas, or, short of that, an analysis of a range of TPA/PDA types, or detailed analysis of a selection of TPAs/PDAs that appear to have the most promise for investment and development in the relatively near term. In our view, the Sacramento Area Council of Governments has done an exceptional job in this very area and we encourage consulting with them on this priority. Good first steps could also include:

- Committing MTC/ABAG, as part of Plan Bay Area’s implementation, to *actively encouraging and facilitating* the use of SB 375-related environmental review provisions to encourage Transit Priority Projects and other sustainable development consistent with the Plan. Such explicit mention of utilizing these provisions could, for example, be added by retitling the “Improve Permit Process” section (p. 122) to “Utilize SB 375’s Environmental Review Provisions to Facilitate Quality Development” and expanding the section to include a detailed workplan of how MTC/ABAG can achieve this goal. This could include integrating this goal into MTC/ABAG’s legislative, consultative and grant seeking functions;
- Create guidance to assist localities in determining consistency with Plan Bay Area. SACOG has put together a useful worksheet that could inform a Plan Bay Area effort.<sup>2</sup>

<sup>2</sup> <http://www.sacog.org/2035/files/Determination-MTP-SCS-Consistency-Worksheet.pdf>

- Create a specific section or appendix in the FEIR and Plan Bay Area that collects all relevant SB 375 CEQA streamlining provisions in one location for easy reference and utilization. In the Land Use and Physical Development Section of the DEIR alone, for example, there are three separate discussions of the streamlining provisions. Creating a type of handbook for localities looking to utilize these provisions would be a preferable approach;

Thank you very much for your time and attention. We understand that developing a Sustainable Communities Strategy and its Draft Environmental Impact Report in such a short timeframe was a serious endeavor and we commend you for your hard work and significant accomplishments with this Plan and the DEIR.

If you have any questions or need any additional information, please contact me at [ihorner@nrdc.org](mailto:ihorner@nrdc.org) or at (415) 875-6100.

Sincerely

A handwritten signature in black ink, appearing to read 'Justin Horner', written over a light gray rectangular background.

Justin Horner, MCP  
Transportation Policy Analyst

May 16, 2013

Metropolitan Transportation Commission  
Amy Rein Worth, Chair  
Steve Heminger, Executive Director  
Miriam Chione, Staff  
101 8<sup>th</sup> Street  
Oakland, CA 94607

Association of Bay Area Governments  
Mark Luce, President  
Ezra Rapport, Executive Director  
Marisa Raya, Staff  
101 8<sup>th</sup> Street  
Oakland, CA 946107

Re: Draft Plan Bay Area and Draft Environmental Impact Report

These comments on the Draft Plan Bay Area and the Draft Plan Bay Area Environmental Impact report are submitted on behalf of the Rose Foundation for Communities and the Environment and New Voices Are Rising. The Rose Foundation for Communities and the Environment is a non-profit public charity with offices in Oakland, California. New Voices Are Rising is a youth leadership development project, sponsored by the Rose Foundation, that works with low income students and students of color in Oakland and nearby cities. Most of our students live in areas identified as Priority Development Areas under the draft Plan.

We appreciate the effort that has gone into beginning to address the very real threat of climate change in the current Draft Plan Bay Area. We also appreciate the Draft Plan's acknowledgement of the need to slow the increasingly heavy and inequitable burden of housing and transportation costs borne by our students families and other low-income bay area residents and bay area residents of color.

**B21-1** We write to urge Metropolitan Transportation Commission and Association of Bay Area Governments incorporate measures from Alternative 5, the Environment, Equity and Jobs Alternative, into the final Plan. We particularly urge:

- Increase investment in affordable housing at least to the levels included in Alternative 5
- In line with Alternative 5, new housing development, especially affordable housing, be planned for, and incentivized in, all transit-rich and job-rich areas throughout the region, not just in the Priority Development Areas.
- Increase investment in public transit operations (especially bus transit operations at least to the levels included in Alternative 5
- Use part of increased transit funding to support free youth transit passes and/or significantly reduced-price multi-modal transit passes for low-income riders
- Restore transit service to levels that were normal before extensive transit cuts began in 2006.
- Incorporate and fund adequate explicit measures to make streets safe and accessible for pedestrians, bicyclists and transit riders as part of the final RTP.

- Include a regional incentive program to encourage development of transit-accessible affordable housing away from freeways and other sources of pollution.

These measures would help mitigate the proposed Plan's impact on human health and the environment. They would also mitigate displacement pressures on our students' communities tied to extensive population growth in areas where residents are currently disproportionately burdened by housing costs. These measures would also help slow growing housing/transportation cost burdens on our students' families and their low income neighbors to a greater degree than would relying on measures proposed in the Draft Plan alone.

As the Equity Analysis indicates, low-income households (households with incomes \$38,000/year or below) are currently paying out an average of 72% of their income for housing and transportation. This burden is projected to worsen under all of the alternatives analyzed in the draft Environmental Impact Report and Equity Analysis; Alternative 5 however, results in the smallest increase in combined housing and transportation expenses for low-income families.

By reducing displacement pressure, these measures in Alternative 5 also reduce some of the pressures that contribute to the growing trend toward suburbanization of poverty. As a result these measures also have the potential to reduce upward pressures on per capita greenhouse gas emissions throughout the region, by reducing the likelihood that low income residents will be priced out of current neighborhoods, moving to more distant communities without significant employment opportunities. For many of our students' families and other low-income households, these factors have led to longer, more expensive and/or more polluting commutes.

#### Explanation of recommendations:

We urge that investment in affordable housing be increased at least to the levels included in Alternative 5, and that, again in line with Alternative 5, new housing development, especially affordable housing, be planned for, and incentivized in, all transit-rich and job-rich areas throughout the region, not just in the Priority Development Areas. Both of these measures are key to reducing displacement pressure on low-income households and communities of concern. As the Equity Analysis indicates on page 4-19, projected displacement risk for overburdened renter households (households paying out more than 30% of income on rent) within communities of concern is significantly higher under the Draft Plan than under Alternative 5.

We also urge that investment in public transit operations (especially bus transit operations) be increased at least to the levels included in Alternative 5, with some portion of increased transit funding used to support free youth transit passes and/or significantly reduced-price multi-modal transit passes for low-income riders. Some portion of added transit funding should be allocated to restoring transit service to levels that were available before extensive transit cuts began in 2006. A Health Impact Assessment conducted by the Alameda County Department of Public Health, released May 15, 2013, found that increased transit costs and decreased transit reliability stemming from past funding cuts and service cuts, have had significant negative health impacts for low-income residents and residents of color within Alameda County.

We also urge that the final Plan incorporate and fund adequate explicit measures to make streets safe and accessible for pedestrians, bicyclists and transit riders as part of the final RTP. The current plan relies too heavily on reduced per capita VMT as a mechanism for reducing accidents and injuries.

In addition, the final Plan should include a regional incentive program to encourage development of transit-accessible affordable housing away from freeways and other sources of pollution. There is substantial evidence that locating sensitive receptors 1,000 feet or more away from freeways and other heavily traveled roadways significantly reduces cancer risk, risk of asthma attacks and other health risks from diesel PM, other particulate and other pollutants. While MTC/ABAG may lack authority to compel creation of such buffers, MTC/ABAG absolutely can provide incentives to appropriate agencies, and to proponents of individual development projects, to encourage this pattern of development as a mitigation strategy.

#### DEIR comments:

We note that there are several ways in which the DEIR fails to adequately analyze the environmental and health impacts of the project and the alternatives.

**B21-2** First, the draft EIR does not adequately analyze the potential of locating residences and sensitive receptors at least 1000 feet from freeways and other heavily traveled roadways to mitigate the draft Plan's (Preferred Alternative's) cancer risks and other health impacts. This question was raised repeatedly in comments during the scoping process, yet the draft EIR fails to address it.

**B21-3** Second, although the draft plan reduces per capita VMT, the draft Plan is projected to increase in VMT for the region overall. This increase in VMT will increase PM 10 pollution from entrained road dust, particularly in freeway corridors. The draft EIR does not adequately analyze the impacts of this increase on human health and the environment, nor does it adequately analyze equity impacts of this increase in PM 10 levels. Alternative 5, with lower VMT and lower PM 10 levels, offers a model for mitigation measures for these impacts, which should be incorporated into any final Plan.

**B21-4** Third, the draft Plan fails to incorporate or fund adequate explicit measures to make streets safe and accessible for pedestrians, bicyclists and transit riders. The draft EIR does not adequately analyze the health and safety impacts of increased population in Priority Development Areas and other transit-rich areas without these additional investments in pedestrian, bike and transit related-infrastructure.

**B21-5** Fourth, the draft EIR does not adequately analyze the effect of a VMT tax as distinct from the impacts of investments funded by the tax. The draft EIR does not quantify what impact, if any, a VMT tax would have in reducing vehicle miles traveled, as distinct from the impact of the other measures and investments included in Alternative 5, (such as increased funding for transit operations, increased funding for affordable housing, funding for street improvements to increase safety and access for pedestrians, bicyclists and transit riders, etc.) Therefore, in endorsing Alternative 5, we endorse the investments and other strategies it contains, without specifically endorsing the VMT tax. These investments could be funded by a different, and potentially less politically controversial source. [For example, one revenue source that has been suggested is proceeds of emission permit auctions conducted under the California Global Warming Solutions Act (AB32).]

**B21-6** Fifth, the DEIR fails to adequately analyze the Plan’s potential to accelerate community displacement and the suburbanization of poverty, and, as a result, also fails to accurately reflect the extent to which Alternative 5 outperforms the proposed Plan on greenhouse gas emissions and criteria pollution.

**B21-7** In addition, neither the DEIR nor the draft Equity Analysis adequately analyzes the equity impacts of the displacement pressures identified in the draft “Plan Bay Area” document.

The draft “Plan Bay Area” acknowledges that the draft Plan will lead to displacement of a higher percentage of low-income residents than either Alternative 5 or the No Project Alternative. However, the EIR fails to recognize, analyze and propose mitigations for this impact. The DEIR does not provide support for an assumption that low-wage residents displaced from core Bay Area communities, (such as San Francisco, Oakland and San Jose,) for more distant communities with lower housing costs, such as (Antioch, Stockton, Manteca, or the Sacramento suburbs,) will find jobs near their new homes, rather than continuing to commute to their current jobs. The EIR’s conclusion that the draft Plan will not lead to an increase in the rate of in-commuting from outside the region, nor in any increase in the rate of cross-commuting between counties therefore is not credible.

As a result, the EIR may significantly underestimate the extent to which Alternative 5 outperforms the proposed Plan in reducing commute-related greenhouse gas emissions and criteria pollution.

**B21-8** Sixth, the draft EIR fails to adequately analyze the impact of increasing transit ridership without investing in transit operations in amounts sufficient to restore bus service throughout the region to service levels that existed before significant service cuts began in 2006.) The DEIR’s assumptions related to transit over-crowding significantly underestimate the level of overcrowding that currently exists, particularly at peak hours, on both buses and BART. The recently released Alameda County Department of Public Health Impact Assessment shows that overcrowding is already creating health impacts for transit riders, especially for transit dependent riders for whom over-crowding not only impacts the quality of their experience riding transit but also the extent to which they can rely on scheduled service times in commuting to work and school, in as much as overcrowded buses cannot accommodate additional riders, and sometimes simply pass by, forcing riders to wait for the next bus. The health impacts of transit crowding are also immediate and often painful for elderly and disabled riders.

Thank you for the opportunity to submit these comments on the Draft Plan Bay Area and its Draft Environmental Impact Report.

Sincerely,

Jill Ratner  
President, Rose Foundation for Communities and the Environment

Myesha Williams  
Co-Director, New Voices Are Rising



May 16, 2013

Amy Worth, Chair, and Commissioners, Metropolitan Transportation Commission  
Mark Luce, President, and Members, Association of Bay Area Governments  
101 Eighth Street  
Oakland, CA 94607

Dear MTC Chair Worth and ABAG President Luce, and Commissioners/Members:

We strongly support regional planning that coordinates Bay Area transportation and housing/land use decisions to reduce greenhouse gas emissions and to meet the region's full housing needs for people of all incomes, in accordance with SB375. Done well, regional planning will protect our environment, improve our economy, increase social equity, conserve agricultural lands and make our lives safer, healthier, and more secure. These are issues of region-wide importance that require thoughtful regional policies.

**B22-1** | The recently released Draft Environmental Impact Report (DEIR) and Equity Analysis provide a wealth of information that should be used to improve the Draft Plan Bay Area approved for study last summer. In particular, we note that the DEIR identifies the Environment, Equity, and Jobs (EEJ) scenario (Alternative 5) as the “environmentally superior alternative among the scenarios analyzed.” The EEJ alternative also outperforms the other alternatives on most of the performance targets and equity metrics your agencies have adopted.

**Compared to all the other alternatives, the EEJ alternative would bring us less traffic, healthier residents, fewer traffic deaths, more affordable neighborhoods, and it would do a better job of allowing our most vulnerable neighbors to stay in their homes.**

**We urge MTC and ABAG to incorporate the best elements from the EEJ Alternative and add key mitigations into the Final Plan Bay Area to improve outcomes on a host of issues vital to the future of the region.** The following policies should be considered to improve the Draft Plan and mitigate its impacts. Because environmental protection, public health, economic prosperity, and social equity of our region are interconnected, addressing each of these issues will benefit multiple bottom lines. In brief, we urge you to improve the Draft Plan's performance in the following ways:

- B22-2** | • **Transit:** Substantially increase funding for transit operations and institute a regional youth bus pass.
- B22-3** | • **Highways:** Ensure Express Lanes expand transportation choices, mitigate impacts on low-income commuters, and optimize use of existing highways without building new lanes.
- B22-4** | • **Affordable Housing:** Plan for sufficient housing affordable to low-wage workers in all infill locations with access to jobs or transit.
- B22-5** | • **Displacement:** Strengthen OneBayArea Grant program to better incentivize local anti-displacement and affordable housing policies. Fund mitigations, such as land banking and housing rehab.

- B22-6** • **Health and Active Transportation:** Fund more active transportation and complete streets programs to maximize health co-benefits of physical activity and transit use. Better mitigate air pollution.
- B22-7** • **Jobs:** Quantify construction jobs and ripple economic impacts from infrastructure investments. Work to ensure that the plan creates local jobs with decent wages, benefits, and career ladders.
- B22-8** • **Sea Level rise:** Incorporate stronger mitigations in impacted areas, embracing emissions reductions strategies, such as setbacks, wetland restoration, and other green infrastructure solutions.
- B22-9** • **Conservation:** Strengthen policies to conserve and invest in parks, open space, habitat, and working lands. Incorporate conservation data into plans and project development and approvals.

Many of us will submit more detailed recommendations on specific elements of the plan, and we are participating in the public workshops and other opportunities to respond to the draft documents. We ask that your staff present options for better addressing these critical issues in the Final Plan by incorporating these and other policies. If we all work together over the next few months, we are confident that the final Plan Bay Area can build on the Bay Area’s strengths to lead the way for the rest of California and the nation.

To follow up on this letter please contact Sam Tepperman-Gelfant with Public Advocates ([stepperman-gelfant@publicadvocates.org](mailto:stepperman-gelfant@publicadvocates.org), 415.431.7430 x324) and Clarrissa Cabansagan with TransForm ([ccabansagan@transformca.org](mailto:ccabansagan@transformca.org), 510.740.3150 x333).

Sincerely,

Jenny Bard, Regional Director, Programs and Advocacy  
**American Lung Association in California**

Roger Kim, Executive Director  
**Asian Pacific Environmental Network**

Carl Anthony and Paloma Pavel, Co-Directors  
**Breakthrough Communities**

Andy Katz, Director of Air Quality and Government Relations  
**Breathe California**

Rosa De León, Lead Organizer  
**Californians for Justice - San Jose**

Wendy Alfsen, Executive Director  
**California WALKS**

Tim Frank, Director  
**Center for Sustainable Neighborhoods**

Gen Fujioka, Public Policy Manager  
**Chinatown Community Development Corporation**

Amie Fishman, Executive Director  
**East Bay Housing Organizations**

Stephanie Reyes, Program Director  
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**Housing Leadership Council of San Mateo County**

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**Institute for Community and Civic Engagement**

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**League of Women Voters of the Bay Area**

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**Natural Resources Defense Council**

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**Non-Profit Housing Association of Northern California**

Karyl Eldridge, Leader  
**Peninsula Interfaith Action Affordable Housing Task Force**

Richard Marcantonio, Managing Attorney  
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Anne Kelsey Lamb, Director  
**Regional Asthma Management and Prevention**

Marty Martinez, Bay Area Policy Manager  
**Safe Routes to School National Partnership**

Kirsten Snow Spalding, Policy Consultant  
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Liz O'Donoghue, Director of Infrastructure and Land Use  
**The Nature Conservancy**

Jeff Hobson, Deputy Director  
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Allen Fernandez Smith, President & CEO  
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Elizabeth Stampe, Executive Director  
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May 16, 2013

Amy Worth, Chair  
Metropolitan Transportation Commission (MTC)

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***Re: Comments on Plan Bay Area and the Plan Bay Area EIR***

Dear MTC Chair Worth and ABAG President Luce:

SPUR offers the following comments on the complete draft of Plan Bay Area and its corresponding Environmental Impact Report. SPUR is an urban policy think tank and advocacy organization with over 4,000 members and offices in San Francisco and San Jose.

In general, **SPUR supports the draft plan and encourages MTC Commissioners and ABAG Board members to adopt it**, pending a few specific adjustments and other considerations we describe in this letter.

**We think Plan Bay Area is an important step forward in comprehensive regional planning in the Bay Area.** Ever since ABAG produced the Bay Area's first regional plan in 1966, the Bay Area has been in need of regional planning with stronger tools to shape growth and travel behavior. While there still remains a gap between our vision of a more concentrated region and the actual tools to achieve it, Plan Bay Area contributes to the broader trend and best practice of integrating land use planning with transportation funding and decisions.

**We applaud the regional agencies for producing a draft plan where the projected land use pattern places the vast majority of growth in existing urbanized areas.**

We also particularly applaud MTC and ABAG for analyzing specific policy levers that can be used to help achieve some of the overall goals of the plan. Finally, we are encouraged that the Plan continues the pattern of "Fix it First" and increasing the percent of investments focused on maintenance relative to T2035.

**We do have some recommendations for changes to the Plan based on the results of the EIR and the previous rounds of analysis.** We offer the following comments on what we like about the plan, recommendations for how to improve the Plan, and suggested changes to include in the next Plan. These are based on our participation in the process, our reading of the results of the EIR and our thoughts generally on best practices in comprehensive regional planning.

*Land use distribution and policies*

**SPUR supports the overall land use emphasis in Plan Bay Area**, which prioritizes growth inside urban growth boundaries within existing urbanized places and along major transit routes. In addition, we support the Plan's approach to concentrating most growth in the urban core. For example, the three central cities are projected to capture 38% of 1.1 million in new jobs and 41% of 660,000 new housing units.

**We support the approach of maintaining strict urban growth boundaries in all of the Plan alternatives.** By our own analysis, the Plan on its own will support the preservation of 93 percent of the remaining agricultural land within the nine-counties, an important economic and environmental priority.

**Even while we support the overall framework of allocating growth to locally identified PDAs, this approach misses some key areas.** There are some places that were not nominated as PDAs that are appropriate places to plan for growth (such as the western half of San Francisco and parts of San Jose). There are other places that are PDAs where transit service is marginal and unlikely to affect travel behavior and/or the planned transit service performs poorly in MTC's analysis. We should not be projecting significant growth in these places, as they will not help achieve the implied goals of the plan. We think it is appropriate to shift growth from these places towards some of the Transit Priority Project (TPP) areas with the highest quality transit.

**We think the Plan should more strongly articulate the benefits of concentrating employment near transit.** Based on MTC's own analysis, commuters are more likely to take transit to work if their job is located near transit, even when their home is not. As a result, we think this concept is an important one and should not be lost amidst a goal of achieving a concentrated residential pattern. While the plan does assume 80 percent of homes and 66 percent of jobs will locate in PDAs, it is not clear alone that the lower percent of jobs in PDAs reflects a less concentrated pattern given the diversity among PDAs. For future Plans, we would like to see a clearer articulation of the number of jobs that are within a short walk of high frequency transit.

**We support One Bay Area Grant as an investment tool, but encourage the regional agencies to more strongly condition funds in the future to performance criteria.** While we support the current criteria focused on complete streets policies and a RHNA-compliant General Plan, we encourage MTC to consider other performance criteria such as demonstrated support for transit investments and the production and preservation of affordable housing. We also support the One Bay Area Grant funding that is targeted at improving the preservation and economic viability of agricultural land within Priority Conservation areas.

**We are encouraged by the inclusion and analysis of a development impact fee for high VMT areas and think this should be included in the next Plan.** This is one of the few tools possible to price the impact and cost of auto-oriented growth. This type of policy is one that could be implemented by the Air District and should be further studied and included in the subsequent Plan.

**We also applaud MTC for including an analysis of sea level rise in this EIR even though it was not required.** This provides a clear picture to many about some of the Mid Century impacts of sea level rise. We do recommend that the next SCS analyze and plan for additional sea level rise plus storm surge scenarios. This should be based on revisiting the science and using that science to redo the scenarios. We also suggest that you also provide some interpretation of what the info is not showing.

B23-1

**We also applaud that MTC noted the importance of conditioning future MTC infrastructure funding on an adaptation strategy.** However, your recommendations stop short of conditioning MTC funding on adaptation strategies for infrastructure project. We think this is a mistake and puts future development in potentially.

**We encourage ABAG and MTC to examine ways to make development in PDAs more resilient, particularly to address earthquake hazards.** These can include making improvements to the land itself to reduce hazards as well to build in special ways in hazard zones to reduce damages when earthquakes occur.

We suggest incorporating the following changes to the final preferred land use scenario based on the results of the EIR and other analysis:

1. **Shift more of the projected growth to Transit Priority Project area (TPP) as suggested in Alternatives 3 and 5,** particularly transit rich places like the western half of San Francisco and non-PDA places in the South Bay (such as some parts of San Jose). The suggestion would be to shift from lower density PDAs with poor quality transit to non-PDA TPP's with high quality and high frequency transit.
2. **Pursue a study of a fee on development in high VMT areas** and make this policy tool available for inclusion in the next Plan. This is a tool that would be appropriate for the Air District to lead and help implement.
3. **Pursue as many measures as feasible to help produce the affordable housing identified in the Plan,** including preparing for a regional measure to fund affordable housing and further linking future OBAG funds and other investments to actual affordable housing approvals and production.

B23-2

B23-3

### *Transportation investments and policies*

**SPUR is supportive of the overall transportation investment approach in the Plan,** particularly the approach of "Fix it First" and the increasing share that was non-committed. Of the \$289 billion in forecasted revenue over the 28-year Plan, \$57 billion was non-committed at the beginning of the planning process, the largest percent ever and a good step towards increasingly using objective performance criteria in determining transportation priorities. Of the \$57 billion in discretionary funding, 87 percent of all funds will go to maintenance, another positive reflection of "Fix it First".

**While the Plan identifies the unfunded transit capital needs, it does not take seriously enough the consequences of not identifying this funding.** The Plan assumes \$17 billion in unfunded transit capital needs, a gap that must be filled to ensure the ongoing maintenance of the region's essential

transit assets. Further, with the rapidly growing ridership on regional rail systems of BART and Caltrain, the capital funding shortfall could seriously harm those systems in the future.

**We support the improved project performance assessment in this Plan but think the summation of the voluntary targets themselves are not the best reflection of a project’s merits.** Some targets are also much more significant than others but the project performance assessment treats each target equally.

**In terms of the investment framework, we are supportive of many of the projects.** We support BART Metro, BART to San Jose, Caltrain to the Transbay Transit Center, the electrification of Caltrain, the Central Subway, various BRT projects listed in the Plan as well as other key plans. We are encouraged that these projects are included as fully funded in the Plan.

**We support the creation of HOT lanes and the concept of allowing single occupant drivers able to pay to go into carpool lanes.** However, we are concerned with some of the aspects of the full build-out of the MTC Express Lane Network. We suggest **eliminating the extensions that are included in the Plan.**

**We think the plan should more seriously explore converting mixed flow lanes to HOV and HOT,** particularly in places where there are no HOV and there is congestion (i.e. the urban core). We also support increasing to HOV3 from HOV2 in some areas.

**We support the notion of pricing on highways and are encouraged by the analysis of road pricing – namely the establishment of a VMT fee.** There is no doubt that the federal gas tax is no longer a viable source of transportation funds and self-help at the regional level is key. MTC should further pursue a VMT fee and seek legislative authorization for a pilot project that explores a VMT fee. Such a pilot is being done in Oregon. The Bay Area should try to put itself at the vanguard of innovative policy solutions and not continue to cede that to other regions.

**We also think that MTC should pursue a different form of road pricing –namely highway tolls on all lanes of certain “freeways”** (such as Highway 101 and I-280 from San Francisco south and on I-80 from the Carquinez Bridge to the Bay Bridge). We have argued for the inclusion of highway tolls previously in this process. We think the results of the plan suggest more strongly the importance of incorporating such an approach to funding transportation with user fees as well providing a clear price signal that freeways have costs that should be borne by users most directly.

**On transit, we have previously expressed thoughts about the Transit Sustainability Project and how it was a missed opportunity to reshape important parts of the transit network.** There is still the need to manage our regional transit operators as a more unified network and MTC should continue this discussion.

We suggest incorporating the following changes to the transportation investments and policies based on the results of the EIR (and our own analysis):

1. **Eliminate Highway expansions in the HOT /Express Lane network** and explore/study the conversion of mixed-flow lanes to HOV/HOT.

2. **Include the VMT fee/tax in the final version of the Plan** and begin studying how to implement tolls on all lanes on key Bay Area highway segments.
3. **Increase funding for transit operators to support increasing capacity in the urban core** where most of the transit ridership is. We also support significant increase in funding for transit in places with transit-supportive land uses and support for such growth. Yet we think that MTC should more condition the increase in any transit operating funds on performance criteria beyond what was addressed in the Transit Sustainability Project.
4. **Eliminate the Electric Vehicle Purchase incentive from the Climate Protection program.** There is already significant private market support for expanding clean vehicles. This program produces a small GHG reduction for a high cost. A more promising climate program is the Clean Vehicles Feebate. We think MTC should consider targeting this program for low and moderate income households as an incentive to switch to automobiles with reduced emissions and lower operating costs.
5. **Establish a Higher Peak Toll on Bay Bridge.** The current peak pricing program is successful and such pricing tools are an effective way to manage supply.
6. **Expand the Transit Performance Initiative** and strengthen an incentive program focused on paying a bounty to transit properties based on increased ridership.

### *Advocacy going forward*

Many of the ideas in the Plan will require legislative changes in Sacramento and/or Washington. We wanted to highlight a few here that the Plan suggests and a few that we encourage MTC and ABAG (with other partners) to push for.

We support the Plan’s suggestions of pursuing the following policy changes:

- **Securing a lower vote threshold (such as 55 percent) to pass transportation measures and other local taxes.**
- **Identifying and funding a replacement for redevelopment.**
- **Reforming CEQA.**

In addition to the policy platform listed in the plan, we suggest adding the following to the legislative agenda:

- **Secure support from the State and Caltrans to convert mixed-flow highway lanes to HOV/HOT.**
- **Secure support from the State and Federal government to toll all lanes on state and federal highways.**
- **Explore reductions in the fiscalization of land use through** a sales or other local tax sharing or deleveraging from Proposition 13 through the analysis of a split roll.

### *Suggestions for the Next Plan*

In addition to what was written above, for the next plan, we are interested in the following changes:

- **Separate out effects of different policy levers:** We applaud MTC in analyzing different policy levers. For future plans it would help the Plan process for MTC to separate out the

effects of each policy lever. This would allow participants to understand the relative impact of each policy lever.

- **Rethink PDA framework:** We also think it is appropriate to take stock of the PDA framework. For the future we suggest you make changes to the future definition of the PDAs to include employment density and employment centers as a criteria for PDAs.
- **Include additional Sea Level Rise Scenarios:** We suggest that the next plan establish two sea level rise scenarios: Scenario 1 would be sea level rise plus King Tide (this is minimum impact). Scenario 2 would be the 100 year storm event but would include the expanding range of uncertainty with both a low and high range, not just the midpoint. Given the rapidly changing climate projections, both scenarios should be done based on the updated science at that time.

Thank you for the opportunity to share these comments. This is a very important planning process and the level of interest and involvement in this Plan encourages us.

Regards,

A handwritten signature in black ink, appearing to read 'ET', with a long horizontal stroke extending to the right.

Egon Terplan  
Regional Planning Director  
SPUR

cc. Steve Heminger (MTC), Ezra Rapport (ABAG), Jack Broadbent (BAAQMD), Larry Goldzban (BCDC)

May 16, 2013

Amy Worth, Chair, and Members, Metropolitan Transportation Commission  
Mark Luce, President, and Members, Association of Bay Area Governments  
101 Eighth Street  
Oakland, CA 94607

RE: Comments on the Draft Plan Bay Area & Draft Environmental Impact Report (EIR)

Dear MTC Chair Worth, ABAG President Luce, and Commissioners/Members:

I am writing to express TransForm's strong support of regional planning for the Bay Area and to make detailed comments for specific changes from the Draft Plan Bay Area, based in part on the Draft Environmental Impact Report (DEIR).

Since 1997, TransForm has worked to create world-class public transportation and walkable communities in the Bay Area and beyond. We have been deeply involved in numerous regional, county, and local transportation decisions, including the past five regional transportation plans. We frequently help shape funding decisions and groundbreaking policies to support public transportation, smart growth, affordable housing, and bicycle/pedestrian safety.

Over the past two-plus years of the Plan Bay Area process, TransForm has contributed to the performance targets, the committed projects policy, the Project Performance Analysis, One Bay Area Grant program (including its implementation by county agencies), and the preferred scenario you adopted in May 2012. We worked closely with your staff to help design the Equity, Environment, and Jobs (EEJ) alternative analyzed in the DEIR.

**B24-1** Your DEIR identified the EEJ scenario as the "Environmentally Superior Alternative." The EEJ scenario outperforms the draft plan on most of the performance targets and equity metrics your agencies adopted. Compared to the other alternatives, the EEJ alternative would bring us less traffic, healthier residents, fewer traffic deaths, more affordable neighborhoods, and it would do a better job of allowing our most vulnerable neighbors to stay in their homes.

We have joined with dozens of other organizations in urging you to incorporate the best elements of the EEJ scenario as you prepare a final plan. This letter focuses primarily on our recommendations regarding MTC's proposed Express Lane Network, the network of high-occupancy toll (HOT) lanes that would allow solo drivers to enter the lanes for a fee. We also include at the end a brief set of recommendations on transit, combating displacement, and affordable housing, which are discussed in more detail by other partners' letters.

**B24-1.5** **We urge your agencies to change the Express Lane network so that it will:**

- **expand transportation choices;**
- **mitigate impacts on low-income commuters; and**
- **optimize use of existing highways without building new lanes.**

These recommendations are based on a detailed analysis of the network and how it compares to practices in regions around the country, presented in the attached white paper: *Moving People, Not Just Cars: Ensuring Choice, Equity & Innovation in MTC's Express Lane Network*.

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**SILICON VALLEY: 48 SOUTH 7TH STREET, SUITE 103, SAN JOSE, CA 95112 | T: 408.406.8074 |**

A well-designed express lane plan could provide a regional highway network where transit and high-occupancy vehicle lanes work together to seamlessly provide convenient and swift transit connections through the Bay Area. Planned as a transit system, one that sells excess system capacity to non-carpool vehicles, this network could help us meet the SCS targets while providing new transportation choices: transit, carpools, vanpools, and other alternatives to solo driving.

But MTC's proposed Express Lane Network is out of balance. The 2<sup>nd</sup>-largest project in Plan Bay Area, the Express Lane Network has no plans to capitalize on the new high-occupancy lanes by providing any revenues to improve public transit, carpooling, vanpools, or any other alternatives to solo driving. And there is no funding to ensure low-income families receive equitable benefits from the network. Instead, most of the \$6.5 billion in tolls to be collected from drivers will be used to build – or pay financing costs for – hundreds of miles of new highway lanes.

Once billed as an innovative way to help manage traffic and provide a wide array of new transportation choices, MTC's Express Lane network has now primarily become a highway-building program whose main beneficiaries will be solo drivers who can afford to buy their way into new lanes. It now appears that the design objective for the network is to maximize the number of lane miles in the network.

Other regions have recognized the potentially inequitable impacts of HOT lanes, as higher-income drivers use them much more frequently and are the main beneficiaries of the travel-time savings. In Seattle, over 50% of HOT lane users had household incomes over \$100,000, while only 15% had incomes under \$50,000. The U.S. Government Accountability Office concluded that equity concerns are particularly acute in situations like MTC's proposed network, where pricing is used to build new highway capacity. These concerns have prompted other regions to incorporate expanded transportation choices – transit, vanpools, carpools, and other alternatives to solo driving – when they design their HOT network.

The Bay Area can do better. Some positive elements of MTC's current network point the way. The network includes plans to convert 173 miles of existing carpool lanes to HOT, mostly by 2015. These conversions are cost-effective: if done alone, they would produce net revenues that could be invested in a broad range of transportation improvements.

But the network also includes another 170 miles of new highway lanes, costing \$2.8 billion, plus billions more for financing costs. This new construction would use up the revenues generated by the rest of the system and leave nothing left for more transportation choices or mitigations for low-income families. By focusing only on building new lanes where there is no existing carpool lane, MTC's network fails to provide any solutions for highly-congested areas such as I-880 through Oakland, US-101 in most of San Mateo County, and CA-24.

Instead, the Bay Area could pursue what we call an “optimize-a-lane” approach. This approach could move more people at lower cost, with less pollution, and a more equitable distribution of benefits and costs. “Optimize-a-lane” would convert one existing general purpose lane to HOT, save \$10+ million per mile, and use revenues to dramatically increase transportation options along the same corridor.

Properly managed, this HOT lane would flow freely, potentially carrying even more vehicles per hour than the previously-congested general purpose lane. And with higher average vehicle occupancy from transportation choices paid for by HOT revenues, the optimized HOT lane would carry more people.

By contrast, MTC's plans to build new highway lanes with no new transportation choices will sink the vast majority of drivers' tolls into another fruitless attempt to build our way out of congestion. If we

don't change course, we will spend 20+ years paying off construction bonds with driver tolls that could have been used to provide more people with more choices.

### Recommended Changes to Plan Bay Area

We urge your agencies to make the following changes to the draft plan:

1. Dedicate at least 50% (\$3.25 billion) of the projected \$6.5 billion in projected HOT revenue to provide new transportation choices – transit, vanpools, carpools, and other alternatives to solo driving – along HOT corridors and to mitigate the network's impacts on low-income families.
2. For each uncommitted project in the draft Plan Bay Area that is an HOT lane that adds new highway capacity, change its description to state that MTC will work with the relevant CMA and Caltrans to study the an “optimize-a-lane” alternative: convert an existing mixed flow lane, rather than build a new lane, and use revenues to dramatically increase transit, vanpools, carpools, and other alternatives to solo driving along the same corridor.

### Recommended Policy Commitments and Mitigations

We recognize that many of the changes that need to happen in MTC's Express Lane Network will be achieved outside the SCS process. We recommend that your agencies make the following policy commitments, some of which may be most appropriately adopted as mitigations incorporated in the Final EIR adopted alongside the final Plan Bay Area later this year:

#### To expand transportation choices:

- B24-2** 3. Create a transportation choices expansion plan as part of the express lane network and include a commitment that with the opening of every new HOT lane, there will be a simultaneous improvement in transportation choices along the same corridor, over and above existing service.

#### To mitigate impacts on low-income commuters:

- B24-3** 4. Design and implement mitigations to ensure low-income families receive an equitable share of the benefits and do not bear a disproportionate burden of the HOT network. Mitigations may include access to the network itself, as well as transit investments.

#### To optimize use of existing highways without building new lanes:

- B24-4** 5. Along with the relevant CMA and Caltrans, study the “optimize-a-lane” approach (defined above) before pursuing new-construction projects in MTC's Phase II (after 2015) or beyond, and for any congested corridor with at least 8 mixed flow lanes and no HOV lanes.
- B24-5** 6. Work with relevant CMAs to seek approval from Caltrans, the state legislature, and if necessary federal authorities to conduct pilot tests of “conversion HOT+Transportation Choices” projects in at least two locations in the Bay Area.

#### To ensure the network meets agency targets:

- B24-6** 7. Expand the inadequate Environmental Justice analysis of the HOT lane network to include a primary research question concerning the distribution of benefits across different income and ethnic groups, based on differences in expected frequency of use of the HOT lanes.
- B24-7** 8. Ensure that the design of the overall HOT network, including the combined effects of the road network and transit improvements funded by HOT revenues, reduces greenhouse gas pollution as a complete network, not just as part of an overall SCS plan that reduces GHGs.

For detailed background on these recommendations, and the reasons for them, please see our attached white paper, *Moving People, Not Just Cars*. Incorporating these changes will help ensure that the Bay Area's Express Lane network meets its potential to move more people.

In addition, TransForm adds our support to recommendations that Plan Bay Area incorporate the best elements of the EEJ scenario. Your agencies' analysis shows that the draft plan has a much higher risk of displacement for renter-burdened households and does not plan transit service beyond current service levels. To redress these problems, we urge you to adopt the following changes in the final plan:

- **Transit:** Substantially increase funding for transit operations as new operating-eligible funds become available: cap and trade, revenues from increased bridge tolls, HOT lane revenues, and other new sources.
- **Displacement:** Modify the OBAG program to require recipients of funds to implement strong anti-displacement protections and provide substantial funding for community stabilization measures as land banking, housing rehabilitation and preservation of affordable housing, over and above the funding already provided through the Transit-Oriented Affordable Housing program.
- **Affordable Housing:** Plan for sufficient housing affordable to low-wage workers in all infill locations with access to jobs or transit.

Incorporating these changes will lead to a Plan Bay Area that will improve the quality of life for all Bay Area residents and protect our most vulnerable neighbors. We ask that you direct your staff to bring forward these recommendations for consideration in the joint MTC Planning Committee / ABAG Administrative Committee in June.

We look forward to your careful consideration of these and other recommendations, and we thank you for your continued commitment to creating a better Bay Area.

Sincerely,



Jeff Hobson  
Deputy Director

Enclosure: *Moving People, Not Just Cars: Ensuring Choice, Equity & Innovation in MTC's Express Lane Network*

CC: Steve Heminger, MTC  
Ezra Rapport, ABAG  
Ken Kirkey, MTC  
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May 16, 2013

Carolyn Clevenger, MTC EIR Project Manager  
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Re: Comments on Draft Environmental Impact Report

Dear Ms. Clevenger:

On behalf of Public Advocates, Urban Habitat, the California Affordable Housing Law Project and California Rural Legal Assistance ("CRLA"), we respectfully submit the following comments on the Draft Environmental Impact Report ("DEIR") for Plan Bay Area ("Plan"). A technical memorandum prepared by transportation modeling experts from Sustainable Systems Research, LLC ("SSR") evaluating the modeling approaches and results contained in the DEIR is incorporated into these comments by reference, and is attached hereto as Exhibit 1. All four groups are submitting a separate comment letter regarding the draft Plan itself; that comment letter is also incorporated by reference herein, and is attached hereto as Exhibit 2.

Public Advocates and Urban Habitat worked with other organizations to develop and propose the Equity, Environment and Jobs ("EEJ") scenario, which would improve local transit service levels, distribute more affordable housing to high-opportunity suburban job and transit hubs, and protect vulnerable families from displacement. The original EEJ proposal has largely been incorporated (albeit with key differences discussed below) into the DEIR as Alternative 5, which was selected as the environmentally superior alternative. Accordingly, our evaluation of whether the DEIR complies with the requirements of CEQA includes a particular focus on issues relevant to the comparison of the environmental impacts of the Plan with those of the EEJ alternative.

### **Introduction and General Comments**

We commend the MTC and ABAG for the extensive amount of effort spent by the agencies on the Plan, the DEIR and all of the companion reports. Notwithstanding the time and resources spent during the planning process, each of the core components of the DEIR suffers from critical legal deficiencies:

- The DEIR does not fulfill its basic legal function to fully inform the public

B25-1

May 31 6:22:30pm

Carolyn Clevenger, MTC EIR Project Manager  
May 16, 2013  
Page 2

- The DEIR does not contain a legally-adequate project description
- The DEIR's identification and analysis of alternatives is legally inadequate
- The DEIR's analysis of project impacts is legally inadequate
- The DEIR's mitigation measures are legally inadequate

**B25-2** A number of these legal deficiencies stem in part from the fact that there are key differences in how the land-use model, UrbanSim, was used to determine the housing distribution in the Plan on the one hand, and in the EEJ alternative and other alternatives on the other hand. As described in detail in the SSR technical memorandum, the DEIR adjusted the modeling results for the Plan by using undisclosed "calibration techniques," but did not make the same adjustments in the modeling results for the alternatives. The use of different methodology for the Plan and the alternatives violates the California Transportation Commission's modeling guidelines for regional transportation plans, and likewise renders the analyses of impacts and alternatives in the DEIR legally deficient under CEQA, for the reasons discussed below.

### Specific Comments

**B25-3** 1. The DEIR is Inadequate as an Informational Document.

This DEIR fails to fulfill the basic legal function of an EIR, which is to fully inform the public and decision makers about the environmental impacts of a project so that the public can provide informed input and the decision makers can make an informed decision. Moreover, "[a]n EIR must include detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project." *Laurel Heights Improvement Ass'n v. Regents of University of California* (1988) 47 Cal.3d 376, 405 (emphasis added). "A prejudicial abuse of discretion occurs if the failure to include relevant information precludes informed decisionmaking and informed public participation, thereby thwarting the statutory goals of the EIR process." *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal. App. 3d 692, 712; see also *San Joaquin Raptor/ Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 722.

The DEIR, and its tangled web of ancillary documents, is so complex and confusing that it is impossible for the public to fully understand its methodology and evaluate its conclusions. As a result, it utterly, fails to facilitate informed decision-making and public participation.

**B25-4** a. The DEIR's overreliance on ancillary documents undermines its informational value.

Section 15147 of the CEQA Guidelines provides that "highly technical and specialized analysis and data" should be in appendices rather than the main body of the EIR. However, it also provides that "the information contained in an EIR shall include summarized technical data, maps, plot plans, diagrams, and similar relevant information sufficient to permit full assessment

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of significant environmental impacts by reviewing agencies and members of the public.” (14 Cal. Code Regs. §15147.)

The DEIR presents information in a manner that depends upon comprehension of a multitude of obscure, related documents, without adequately summarizing those documents in the body of the DEIR as required by this CEQA Guideline. Below are several examples of relevant information contained in ancillary documents, and not adequately explained in the body of the DEIR, that directly pertain to issues of particular significance to the four groups submitting this letter.

**B25-5** We have been unable to determine whether any low performing transportation projects were dropped from the Plan. To do so, one would need to review Table A-1 to MTC's January 24, 2012 Memorandum Re: Plan Bay Area: Project Performance Assessment – Revised Results (posted on the One Bay Area website on a link described as “Related Material” on a page entitled “Measuring Progress”), and the transcript or report regarding the outcome of the March 9th joint MTC Planning Committee/ABAG Administration Committee meeting (presumably posted elsewhere on MTC's website), and then compare the list of any adopted “compelling” low-performing projects to the list of transportation projects proposed in Appendix C to the DEIR. A revised version of Appendix C dated April 10, 2013 is posted the One Bay Area website. Anyone interested enough to have reviewed the DEIR in hard copy form might have easily missed the later posting of an updated Appendix C.<sup>1</sup>

**B25-6** Similarly, to even attempt to decipher the methodology of the key land use models, the public has to plow through a technical appendix that was incorrectly described in the DEIR. As best we can tell, the “Plan Bay Area Land Use Model Data Summary supplemental report” described on page 2.3-32 of the DEIR actually refers to the “Draft Summary of Predicted Land Use Responses,” a technical appendix to the draft Plan document. Although we believe that MTC and ABAG were very well meaning in making available extensive information regarding the data used to support the Plan, the end result in this instance is that information used as the basis for a critical analysis is contained in an appendix to a misnamed report identified as a “supplemental report”.

**B25-7** The land use methodology that is critical to analyzing the land use modeling must be clearly presented and analyzed as part of the DEIR. Neither the public nor decisionmakers can reasonably be expected to meaningfully consider issues raised by the Plan that are buried in ancillary sources and not explained in the DEIR. The tangle of documents posted on the One Bay Area website falls far short of meeting CEQA's informational mandate.

<sup>1</sup> Although, the DEIR itself was published on April 2, 2013, multiple companion reports and technical reports that are referenced by and that contain information essential to the analyses contained in the DEIR were published and/or revised after April 2nd. As a result, the public has had less than the 45 days required by CEQA Guidelines Section 15105(a) to review all of the documents necessary to make an informed decision regarding the analysis contained in the DEIR. We note also that the Draft Plan Bay Area, was revised as late as April 15th. See, Draft Plan Bay Area, pp. 157-158.

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b. The DEIR fails to provide information about health impacts.

B25-8

The DEIR also fails to inform the public in more basic ways. Even though the DEIR identifies increased emissions in disproportionately-impacted communities as potentially significant impacts, the DEIR provides no information to the decisionmakers or the public of the health effects of these emissions. This information is required under CEQA. See *Berkeley Keep Jets Over the Bay Comm. v. Board of Port Cmm'r.*, 91 Cal. App. 4th 1344, 1371 (Cal. App. 1st Dist. 2001) ("The EIR's approach of simply labeling the effect "significant" without accompanying analysis of the project's impact on the health of the Airport's employees and nearby residents is inadequate to meet the environmental assessment requirements of CEQA").

B25-9

The DEIR relies on a significance threshold identified in the Bay Area Air Quality Management District's previously published draft CEQA Guidelines to identify disproportionately impacted communities. The impacts to these communities are then identified as potentially significant; however, the DEIR does not analyze the significance of the impacts. DEIR, pp. 2.2-26 - 2.2-27. The DEIR fails to inform the decisionmakers and the public of the health effects of the increased emissions identified as potentially significant. As a result, neither decisionmakers nor the public are in a position to understand the importance of the effects or whether MTC and ABAG have done all they can do to mitigate these effects.

B25-10

More specifically, the DEIR fails to adequately analyze or disclose the extent to which the Plan's PM<sub>2.5</sub> and Toxic Air Contaminant ("TAC") emissions will impact public health. The DEIR shows that already-burdened communities will be disproportionately impacted by PM<sub>2.5</sub> emissions from on-road mobile sources in all counties except for San Francisco. However, the DEIR does not disclose the *impacts* of the increase in PM<sub>2.5</sub> or TAC emissions on the existing cancer risk or the increase in cancer risk for disproportionately impacted communities. It discloses increases in emissions in terms of percentages, but does not provide information regarding the levels of pollution to which these already-burdened communities are now exposed. Nor does it disclose the increased levels of pollution to which the Plan can be expected to expose already-burdened communities and resultant increases in cancer risk during the life of the Plan. The DEIR identifies these disproportionate impacts on Community Air Risk Evaluation ("CARE") communities as a potentially significant impact. (DEIR, pp. 2.2-24-27.) But as explained, the DEIR provides no analysis to inform the public or decision-makers of the extent of these impacts, as required under CEQA. These unanalyzed *physical impacts* should be the crux of the discussion.

2. The Project Description in the DEIR is Inadequate.

B25-11

A meaningful project description is the foundation of an EIR. "An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR." *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3rd 185, 193 ("County of Inyo"). Moreover, an ill-defined project description thwarts one of CEQA's most fundamental goals of facilitating

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informed public participation. (“A curtailed, enigmatic or unstable project description draws a red herring across the path of public input.” *Id.* at 198.). It is impossible for a DEIR to adequately inform the public and decisionmakers about the impacts of a project unless the DEIR clearly and consistently describes the project in the first place. This DEIR fails that test – its description of the project is curtailed, enigmatic and unstable.

a. The Project Description in the DEIR is Curtailed.

B25-12

At a very basic level, the DEIR fails to provide a clearly identifiable project description at all. Unlike every other EIR that has been prepared for SB 375 plans, and for that matter almost every other EIR that is prepared for any purpose, this DEIR does not have a separate chapter, or section, entitled “Project Description.” Instead, Chapter 1.2 of the DEIR is called “Overview of the Proposed Plan Bay Area.” As its title suggests, it provides a curtailed overview of certain features of the Plan, but not a complete project description.

B25-13

The description of the core land use component required by SB 375, the Sustainable Community Strategy (“SCS”), is woefully inadequate and incomplete. The description of the SCS in the Overview chapter basically amounts to the statement that it “calls for focused housing and job growth around high-quality transit corridors, particularly within areas identified by local jurisdictions as Priority Development Areas.” (DEIR, 1.2-24). The Overview Chapter does not even mention the land use policy measures the Plan would employ to achieve its focused growth. There is a list of policy measures buried in a table called “Policy Measures Comparison” in the Alternatives Chapter (DEIR, Table 3.1-1, pages 3.1-8), but there is no explanation or discussion of the policy measures. For example, the table states that the Plan includes the policy measures “Subsidies for PDA Growth” and “Strict Boundaries,” but there is no other discussion or explanation – either in the Overview chapter or in the Alternatives chapter – about the nature of the subsidies or of the boundaries.

For “details” about the SCS, DEIR readers are directed to the draft Plan document, which in turn directs readers to the “Jobs-Housing Connection Strategy” (“JHCS”) published a year before the DEIR. However, neither of these documents clearly delineate what policy measures constitute the Plan. The Jobs-Housing Connection Strategy describes a set of 38 “Implementation Actions,” but does not clarify which of these actions are integral parts of the project, and which are simply optional actions that could help achieve the objectives the project. The technical appendix to the draft Plan document discussed above describes a set of “policy levers” (Draft Summary of Predicted Land Use Responses, pages 22 to 27), but it is not clear if all of the policy levers used to model the Plan are integral parts of the project. Furthermore, what appears to be the most important lever – development subsidies – is only vaguely described as “a subsidy similar in magnitude to the Bay Area’s former redevelopment program to support development in PDAs where the market is weak.” (Draft Summary of Predicted Land Use Responses, p. 27.)

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If indeed these land use policy levers are integral to the project, then describing them only in a technical appendix to the draft Plan document rather than the DEIR itself constitutes an improperly curtailed project description that is legally inadequate under *County of Inyo, supra*. If these land use policy levers are not integral to the project, then the DEIR's project description is likewise inadequate because it is too enigmatic under *County of Inyo, supra*, as described below. In that case, the analysis of alternatives would also be legally inadequate because it is based on the comparison of the policy measures in Table 3.1-1 described above.

b. The Project Description is Enigmatic.

**B25-14** *Is the SCS component of the project simply the housing and jobs outcome (the number and location of housing units) or is the project also the policy and implementation measures used as inputs to the model, that the modeling assumes will result in that forecasted scenario? In other words, is the Project the outputs of the model, the inputs or the unmodeled outcomes of the JHCS?*

The attempts in the various documents to describe the SCS component of the project all fail to clearly answer that fundamental question, and to the extent they do answer it, they seem to answer it in different ways.

**B25-15** The "Policy Measures Comparison" table described above seems to be based on the assumption that the policy measure inputs are the core features of the project, since those are the bases used for showing the differences between the Plan and the alternatives. However, as described in detail in the attached SSR technical memorandum, the modeling approach used to generate the housing and job outputs in the EEJ alternative does not actually model the consequences of implementing many of these policy measures; and that approach was not used to generate the housing and job results for the Proposed Plan Alternative at all. Instead, the land use outputs under the Proposed Plan Alternative are forced to match outcomes defined in the *Jobs/Housing Connection* using undisclosed calibration techniques. This suggests that the "project" is simply the housing and job outcomes, since none of the policy measures or policy levers were deemed essential enough to drive the modeling.

**B25-16** Ultimately, the answer to this fundamental question, and therefore the definition of the project, remains an enigma, which is impermissible under CEQA. Even the modeling experts at SSR who thoroughly reviewed the technical support materials and asked for clarification from modeling staff at MTC and ABAG, state that the exact steps used to create the housing distribution in the Proposed Plan Alternative remain unclear. (Exhibit 1, p. 2.)

c. The Project Description is Unstable.

**B25-17** The one thing that is clear about the project is that Priority Development Areas ("PDAs") play a central role. And yet, the different documents that purport to describe the project have inconsistent descriptions of how many PDAs there are, and of how many housing units and jobs

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would be directed into them. The JHCS states that there are 198 PDAs, and the DEIR and the draft Plan both similarly state that there are “nearly 200” PDAs. However, the PDA Readiness Assessment, one of the many support documents published at the same time as the DEIR and the draft Plan, states that “a number of changes or modifications have been made since” the JHCS was published, so “the current number of PDAs is 169” (p. 2, fn.1). Even though the core feature of the Plan is to encourage growth around PDAs, neither the DEIR nor any of the documents it references provide a list of PDAs (only maps that are not at a scale that allows one to distinguish individual PDAs in proximity to each other, or to count them individually).

B25-18

There is also an inconsistency in the description of how much housing and jobs will go into the PDAs under the Plan. Among the DEIR, SCS and JHCS, the housing number is variously described as “77 percent”, “79 percent”, “80 percent” and “over 80 percent”. The jobs numbers are expressed as “63 percent” sometimes and “66 percent” other times. This is a discrepancy of more than 40,000 jobs.

B25-19

These inconsistencies in the description of fundamental feature of the Plan – focusing housing and jobs growth in the PDAs – are not indicative of the type of “fixed, stable and accurate” project description required under CEQA.

B25-20

### 3. The DEIR's Discussion and Analysis of Alternatives is Inadequate.

It is the policy of the State to “consider alternatives to proposed actions affecting the environment” and that agencies not approve projects if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of a project. *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 564-65 (citing Pub. Res. Code §§ 21001(g), 21002). A “feasible” alternative is one capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors. *Id.* at 565; 14 Cal. Code Regs. § 15364.

An EIR must identify and evaluate the merits of “a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project.” *Save San Francisco Bay Ass'n v. San Francisco Bay Conserv. & Dev. Comm'n* (1992) 10 Cal. App. 4th 908, 919 (citing 14 Cal. Code Regs. § 15126.6(a)). Each EIR must also identify an “environmentally superior alternative,” aside from the “no project” alternative. 14 Cal. Code Regs. § 15126.6(e)(2). The discussion of alternatives is subject to a rule of reason and must include sufficient information about each alternative to allow evaluation, analysis, and comparison with the proposed project. 14 Cal Code Regs §15126.6(d); *Laurel Heights Improvement Ass'n v Regents of Univ. of Cal.* (1988) 47 Cal. 3d 376, 407 (also noting that EIRs must “evaluate the comparative merits of the alternatives ... even if these alternatives would impede to some degree the attainment of the project objectives, or would be more

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costly,” and that the “key issue is whether the selection and discussion of alternatives fosters informed decisionmaking and informed public participation.” Id. at 401, 404).

- a. The DEIR’s mischaracterization of the EEJ Alternative causes the DEIR to fail to analyze a reasonable range of alternatives.

The DEIR deserves praise for its inclusion of an Equity, Environment and Jobs Alternative (“EEJ”), and for acknowledging that the EEJ alternative is the environmentally superior alternative. However, there are important differences between the EEJ alternative proposed to ABAG and MTC and the one analyzed in the DEIR that result in the DEIR significantly understating the performance of the EEJ alternative (see below). There are also inconsistencies in the analysis of the alternatives. As result, the DEIR fails to meet its legal burden of analyzing a reasonable range of alternatives.

B25-21

As proposed by Public Advocates, Urban Habitat and others, the EEJ scenario was a robust combination of synergistic components. In a document shared with them at a meeting in mid-April, however, MTC and ABAG disclosed that many of the “policy levers” that had been discussed were simply not included in the modeling and analysis of the EEJ alternative. Had they been studied, a number of these policies (such as imposing anti-displacement conditions on the One Bay Area Grant (“OBAG”) program and directing subsidies to deed-restrict affordable housing) would have resulted in even greater performance of the EEJ alternative relative to the Proposed Plan Alternative.

B25-22

In addition to failing to capture in the model the benefits that the EEJ alternative would achieve through deed-restricted affordable housing and of ABAG anti-displacement protections some other important differences between the robust EEJ scenario proposed and the weaker EEJ alternative studied<sup>2</sup> include (1) forcing housing into the desired infill zones in the preferred alternative, but not the EEJ alternative;<sup>3</sup> (2) and improperly assuming no SB 375 CEQA streamlining in Transit Priority Project areas (“TPPs”) under the EEJ alternative.

B25-23

The assumption about CEQA streamlining appears to be based upon a misunderstanding of informal statements made by proponents of the EEJ alternative.<sup>4</sup> What the ABAG and MTC staff, or the EEJ proponents, think about the application of CEQA

<sup>2</sup> A more complete list of differences is included in “Environment, Equity and Jobs Alternative – Policy Levers” attached hereto as Exhibit 3.

<sup>3</sup> Draft Summary of Predicted Land Use Responses, at 8 (noting that for the EEJ alternative, “UrbanSim simulates the impact of land use and transportation projects/policies on land use outcomes .... For the Proposed Plan Alternative, UrbanSim is used to fill in land use details not available through the methodology developed for the *Jobs/Housing Connection*, including detailed land uses, densities, and intensities outside of PDAs.”)

<sup>4</sup> See DEIR at 3.1-7 to 8, noting that “[w]hile streamlining would still be legal, as per SB 375, based on the input of the EEJ stakeholders, this alternative would not reference TPPs, thus making it impossible for project sponsors to streamline”.

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streamlining to developments in TPPs is irrelevant. The fact is that under SB 375 certain developments in TPPs are eligible for CEQA streamlining; because the EEJ alternative would promote more development in TPPs, the impact of CEQA streamlining being applied to projects in TPPs should have been modeled for the EEJ alternative, just as it was for the Plan and other alternatives. As a practical matter, since the EEJ alternative would substantially increase the amount of development in TPPs that are not PDAs, there is likely to be more CEQA streamlining under the EEJ alternative rather than less.

As result of these differences between the robust EEJ alternative as proposed and the weaker EEJ alternative analyzed in the DEIR, the DEIR fails to meet its legal burden of analyzing a reasonable range of alternatives because it has not in fact analyzed a fully-developed EEJ alternative.

B25-24

- b. The analysis of the impacts of the EEJ alternative is flawed because it understates the benefits of the alternative.

The analysis of the impacts of the EEJ alternative inappropriately masks how much better the EEJ alternative performs compared to the preferred alternative. By representing differences between the two alternatives as seemingly-small percentage point differences and repeating the misleading statement that the EEJ's benefits are only "marginal," the DEIR neglects to provide the factual information in its possession that actually quantifies these benefits in tons of emissions reduced or energy saved. In fact, the conversion of the percentages in the DEIR into raw numbers demonstrates that the EEJ, even in the far less robust form in which the DEIR studies it, performs *substantially* better than the preferred alternative. Compared to the preferred alternative, the benefits of EEJ scenario include:

- 1,900 fewer tons of carbon dioxide emitted each day;
- 568,000 fewer tons of greenhouse gases emitted each year;
- 6.4 fewer tons of Toxic Air Contaminants ("TACs") each year;
- 1,290 fewer tons of carbon monoxide emitted each year; and
- Daily energy savings of 68 billion BTUs, the equivalent of burning 600,000 fewer gallons of gasoline each day.

Furthermore, SSR concluded that if the modeling had been applied consistently, the EEJ alternative would show improved performance even beyond the performance that caused the DEIR to select it as the environmentally superior alternative. "If the EEJ scenario had been modeled as the Proposed Plan Alternative had (with all housing unites assigned to the infill zones), performance results would have improved on most measures". (Exhibit 1 at p. 14)

B25-25

- c. The analysis of the impacts of the alternatives is fundamentally flawed by employing different modeling approaches for the Plan than for the alternatives.

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The analysis of alternatives in an EIR must provide information sufficient to allow an informed comparison of the impacts of the project alternatives with the impacts of the project. See *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal. App. 3d 692, 734-35. The DEIR fails in this regard because it employs different modeling approaches for the Plan than for the alternatives.

This methodological difference is directly contrary to the modeling guidelines for regional transportation plans issued by the California Transportation Commission ("CTC"), which state,

The same land use model used in the RTP modeling should be used in the impact assessment for the No Action alternative, the Proposed Plan alternative, and the Environmentally Preferable Alternative. Only in this way will all of the outputs in the RTP and EIR be comparable.

[CTC Guidelines p. 51].

The SSR memorandum summarizes this fundamental flaw in the alternative analysis as follows:

By employing UrbanSim differently between the Proposed Plan Alternative and the EEJ alternative, MTC and ABAG effectively applied different land use modeling methods to assess the Proposed Plan Alternative and the environmentally superior EEJ Alternative. This modeling decision violates the CTC guidelines and limits the utility of comparing the performance of each alternative.

(Exhibit 1, at p. 6.)

As a result, "the EIR fails to reasonably evaluate the comparative merits of the alternatives and its discussion of the alternatives fails to foster informed decisionmaking or informed public participation." *Laurel Heights Improvement Ass'n v Regents of Univ. of Cal.* (1988) 47 Cal. 3d 376, 401, 404.

- d. The discussion of the EEJ alternative as the environmentally superior alternative inappropriately infers that it is infeasible.

B25-26

Although the DEIR drops hints that the EEJ alternative may be infeasible, it does not evaluate its feasibility at a level of detail that would be necessary for ABAG and MTC to make a specific finding of infeasibility grounded in substantial evidence in either the final EIR or the administrative record. See *Preservation Action Council v. City of San Jose*, (2006) 141 Cal. App. 4th 1336, 1357 ("Neither the FEIR nor the administrative record contains any meaningful

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detail or independent analysis of the validity of Lowe's' claim that [the environmentally superior alternative] is infeasible, and the City Council made no specific finding validating that claim. On this record, the trial court correctly held that the City's rejection of the reduced-size Lowe's alternative cannot be upheld." The DEIR instead only states that feasibility of one aspect of the EEJ alternative (the VMT fee) "will be discussed," and that it "may prove to be infeasible," because of the "difficulty of predicting" whether the large Democratic majority in the legislature will stay in office and pass a VMT tax (which may require approval by a 2/3 majority)." DEIR, p. 3.1-148 (emphasis added).

Any such analysis of the EEJ alternative would need to evaluate the feasibility of the entirety of the alternative, and not simply assume that because *one component* may not be feasible, that the EEJ alternative as a whole is infeasible. *City of Del Mar v. City of San Diego*, 133 Cal. App. 3d 401 (1982) (noting that an alternative's "feasibility involves a balancing of various economic, environmental, social, and technological factors") (citing Pub. Res. Code § 21061.1). In fact, the VMT fee is not an essential part of the EEJ alternative. While it provides a useful tool for analyzing the benefits that a big boost in transit service would bring to the region, the bulk of those benefits can be achieved without a VMT fee through making \$3 billion in additional transit operating funds available in the final Plan, as recommended below.<sup>5</sup> In addition, a feasibility analysis would need to fairly apply the same feasibility standards to the preferred alternative, by, for example, acknowledging that it may not be feasible to assume that the same revenues that existed prior to the dissolution of the redevelopment agencies will somehow be made available or, more importantly, that the housing distribution outcomes assumed in the draft Plan are not feasible.<sup>6</sup>

#### 4. The DEIR's Analysis of Project Impacts is Inadequate.

One of the principal purposes of an EIR is to identify a project's significant effects on the environment. Pub. Res. Code § 21002.1(a); see also 14 Cal. Code Regs. §§ 15126 and 15126.2(a). An EIR should be prepared with a sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences. 14 Cal. Code Regs. § 15151. Drafting an EIR

<sup>5</sup> See details of three feasible ways to shift \$3 billion to transit operations without a VMT fee in section C (1) of the attached comments on the draft Plan.

<sup>6</sup> The EPS report, entitled "Priority Development Area Development Feasibility and Readiness Assessment," dated March 29, 2013, available at [http://onebayarea.org/pdf/Draft Plan Bay Area/Draft PBA PDA Development Feasibility and Readiness.pdf](http://onebayarea.org/pdf/Draft%20Plan%20Bay%20Area/Draft%20PBA%20PDA%20Development%20Feasibility%20and%20Readiness.pdf), concludes that only 62 percent, and at best 80 percent, of the housing assigned to the PDAs can feasibly be developed. See attached Exhibit 2, comment letter on the draft Plan, section D (2). See also Exhibit 1, SSR memo, p. 6 ("Regional planning goals are important policy tools, but real estate markets will continue to operate in the context of these goals").

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necessarily involves some degree of forecasting; an agency must use its best efforts to find out and disclose all that it reasonably can. 14 Cal. Code Regs. § 15144.

a. Flawed Project Description and Modeling Approaches Precludes Meaningful Impact Analysis.

The failure discussed above of the DEIR to base the impact analysis on a fixed, stable and accurate project description is a fundamental flaw that permeates all of the individual sections of the impact analysis. The undisclosed “calibration techniques” used in the land use analysis of the project is one extreme example of the fact that the impact analysis conducted through complex computer modeling appears to be result-oriented and not a fair effort to characterize the actual impacts of the actual policy decisions that are supposed drive the analysis. SSR evaluated the inconsistencies in the modeling approaches and determined that “they are likely to substantially affect the magnitude and direction of the Plan’s environmental impacts.” (Exhibit 1, at p. 6.)

B25-28

Specifically, the SSR technical memorandum includes the following remarkable and disturbing conclusion about the impacts of the Plan if it had been using the same methodology as the EEJ and other alternatives:

[L]and use outcomes for the Proposed Plan Alternative would likely be similar to the No Project Alternative which assumes no change in current zoning. That alternative allocates 24% of housing growth to PDAs compared to 77% for the Proposed Plan and 57% for the EEJ Alternatives (DEIR, p. 3.1-15). With relatively less housing near transit in a free market version of the Proposed Plan Alternative, its performance on the key metrics of greenhouse gas emissions and vehicle-miles traveled would be likely to decrease.

(Id.)

In other words, had the Proposed Plan alternative and the EEJ alternative been analyzed in a comparable manner, the Proposed Plan’s housing distribution would have looked more like the current sprawl conditions, and less like a compact, transit-oriented, development footprint. Yet the numerous physical impacts of that likely sprawl are not discussed in the DEIR.

b. No Analysis of Health Effects on Disproportionately-Impacted Populations.

B25-29

As discussed above, the DEIR also fails to analyze the health effects on disproportionately-impacted populations of the increased emissions that the DEIR identifies as potentially significant, resulting in an inadequate impact analysis. *See Berkeley Keep Jets Over*

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*the Bay Com. v. Board of Port Cmrs.*, 91 Cal. App. 4th 1344, 1371 (Cal. App. 1st Dist. 2001) (EIR may not satisfy CEQA by simply label effect on affected populations as “significant” without accompanying analysis of project’s impact on health).

B25-30

c. No Analysis of Environmental Effects Resulting from Economic Displacement.

ABAG acknowledged in its 2007 to 2014 Housing Needs Plan that displacement caused by urban housing demand results in “negative impacts on health, equity, air quality, the environment and overall quality of life in the Bay Area.”<sup>7</sup> Despite that candid assessment of the indisputable physical impacts of economic displacement, the DEIR fails to analyze environmental and health impacts that will result from it. The DEIR plainly acknowledges this omission, stating that “displacement as a result of affordability is addressed in the proposed Plan as part of the Equity Analysis, rather than in this EIR.”<sup>8</sup> DEIR, at 2.3-32. Moreover, that Equity Analysis concluded that implementation of the draft Plan would lead to significant displacement of lower-income households – placing 36% of struggling lower-income renters at high risk of displacement.<sup>9</sup> Ignoring this finding and omitting altogether any analysis of economic displacement in the DEIR violates CEQA.

CEQA requires analysis of direct and indirect effects, including effects resulting from social and economic consequences of the project. 14 C.C.R. § 15064(e); see *El Dorado Union High Sch. Dist. v City of Placerville*, 144 Cal. App. 3d 123, 132 (1983) (social effects of increased student enrollment and potential for overcrowding could lead to construction of new facilities and were thus relevant under CEQA); see also *Bakersfield Citizens for Local Control v. City of Bakersfield*, 124 Cal. App. 4th 1184, 1215 (2004) (EIR improperly dismissed possibility that large shopping center could drive other retailers out of business as an economic effect when urban decay and other blightlike conditions could result). The DEIR must therefore evaluate the physical, environmental, and health consequences associated with economic displacement. For example, among other steps, the DEIR should model displacement and identify likely trends in displacement, including areas likely to face pressure, number of households affected, the communities expected to absorb these households, and the location and quantity of resulting demand for and additional housing construction. It is puzzling that this analysis was not conducted, since UrbanSim was designed to “provide information regarding the actual responses of individuals and families to changing market conditions and

<sup>7</sup> ABAG, Housing Needs Plan, 2007-2014.

<http://www.abag.ca.gov/planning/pdfs/SFHousingNeedsPlan.pdf> p. 30

<sup>8</sup> The DEIR appears to equivocate on this point. On the same page, the DEIR states that “Land use displacement that would result in low-income residents moving farther away from jobs (to find replacement low-income housing) is evaluated in relation to how it impacts other issue areas, for instance in terms of impacts related to transportation and air quality.” However, neither of those chapters discuss displacement and the physical, environmental, and health impacts that would result.

<sup>9</sup> See Draft Equity Analysis Report,

[http://onebayarea.org/pdf/Draft\\_Plan\\_Bay\\_Area/Draft\\_Equity\\_Analysis\\_Report.pdf](http://onebayarea.org/pdf/Draft_Plan_Bay_Area/Draft_Equity_Analysis_Report.pdf), p. 4-19.

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transportation investments.”<sup>10</sup> In fact, UrbanSim has been used for this very purpose in an analysis of the impacts of light rail in Arizona.<sup>11</sup> Moreover, that Equity Analysis concluded that implementation of the draft Plan would lead to significant displacement of lower-income households – placing 36% of struggling lower-income renters at high risk of displacement.<sup>12</sup> Ignoring this finding and omitting altogether any analysis of economic displacement in the DEIR violates CEQA.

d. Inadequate Consideration of Social and Economic Impacts.

B25-31

Social and economic project impacts are also relevant in assessing the significance of physical changes caused by the project. 14 C.C.R. §15131(b). And yet, the DEIR does not analyze the social and economic effects of displacement, even as it acknowledges that “[c]hanging development types and higher prices resulting from increased demand could disrupt business patterns and displace existing residents to other parts of the region or outside the region altogether.” DEIR, p.2.3-35. Instead, these issues are given (inadequate) consideration in the Equity Analysis, which is not part of the CEQA analysis and which does not include any mitigation measures. Under CEQA, the DEIR should consider well-established adverse effects of displacement, including increased rent burden, decreased access to health care, decreased access to healthy food, decreased financial stability, potential job loss and difficulties at school, potential mental health and stress-related physical illness, unhealthy, substandard housing, lower-opportunity neighborhoods, fractured neighborhoods, social isolation, etc. These potential effects, while social and economic in nature, bear on the significance of the physical effects of the project. See 14 C.C.R. §15131(b). The DEIR document thus inappropriately fails to account for disproportionately-burdened communities, and those individuals that are displaced.

B25-32

5. The DEIR’s Mitigation Measures are Inadequate.

Public agencies are required to describe and discuss mitigation measures that could minimize *each* significant environmental effect identified in an EIR. Pub. Res. Code § 21002.1(a)-(b); *see also* CEQA Guidelines, 14 Cal. Code Regs § 15126.4. Mitigation measures are “the teeth of the EIR” because “[a] gloomy forecast of environmental degradation is of little or no value without pragmatic, concrete means to minimize the impacts and restore ecological equilibrium.” *Environmental Council of Sacramento v. City of Sacramento* (2006) 142 Cal. App. 4th 1018, 1039. Such measures must be at least “roughly proportional” to the impacts of the project, and must not be remote or speculative. 14 Cal. Code Regs. § 15126.4

<sup>10</sup> See Exhibit 1 -SSR memo, pp. 8-9.

<sup>11</sup> See Exhibit 1 -SSR memo, p. 8 citing Joshi, H., S. Guhathakurta, G. Konjevod, J. Crittenden, and K. Li, Simulating the Effect of Light Rail on Urban Growth in Phoenix: An Application of the UrbanSim Modeling Environment. *Journal of Urban Technology*, 2006. 13(2): 91-111.

<sup>12</sup> See Draft Equity Analysis Report, [http://onebayarea.org/pdf/Draft\\_Plan\\_Bay\\_Area/Draft\\_Equity\\_Analysis\\_Report.pdf](http://onebayarea.org/pdf/Draft_Plan_Bay_Area/Draft_Equity_Analysis_Report.pdf), p. 4-19.

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(a) (citing *Dolan v. City of Tigard*, 512 U.S. 374 (1994)); see also *Federation of Hillside & Canyon Ass'ns v City of Los Angeles* (2000) 83 Cal. App. 4th 1252, 1261.

a. The mitigation measures for displacement impacts are inadequate.

To the extent the DEIR does identify certain, localized displacement impacts as significant, the proposed mitigation measures are woefully inadequate even in the context of the artificially constrained impacts they purportedly address (i.e., “focusing on the physical impacts such as displacement”, without analyzing the impacts of displacement of the disproportionately-impacted households most likely to be displaced as a result of the Plan). DEIR, p. 2.3-32. Displacement mitigation measures 2.3(b) and 2.3(c) focus on enhancing pedestrian and bike access, and general planning. DEIR, p. 2.3-39.

By summarily concluding that “any displacement or disruption would mostly occur locally” (notwithstanding findings made in the Equity Analysis), MTC and ABAG similarly conclude that regional displacement is less than significant, thus, shirking their legal duty to mitigate displacement impacts on disproportionately-impacted populations. DEIR, p. 2.3-35 – 2.3-36. As a result, nothing is proposed to add real protections against displacement pressures, such as increasing the amount of housing growth or providing deed-restricted affordable housing in transit-oriented suburban job centers. Nor is the required finding made that significant and unmitigated displacement impacts will result in identified localized areas.

B25-33

b. Compliance with existing regulations is not adequate mitigation.

In addition, many of the mitigation measures (particularly for air impacts) set forth in the DEIR are already required by applicable state or local regulations, and thus already required by law to be in the project. For example, (a) use of Tier 2 off-road equipment, (b) anti-idling requirements, and (c) controlling fugitive dust. DEIR, p.2-2-34. These measures are already legally required and should have been assumed to be part of the baseline of the project. By inappropriately calling them out as mitigation measures, MTC and ABAG are avoiding their obligation to identify other mitigation measures that could reduce pollution, improve public health, and save lives.

B25-34

As the Attorney General pointed out in her lawsuit challenging SANDAG’s SB 375 plan, measures already required by law to be in a project cannot be added to the RTP/SCS, or to an individual transportation project, as mitigation. These measures should have been assumed to be part of the baseline, rather than discretionary measures that can be added to the project in order to reduce or eliminate the impact over time of the RTP/SCS. (Amended Opening Brief in Support of the People of the State of California’s Petition for Writ of Mandate in Intervention at 20, *Cleveland National Forest Foundation v. San Diego Association of Governments*, No. 37-2011-00101593-CU-TT-CTL (Superior Court of San Diego County, October 12, 2012)) appeal docketed, No. D62388 (4th Appellate District Division 1).

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B25-35

- c. The DEIR should include the EEJ Alternative as components of the project or as mitigation measures.

The DEIR correctly points out in many places that mitigation of a number of the identified impacts identified are outside the jurisdiction of ABAG and MTC. Nevertheless, ABAG and MTC have not adequately leveraged the mitigation potential of programs that are within their jurisdiction, namely the One Bay Area Grant program and the statutory Regional Housing Needs Allocation. These programs give both agencies significant leverage to direct the course of future development under their respective jurisdiction. We urge ABAG and MTC to maximize their leverage under the programs to identify and require as additional mitigation measures certain key components of the EEJ alternative.

B25-36

The EEJ alternative does a much better job of targeting those programs to achieve the objectives of SB 375 and state and federal transportation and housing laws than the preferred alternative. ABAG and MTC can significantly improve the Preferred Alternative by including select components of the EEJ that would substantially enhance the performance of the Preferred Alternative.

Specifically, we recommend adding the following specific measures, either as components of the project or as mitigation measures, to address significant impacts in the draft Plan such as substantially increased per capita VMT on heavily congested roads, increased PM<sub>10</sub> emissions from on-road mobile sources, localized increase in sensitive receptors in TPPs exposed to increased air pollution, larger increases and/or smaller decreases in air pollution in disproportionately impacted communities, and displacement of substantial numbers of people from their homes:

B25-37

- Transit operations: Provide \$3 billion in additional operating revenue for local transit service in the final Plan, and commit to adopt a long-range, high-priority "Regional Transit Operating Program" to boost transit operating subsidies by another \$9 billion over the coming years, as new operating-eligible sources of funds become available.

B25-38

- SCS and RHNA housing distribution: Shift 25,000 RHNA units from PDAs to "PDA-like places," with a corresponding shift in the SCS.

B25-39

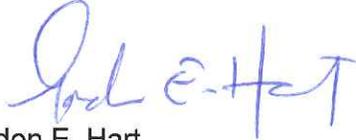
- Displacement protections: Modify the conditions of OBAG grants to ensure that recipients adopt and implement strong anti-displacement protections, and provide substantial regional funding for community stabilization measures, such as land banking and preservation of affordable housing in at-risk neighborhoods that are pushing struggling families to the distant edges of the region and beyond.

We appreciate your consideration of these comments and look forward to ABAG's and MTC's response.

**PAUL**  
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Sincerely,



Gordon E. Hart  
of PAUL HASTINGS LLP



Richard A. Marcantonio  
PUBLIC ADVOCATES, INC.

Enclosures:

GEH

LEGAL\_US\_W# 75138169.2



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Association of Bay Area Governments  
101 Eighth Street  
Oakland, CA 94607

**Re: Comments on Draft Plan Bay Area**

Dear MTC Chair Worth and ABAG President Luce:

Public Advocates, the California Affordable Housing Law Project, California Rural Legal Assistance and Urban Habitat submit these comments on the draft Plan and the regional planning process.

With MTC and ABAG’s study of the Equity, Environment and Jobs (EEJ) scenario as Alternative 5 in the draft EIR, it is clear that the three modifications it proposes – improving local transit service levels, distributing more housing growth to suburban job and transit hubs, and protecting vulnerable families from displacement – will dramatically boost performance in critical areas where the draft Plan falls short. We include three specific recommendations for relatively modest policy and investment changes that would dramatically improve the final Plan’s performance against our regional targets and performance measures, while delivering a fairer share of the Plan’s benefits to our region’s most disadvantaged families.

The analysis in the draft Plan and EIR demonstrates that the EEJ alternative – which MTC and ABAG have appropriately identified as the “environmentally superior alternative” – performs significantly better than the draft Plan on a host of performance measures tied to the targets and goals our region has chosen to pursue. By removing tens of thousands of cars from our congested roads and increasing transit ridership dramatically, the EEJ alternative will reduce daily VMT by 3.5 million miles and annual emissions by over half a million tons. The EEJ alternative will put tens of thousands fewer families at risk of flooding from sea-level rise and billions of dollars more into filling potholes on local streets and roads. And it will provide the greatest benefits to

disadvantaged families while protecting them the most from displacement.

The crucial elements of the EEJ alternative can easily be incorporated into the final Plan Bay Area. Three specific changes that build on the draft Plan in relatively modest ways will yield outsized benefits in meeting the goals and targets we identified as a region at the outset of the planning process:

- The draft Plan directs \$220 billion to transit operations. The EEJ alternative achieves its benefits with an increase in that total of only 5 percent.
- The draft Plan puts 95 percent of new housing growth into fifteen cities. Reducing that concentration to 80 percent in the SCS brings enormous benefits if the remainder is shifted to places with good transit, lots of jobs, and/or high-opportunity neighborhoods – the “PDA-like places” which ABAG’s executive board agreed to emphasize in its unanimous July 2011 vote.<sup>1</sup> This corresponds to a shift of about 25,000 homes in the eight-year RHNA.
- The draft Plan devotes \$320 million to the region’s innovative One Bay Area Grant program (OBAG), which has already demonstrated the power to incentivize local affordable housing plans consistent with the region’s goals. EEJ would incorporate into OBAG specific requirements to ensure strong local action to meet the region’s target of zero displacement.

These changes will boost the final Plan’s performance, including on measures essential to reaching Plan Bay Area’s important public health targets. If we also include policy recommendations to encourage project sponsors to pay their workers Area Standard Wages and to require the inclusion in the construction team of local apprentices enrolled in State of California approved Apprenticeship Programs, we not only get better health and environment outcomes, but improved economic outcomes, as well.

Two important points about the design of the EEJ alternative should be made at the outset. First, the EEJ alternative – unlike alternatives that MTC analyzed in past RTP cycles – is not only entirely fiscally-constrained, but plays by exactly the same rules as the draft Plan. It puts no funds toward transit operating purposes except those that MTC staff acknowledges are eligible for that use. And it includes all of the draft Plan’s “committed” projects.

Second, the VMT fee is not an essential part of the EEJ alternative. While it provides a useful placeholder for analyzing the benefits that a boost in transit operating revenue would bring to our region, we can enjoy the bulk of those benefits without a VMT fee. In fact, \$3 billion in additional transit operating funds can readily be made available in the final Plan, as discussed below.

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<sup>1</sup> Attachment B, available at [http://www.publicadvocates.org/sites/default/files/library/proposal\\_to\\_modify\\_the\\_focused\\_growth\\_scenario\\_adopted\\_on\\_07\\_21\\_11.pdf](http://www.publicadvocates.org/sites/default/files/library/proposal_to_modify_the_focused_growth_scenario_adopted_on_07_21_11.pdf)

The agencies' study of the EEJ alternative shows that, taken together, the modest changes we propose bring enormous and crucial benefits to the Bay Area. These benefits are individually significant, resulting in hundreds of thousands of tons in emissions reductions compared to the draft Plan, well over one hundred thousand added transit riders and more than 15,000 fewer families at high risk of displacement, and benefits on many other targets the region adopted to ensure progress toward our shared goals. Cumulatively, the increment in additional benefits is massive. And the sooner we invest in reaping those benefits, the larger they will grow as they compound over time.

Our comments are organized as follows:

**Section A** addresses the process, with reflections on what worked and what could be improved next time. It shows that if we do not incorporate a "trade-offs" decision point at which elements of the EEJ can be discussed and put to a vote, then much of what was good in the process will have been for naught.

**Section B** summarizes the enormous benefits that the elements of the EEJ alternative could bring to improving the draft Plan.

**Section C** addresses transportation issues, demonstrating several examples of how staff can make over \$3 billion in additional transit operating revenue available. It also notes some troubling discrepancies in the draft Plan's analysis of transit operating shortfalls.

**Section D** addresses the irrationality, infeasibility and unfairness of loading 95 percent of the housing allocation into just fifteen cities, while allocating insufficient housing to high-opportunity suburban job centers and transit hubs with thousands of low-wage workers who commute long distances to work.

**Section E** addresses the issue of community disruption and displacement due to the gentrification that PDA-focused housing growth will bring.

**Section F** concludes with a description of the three policy and investment changes that MTC and ABAG's governing boards should include in the final Plan.

#### **A. Reflections on the Process**

We are just months from the end of a regional visioning and planning process that began in earnest three years ago. That process saw many voices come together for a discussion that, at its best, was thoughtful, respectful and inclusive. It was not always at its best. Both to reflect on what worked, and to learn what should be improved in the next round, we begin with an evaluation of the process.

Early on, a crucial decision point was the adoption of a federally-required Public Participation Plan. Already at this early stage, a broad spectrum of groups involved themselves in the process, recognizing the importance of equitable long-range planning. Those groups include many community-based membership organizations, and represent overlapping concerns with social and environmental justice, public health, affordable housing, transit service, environment and economic issues. Fifty of them commented on MTC's draft participation plan, asking above all

that the process “start with the needs.”<sup>2</sup> Specifically, they asked for “an early process for assessing and prioritizing the critical transportation needs of the region as a whole, and of low-income communities and communities of color in particular.”

It was a shortcoming of the process that this needs assessment never took place. Instead, the starting point was lists of pet projects that counties put together in processes that were scarcely public, much less inclusive. As MTC/ABAG bring this planning cycle to a close and begin looking to the next one, they will benefit from an early discussion that can inclusively identify and prioritize the needs of the region. A related request that was not honored sufficiently this time, and must be improved in the next round, was that MTC “ensure transparency in the CMAs and the Partnership Board.”

By contrast, a highlight of the process was the adoption of targets and performance measures in early 2011. The agencies should commit to issuing an annual report card of performance against these targets, equity metrics and others performance measures.<sup>3</sup> In addition, the translation of goals into targets and metrics can be done better next time. We recommend as an early step that the agencies commission a “state of the research” study on the ways in which progress toward meeting our region’s equity, economic and environmental goals can be measured, in triple-bottom-line fashion, and that this research inform the selection and measurement of targets.

Another positive change was the creation of a Regional Equity Working Group and the preparation of equity analyses at earlier stages of the decision-making process, rather than at the end, after the preferred alternative has already been selected. Too often, however, the agencies ignored the strong and constructive recommendations of the REWG and other advisory groups. One key recommendation that should be implemented next time is to measure equity by first identifying gaps in key indicators between demographic groups in the base year, then designing scenarios with policies and investments specifically targeted to closing those gaps, and then measuring the extent to which the gaps are indeed closed.<sup>4</sup>

MTC’s decision to conduct a project performance assessment of uncommitted transportation projects proposed for inclusion in Plan Bay Area was the right decision. But that evaluation should affect the outcome. As far as we can tell, no poor-performing projects were eliminated from the draft Plan on the basis of this assessment. The draft Plan includes 194 projects that would increase freeway lane-miles, at a total cost of \$5.4 billion in uncommitted funds. Nearly all of them – 171 – scored “low” (meaning less than 1) on MTC’s benefit-cost measure. By

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<sup>2</sup> That comment letter is available at [http://www.publicadvocates.org/sites/default/files/library/ppp\\_comment\\_letter\\_final\\_with\\_new\\_signatories\\_9-14-10.pdf](http://www.publicadvocates.org/sites/default/files/library/ppp_comment_letter_final_with_new_signatories_9-14-10.pdf).

<sup>3</sup> For an example of an annual monitoring report from another MPO, see [http://www.dvrpc.org/asp/pubs/publicationabstract.asp?pub\\_id=13044](http://www.dvrpc.org/asp/pubs/publicationabstract.asp?pub_id=13044).

<sup>4</sup> See Karner, A. and D. Niemeier, Innovations in the Equity Analysis of Regional Transportation Plans (Transportation Research Board. 2013) (citing Martens, K., A. Golub, and G. Robinson, A Justice-Theoretic Approach to the Distribution of Transportation Benefits: Implications for Transportation Planning Practice in the United States. Transportation Research Part A: Policy and Practice, 2012. 46(4): 684-695).

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contrast, strong and medium-strong projects scored 5 or greater.<sup>5</sup> And measured against MTC's targets, many of these highway expansion projects also performed poorly, with 81 having a "minimal impact" at best, and many having adverse impacts. In addition, the draft EIR indicates that 11 of these projects, with a total capital cost of \$1.25 billion, are located within the mid-century sea level rise zone, while another 6 (capital cost \$1.28 billion) are within the mid-century low-lying zone.<sup>6</sup>

The performance assessment will continue to have contributed no value to the outcome unless the process of final adoption includes the opportunity to trade off poor performance in favor of better-performing alternatives. The time in the process for that opportunity is now.

*The question at this moment, more broadly, is whether the performance of both projects and alternatives against the targets and metrics the region adopted earlier will inform the final stage of the decision making process.*

The development of scenarios and selection of some for study was a low point in the process. Many participant groups had repeatedly asked to be involved in that process from the start; instead, five scenarios developed by staff without public input appeared on the scene in June 2011. A community-developed scenario, the Equity, Environment and Jobs scenario (EEJ), was quickly brought forward for discussion – and ultimately studied in the current draft EIR. The EEJ scenario reflected an unusually broad consensus of community and policy groups across the region, and excited the interest of a number of MTC/ABAG policy board members. But the agencies' failure to bring this scenario forward as part of the original group of staff scenarios meant that it was not incorporated in discussions that led to selecting a "preferred" alternative. This was a deep flaw in the process that can be remedied in part only by having a substantial discussion about modifying the draft Plan now that EEJ has been studied.

That said, we commend the agencies for their decision to study the EEJ scenario as an EIR alternative under CEQA. Whether the EEJ scenario was analyzed against the preferred alternative in a proper and comparable manner (it was not) is discussed in our separate comments on the DEIR, attached and incorporated herein. Whether its study, and its numerous and cumulative performance benefits, will result in an improved final Plan is the subject of this letter.

In sum, the process to date has had its high and its low points, resulting in a draft Plan that, despite some strong potential, falls far short of its goals. The test for the process, and for the substance of the outcome, is whether we take this opportunity to make the relatively modest changes that the process to date has shown will result in a much better final Plan.

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<sup>5</sup> The projects are those listed as deleted in the EEJ in Appendix C to the draft EIR. Project scores are from the online project database at <http://www.bayarea2040.com/>. Groupings of scores (e.g., "low" benefit-cost, or "minimal impact" on targets) come from MTC's Summary of Benefit-Cost Ratios and Target Scores (App. A-1), dated Jan. 24, 2012.

<sup>6</sup> *Source:* Draft EIR, Tables 3.1-30 and 3.1-31.

B25a-1

## **B. The EEJ Alternative Significantly Outperforms the draft Plan.**

The performance charts in chapter 5 show that, on target after target, the EEJ outperforms the draft Plan. While the differences are misleadingly represented as seemingly small percentage point differences, they are in fact significant both individually and cumulatively.<sup>7</sup>

First, by boosting transit operating funding by just 5 percent, the EEJ alternative showed that we can dramatically increase transit service levels,<sup>8</sup> providing:

- 12.5% more local transit service (bus and light rail)
- 13% more express bus service, and
- 6.5% more BART service

Adding transit service close to housing and jobs will mean:

- 83,500 fewer cars on the roads
- 3.5 million fewer miles of auto travel per day.
- 108,000 fewer people traveling by car each day
- 165,000 more people riding transit each day<sup>9</sup>

Dramatically reduced levels of driving, in turn, not only translate into less congestion on our roads, but also result in dramatic public health and environmental benefits over the draft Plan Bay Area, including these:

- 1,900 fewer tons of CO<sub>2</sub> emissions per day and 568,000 fewer tons of GHG emissions per year
- 6.4 fewer tons of Toxic Air Contaminants (TACs) per year
- 1,290 fewer tons of carbon monoxide emissions per year
- Daily energy savings of 68 billion BTUs, the equivalent of burning 600,000 fewer gallons of gasoline each day.<sup>10</sup>

It will also provide the public health benefits associated with

- 250 more hours of active transportation (biking and walking) per day.<sup>11</sup>

EEJ also would avoid wasting scarce public funds – \$2.5 billion worth – on building highway expansions in places that are expected to be at risk of flooding by 2050.<sup>12</sup> Nor would it put more

<sup>7</sup> As noted in the attached memorandum of Sustainable Systems Research, LLC, the actual performance of the EEJ relative to the preferred alternative would have been even greater had the modeling inputs and methods been comparable and had displacement impacts been modeled. Sustainable Systems Research, LLC “Technical Memorandum: Review of the Draft Environmental Impact Report for Plan Bay Area” May 15, 2013, p. 12. (Attachment C, hereinafter “SSR Memorandum”)

<sup>8</sup> SSR Memorandum, Appendix A.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> SSR Memorandum, Table 3.

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residents at risk of flooding. By moving some of our housing growth and transportation investment out of these risky areas, it would:

- Put 30,000 fewer residents in neighborhoods subject to flood risk due to sea level rise by 2050, and
- Have enough money left over to repave more than 4,400 miles of local streets and roads.<sup>13</sup>

EEJ would also be fairer to the region's most disadvantaged communities and families: it would

- Put 15,800 fewer struggling families at high risk of displacement, and
- Save low-income families \$79 million a year in rent.<sup>14</sup>

In short, the EEJ alternative offers the Bay Area substantial impacts across a wide range of benefits.<sup>15</sup>

Moreover, the additional benefits of increasing non-auto mode share will compound over time, as land uses will follow ridership, creating a virtuous cycle.<sup>16</sup>

Since the three adjustments the EEJ alternative proposes will bring our region so much closer to the outcomes we set our sights on when we set regional goals and targets, and will do so more fairly than the draft Plan, the appropriate question for thoughtful consideration at this stage of the process is: What can we learn from the EEJ alternative that can improve the draft Plan?

The remainder of these comments addresses what we have learned so far, and fleshes out the three recommendations that would strengthen the final Plan while retaining what is strong in the draft.

### **C. The Final Plan Should Use Existing Operations-Eligible Funds to Boost Local Transit Service, and Commit to a "Regional Transit Operating Program."**

Two-thirds of all transit boardings in the Bay Area today occur on local bus lines.<sup>17</sup> Local bus service not only provides a vital lifeline for low-income families, youth and seniors, it is also our most adaptable mode of transit and our most cost-effective means of reducing driving and GHG emissions. Yet the history of local bus operations in the Bay Area is a history of service cuts and

<sup>13</sup> The EEJ alternative includes additional revenue of \$3.4 billion to put toward closing the Local Street and Road maintenance shortfall. SSR Memorandum, p. 9.

<sup>14</sup> SSR Memorandum, Appendix A.

<sup>15</sup> Modeling results state that EEJ performs 1% worse than the draft Plan on gross regional product. But Cambridge Systematics, commissioned by the agencies to prepare an analysis of economic impacts, calls the methodology used "notoriously unreliable." Economic Impact Analysis at 5. Despite repeated public requests, no other job or economic measures were studied in the draft Plan and EIR.

<sup>16</sup> SSR Memorandum, p. 12.

<sup>17</sup> Of just over 1.5 million daily boardings, just under a million are on local bus routes, with another 200,000 on light rail. Draft Summary of Predicted Traveler Responses (Mar. 2013), p. 55, available at [http://onebayarea.org/pdf/Draft\\_Plan\\_Bay\\_Area/Draft\\_PBA\\_Summary\\_of\\_Predicted\\_Traveler\\_Responses.pdf](http://onebayarea.org/pdf/Draft_Plan_Bay_Area/Draft_PBA_Summary_of_Predicted_Traveler_Responses.pdf).

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fare hikes that have reduced service in many parts of the region to levels lower than they were years ago. For instance, in FY 2011 the region ran at least 10 percent less bus service than it did in FY 2003.<sup>18</sup>

The draft Plan, according to the DEIR, will increase overall transit service levels by 27.3 percent over existing service levels.<sup>19</sup> Yet while 66 percent of boardings are on local bus, fully three-quarters of the projected service increase in the draft Plan comes on modes (heavy rail, commuter rail and ferry) that tend to serve more affluent “choice” riders – those who have the choice to drive instead. Only 20 percent would benefit the riders of local bus and light rail systems, who are far more likely to be transit-dependent, and to be riders of color.<sup>20</sup>

By contrast, the EEJ alternative not only improves existing transit service levels more dramatically – 37 percent overall – it also distributes that improvement more fairly, putting nearly 30 percent of its service increase into local transit.

And the EEJ alternative proves that boosting local service pays big dividends in increasing ridership, in agreement with the national research. The travel modeling data used in the draft EIR demonstrates that adding local transit service – and in particular, local bus service – is the most cost-effective way to build transit ridership. Of the 179,106 additional daily transit boardings that the EEJ alternative generates over the draft Plan on local bus, light rail and BART, local bus service accounts for 111,000, and light rail service for another 51,000, making a total of 162,000 additional boardings on local transit modes. By contrast, BART boardings account for under 17,000.<sup>21</sup>

The contrast is significant because not only do local transit boardings account for 90 percent of the EEJ alternative’s increased boardings over the draft Plan’s, they do so much more cost-effectively than other modes of transit. We know this because the EEJ alternative devoted \$3.2 billion to additional BART Metro service improvements (beyond those included in the draft Plan), while devoting \$6.7 billion to mostly local transit service operated by AC Transit, VTA, SamTrans, and several smaller operators.<sup>22</sup>

Dollar for dollar, the investment in local transit operations produced 4-1/2 times more ridership increase than the BART investment:

<sup>18</sup> Revenue vehicle hours of service fell 13 percent, from 86,207,000 to 75,067,000. During the same period, revenue vehicle hours dropped 10 percent, from 7,175 to 6,453. *Source*: MTC Statistical Summary of Bay Area Transit Operators, June 2012, p. 5; id., Mar. 2008, p. 5. Since these totals combine express and local bus service, the reduction in local service was likely greater.

<sup>19</sup> DEIR Table 3.1-7 (data in seat-miles).

<sup>20</sup> See Attachment D, based on data provided in DEIR Table 3.1-7.

<sup>21</sup> See SSR Memorandum, Table 2.

<sup>22</sup> The smaller operators are Marin Transit, Golden Gate Transit, LAVTA, County Connection, Santa Rosa CityBus, and Sonoma County Transit.

| <b>Mode</b>   | <b>Dollars invested in EEJ operations</b> | <b>Ridership increase in EEJ over draft Plan</b> | <b>Dollars per additional boarding</b> |
|---------------|-------------------------------------------|--------------------------------------------------|----------------------------------------|
| Local transit | \$6.7 billion                             | 162,000                                          | \$ 41,358                              |
| Heavy rail    | \$3.2 billion                             | 17,000                                           | \$188,235                              |

The EEJ alternative demonstrates that we get a huge bang for our buck by increasing our investment in local transit operations. To bring our transit service levels up to the levels in the EEJ alternative, we should put \$3 billion more into local transit service in the final Plan, and make a high-priority commitment to find another \$9 billion as new funding sources come available in the future.

### **1. The Final Plan Should Boost Operating Revenue for Local Transit Service by \$3 Billion.**

The EEJ alternative shows that we can dramatically boost local transit service levels, both immediately and in the long term. While EEJ includes a VMT fee as a placeholder for demonstrating the benefits of significant additional operating funding for local transit, much of the boost in transit service levels can be accomplished in this plan, today, using funds that MTC staff has identified as eligible for that purpose.

Staff has the expertise to make this happen. Simply to illustrate that it is well within the realm of feasibility, we provide three examples of how it could be done:

First illustration: Last June, an MTC staff report included a table entitled “Potential Shifts to Transit Operating” (Att. B) identifying \$5.9 billion in operations-eligible funding sources that were proposed for uses other than transit operations (such as OBAG and the Freeway Performance Initiative (FPI)). By using some of that, and shifting savings from low-performing freeway projects to backfill OBAG and FPI, we can immediately boost bus service levels by \$3.3 billion without reducing transit capital replacement funding, as shown in this chart:

| Project/<br>Program                     | <b><u>Draft Plan<br/>Allocation</u></b> | Operating<br>Eligible<br>Funds <sup>23</sup> | Shifted to<br>Transit Ops  | Cancelled<br>Uncom-<br>mitted<br>Projects | Restored<br>Cancelled<br>Capital<br>Projects | <b><u>Revised<br/>Allocation</u></b> |
|-----------------------------------------|-----------------------------------------|----------------------------------------------|----------------------------|-------------------------------------------|----------------------------------------------|--------------------------------------|
| Transit Capital<br>Replacement          | \$2.6 billion                           | \$2.6 billion                                |                            |                                           |                                              | \$2.6 billion                        |
| OBAG                                    | \$2.0 billion                           | \$2.0 billion                                | (\$2.0<br>billion)         |                                           | \$2.0 billion                                | \$2.0 billion                        |
| Regional<br>Express Lanes<br>Network    | \$0.3 billion                           | \$0.3 billion                                | (\$0.3<br>billion)         |                                           |                                              | \$0.00                               |
| FPI                                     | \$1.0 billion                           | \$1.0 billion                                | (\$1.0<br>billion)         |                                           | \$1.0 billion                                | \$1.0 billion                        |
| Uncommitted<br>Freeway Exp.<br>Projects | \$5.4<br>billion <sup>24</sup>          |                                              |                            | (\$5.4<br>billion)                        |                                              | \$0.00                               |
| Local Streets<br>and Roads              |                                         |                                              |                            |                                           |                                              | \$2.4 billion                        |
| Transit<br>Operations                   |                                         |                                              |                            |                                           |                                              | <b>\$3.3 billion</b>                 |
| <b>Total</b>                            | <b>\$11.3<br/>billion</b>               | <b>\$5.9 billion</b>                         | <b>(\$3.3<br/>billion)</b> | <b>(\$5.4<br/>billion)</b>                | <b>\$3 billion</b>                           | <b>\$11.3 billion</b>                |

In short, not only can we boost transit service levels substantially, we can direct another \$2.4 billion to cover shortfalls in local street and road maintenance in the process.

**Second illustration:** MTC’s express lane proposal is projected to generate \$6 billion in unrestricted revenue over the life of the Plan, but proposes to plow all of that money back into building more express lanes. If only half of those revenues were used to boost transit service, we could dedicate \$3 billion towards improving transit service levels, while also making for a more equitable project.

**Third illustration:** The draft Plan includes no AB 32 Cap and Trade revenue, projected to amount to a half-billion dollars in the next fiscal year alone. In its “Cap-and-Trade Auction Proceeds Investment Plan,” the Department of Finance and the Air Resources Board recommend that one of three investment categories, “sustainable communities and clean transportation,” receive the

<sup>23</sup> *Source:* Staff Memo of June 1, 2012, available at [http://apps.mtc.ca.gov/meeting\\_packet\\_documents/agenda\\_1888/Item\\_4\\_EIR.pdf](http://apps.mtc.ca.gov/meeting_packet_documents/agenda_1888/Item_4_EIR.pdf), p. 21 (relevant excerpt is Attachment D).

<sup>24</sup> *Source:* MTC document, Summary of EEJ Funding Shifts (draft Aug. 30, 2012) (attached to SSR Memorandum as part of appendix A).

largest allocation. The final Investment Plan, issued May 14,<sup>25</sup> expressly highlights “transportation infrastructure and operations” (p. 27) as funding priorities, putting to rest any doubts in the draft. In fact, the final Investment Plan includes among the “existing programs” to which funds are recommended to be allocated State Transit Assistance, the primary state funding source for transit operations (p. B-4). The Bay Area’s share of additional STA operating funds could easily exceed hundreds of millions of dollars over the life of the Plan, and those funds should be earmarked in the final Plan for local transit operations.

These are only illustrations of several feasible possibilities. Staff has the expertise to fine tune these solutions, mix and match them, and come up with others. The Commissioners and Board Members of MTC and ABAG should direct staff to suggest the best source for increasing local transit operating revenues in the final Plan by at least \$3 billion.

**2. The Final Plan Should Include a High-Priority “Regional Transit Operating Program,” at the Level of Resolution 3434, which Targets Another \$9 Billion in Transit Operating Revenue.**

With a downpayment of \$3 billion in the final Plan for additional local transit service, we should take the further step of adopting a long-range, high-priority policy, parallel to the successful Regional Transit Expansion Program in MTC Resolution 3434. This “Regional Transit Operating Program” should include two components. First, it should set a target of increasing transit operating funding for the region by another \$9 billion, to fully fund local transit service, a region-wide free youth bus pass, and BART Metro. And second, it should commit MTC to take advantage of all new operations-eligible funding that comes to the region from state and federal sources, such as Cap and Trade revenues under AB 32, federal “windfalls,” and so on, and should set expectations that future county sales tax measures include a fair share for transit operations.

**3. The draft Plan Leaves Unanswered Questions about the Extent of Transit Operating and Maintenance Shortfalls.**

The addition of transit operating revenue in the final Plan is particularly crucial because it appears that draft Plan may fall short for many operators even of its stated objective of maintaining existing levels of service.

By way of background, in the draft Plan, as in the past, MTC has identified both capital and operating shortfalls for transit. Funding both the capital maintenance needs and the operating needs of our transit systems is critical to preserving existing levels of service and ridership.

We commend MTC for a major policy shift in the draft Plan which, for the first time, proposes to fully fund operating shortfalls.<sup>26</sup>

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<sup>25</sup> Dept of Finance and Air Resources Board, “Cap-and-Trade Auction Proceeds Investment Plan: Fiscal Years 2013-14 through 2015-16,” (May 14, 2013), available at [http://www.arb.ca.gov/cc/capandtrade/auctionproceeds/final\\_investment\\_plan.pdf](http://www.arb.ca.gov/cc/capandtrade/auctionproceeds/final_investment_plan.pdf).

<sup>26</sup> In 2009, as in every previous RTP going back to at least 1998, MTC applied regional discretionary funds to cover transit capital shortfalls, in whole or in part, but none of the operating

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This policy change is important because MTC's past failure to cover operating shortfalls has contributed to the consistent decline of transit service levels for some operators from one RTP to the next. For instance, the draft Plan shows a drop of 12 percent in AC Transit service levels over its 2009 RTP baseline (= FY 2007); other operators have also lost significant service baselines from the 2009 RTP to the draft Plan, including SF MUNI (-7%) and SamTrans (-11%). Overall, baseline service levels are down 3 percent for the large operators, and 5 percent for small operators in the draft Plan over the last RTP.

On top of the erosion of baseline service levels from one RTP to the next, the draft Plan leaves serious questions unanswered about whether shortfalls were properly identified and covered so as to maintain even the new baseline service levels. These questions should be answered in the final Plan, and to the extent that shortfalls have been understated, additional operating funds should be allocated to cover those shortfalls in full.

One overarching question is the source of the data in the appendix on Transit Operating and Capital Needs and Revenue Assessment.<sup>27</sup> In the past, MTC's process was to obtain information on current service baselines and operating revenue needs from the operators in their Short Range Transportation Plans. In this planning cycle, for the first time, it appears that those ten-year plans were not the basis of the projections. MTC states that "Where there were questions on the assumptions, MTC generally worked with the transit operator to get clarification and used information deemed most accurate by the transit operator," but evidently this process was not as careful as it should have been. The apparent failure to adequately vet the data with the operators raises additional questions, including the following:

First, the transit operating and maintenance analysis in Table 1 of the Transit Operating and Capital Needs and Revenue Assessment states that MTC used a FY 2013 baseline of existing transit service levels. In other words, MTC identified the FY 2013 service level for each operator, and then calculated how much it will cost to continue operating at that level for 28 years. But the baseline data appear to be wrong. For AC Transit, for instance, the Table states that AC Transit ran 1,624,000 Revenue Vehicle Hours of service in FY 2013. In fact, AC Transit's approved FY 2013 budget<sup>28</sup> is predicated on running 1,790,916 hours of service, 10% more than the draft Plan acknowledges.

Second, Table 1 shows that, even for this lower level of baseline service, AC Transit has an operating shortfall of about \$1.5 billion, and that this shortfall is funded with "CMA discretionary funds." It appears that this refers to the Alameda County Transportation Commission sales tax measure that failed at the last election. See pp. 1-2 ("Revenues from Alameda County's proposed sales tax measure, a ½-cent augmentation to an existing measure,

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shortfall. In 2009, for instance, MTC applied \$6.3 billion toward capital maintenance shortfalls; 42 percent of that funding benefited one operator, BART. Operating shortfalls of nearly \$8 billion were left unfunded. (2009 RTP, Project Notebook, p. 4-1.)

<sup>27</sup> Available at [http://onebayarea.org/pdf/Draft\\_Plan\\_Bay\\_Area/Draft\\_PBA\\_Transit\\_Operating\\_and\\_Capital\\_Needs\\_and\\_Revenue\\_Assessment.pdf](http://onebayarea.org/pdf/Draft_Plan_Bay_Area/Draft_PBA_Transit_Operating_and_Capital_Needs_and_Revenue_Assessment.pdf).

<sup>28</sup> Available at <http://www.actransit.org/wp-content/uploads/Final%20FY1112-FY1213%20book%20for%20online.pdf>.

was included in the revenue projections beginning in FY 2017-18.”) The assumptions regarding the adoption of new sales tax measures, and the amount of operating funding they will provide, should be specified. In addition, the draft Plan leaves unanswered questions of how much service AC Transit will be required to cut during the fiscal years prior to 2018, when new ACTC revenue is assumed to become available. The same questions apply to several other operators, as well.

Third, Table 2 in the Transit Operating and Capital Needs and Revenue Assessment shows “operating revenue available for capital replacement” for AC Transit in the sum of \$384 million, based on the apparent assumption that AC Transit will have more operating revenue than it needs, and that excess will spill over into buying new buses. But Table 1 depicts AC Transit’s operating needs and operating revenue as identical in amount, leaving no such excess.

One final note: The elimination of the level of detail formerly provided in the Project Notebook in this planning cycle was a change for the worse. MTC should provide detailed, operator-by-operator, year-by-year data on projected costs, revenues and shortfalls to operate existing service levels. MTC should also provide a look at the trends in service levels by operator and mode, going back several planning cycles.

#### **D. The draft Plan’s Sustainable Communities Strategy is Irrational, Infeasible and Unfair.**

The Sustainable Communities Strategy must “set forth a forecasted development pattern for the region, which, when integrated with the transportation network, and other transportation measures and policies,” will achieve the greenhouse gas emissions reductions targeted by the California Air Resources Board for 2020 and 2040.<sup>29</sup>

It must also address the Regional Housing Need Allocation, or RHNA, for the housing element planning period that begins in 2014.<sup>30</sup> The SCS shall “identify areas within the region sufficient to house an eight-year projection of the regional housing need for the region pursuant to Section 65584....”<sup>31</sup>

Despite the vagueness of the draft Plan’s development pattern, it is clear that ABAG expects locally-identified Priority Development Areas (PDAs) “to accommodate 80 percent (or over 525,570 units) of new housing” in the region by 2040,<sup>32</sup> and is on track to assign 70 percent of the RHNA need to PDAs. It is also clear that ABAG plans to assign 95 percent of the region’s housing growth to just 15 of the region’s 109 cities and counties over the next 28 years.<sup>33</sup> Currently, just half of the region’s population lives in these fifteen cities.

<sup>29</sup> Gov. Code § 65080 (b) (2) (B) (vii).

<sup>30</sup> *Id.*; § 65080 (b) (2) (B) (iii).

<sup>31</sup> *Id.*

<sup>32</sup> Draft Plan, p. 55.

<sup>33</sup> Draft Plan, p. 51.

This allocation of growth to PDAs, in both the SCS and the RHNA, is irrational, infeasible and is likely to have racial-disparate impacts.

### 1. The PDA-Centered Housing Distribution is Irrational.

B25a-1.7

Priority Development Areas (PDAs) “are locally-identified, infill development opportunity areas within existing communities.”<sup>34</sup> “To be eligible to become a PDA, an area had to be within an existing community, near existing or planned fixed transit or served by comparable bus service, and planned for more housing.”<sup>35</sup>

The transit-focused location of a site makes it particularly suitable for housing development in a plan that is charged with reducing vehicle miles of travel. There are, however, many transit-oriented neighborhoods in the Bay Area that have not been locally-identified as PDAs but that are equally in need of housing development. These “Transit Priority Projects” areas, or TPPs,<sup>36</sup> are equivalent to PDAs in all respects but one: the city within which they are located has not planned to make it available for housing development in its General Plan and zoning code. Many of them are in neighborhoods that also have many low-wage workers commuting in to jobs. Yet only a minority of TPPs have been locally-designated as PDAs. There are also some job-rich and high-opportunity jurisdictions that need more lower-income housing to accommodate their local workforces, but which may not have sufficient transit service to qualify as a TPP or PDA.

Housing growth is needed near transit hubs and job centers throughout the region, and the fact that a city has not yet designated such areas for housing growth in no way reduces either the need or the consequences to the region of inadequate housing to accommodate local workers and optimize use of the transit network. To allocate the overwhelming share of SCS and RHNA housing need to a subset of TPPs based solely on whether a local PDA designation was made in the past cannot be justified. In fact, allocating RHNA based on local zoning is illegal.<sup>37</sup>

Allocating 80 percent of the housing need to the PDAs, and 95 percent of the housing growth to just fifteen cities, means that a number of job centers in high-opportunity suburban cities will continue to contribute auto emissions by importing low-wage workers, while excluding the families of those workers from the benefits of living in communities of opportunity.

Zoning, to be sure, is a local matter. But when ABAG sets the regional housing allocation (RHNA), California’s Housing Element Law makes it mandatory that each city and county adjust its zoning to allow housing in general, and affordable housing in particular, in an amount

<sup>34</sup> <http://www.bayareavision.org/initiatives/prioritydevelopmentareas.html>.

<sup>35</sup> *Id.*

<sup>36</sup> SB 375, sec. 14, adding Pub. Res. Code §§ 21155 et seq.

<sup>37</sup> As the California Department of Housing and Community Development noted in a recent letter to ABAG, “Pursuant to Section 65584.04(d)(2)(B) [of the Government Code], a council of governments may not limit its consideration of suitable housing sites or land suitable for urban development based on localities’ existing zoning ordinances and land use restrictions” in allocating the RHNA. Available at [http://www.publicadvocates.org/sites/default/files/library/rev\\_hcd\\_methodology-concerns-volunteer\\_pda.pdf](http://www.publicadvocates.org/sites/default/files/library/rev_hcd_methodology-concerns-volunteer_pda.pdf).

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sufficient to meet its allocated share of the regional need. ABAG's important role in meeting our regional need for housing is to assure that each jurisdiction in which housing is needed is allocated a share proportional to that need.

In short, job centers and locations served by transit have the same need for housing whether cities plan for it or not. One city's failure to plan for housing has consequences for the entire region, as the California Supreme Court has recognized.<sup>38</sup> The final Plan and the RHNA should allocate adequate housing to the PDAs, but should also allocate infill housing to other places in similar need.

## 2. The PDA-Centered Housing Distribution is Infeasible

B25a-2

MTC and ABAG commissioned Economic & Planning Systems, Inc. (EPS) to conduct a study of the feasibility of developing 80 percent of the region's projected housing growth within the PDAs.<sup>39</sup> After reviewing a representative sample of 20 PDAs for "a range of constraints, which will impede full development of the PDAs," including constraints relating to local policy, market forces, inadequate infrastructure, site issues, financing and financial feasibility, EPS found that

"After applying discounting factors for these types of constraints to the current planned capacity for development in each sample PDA, EPS estimates that, in aggregate, the sample PDAs are 'ready' to accommodate 62 percent of the housing growth allocated to them through 2040 in *Plan Bay Area*."<sup>40</sup>

At best, "EPS believes the 'readiness' of the 20 PDAs can be improved to at least 80 percent of their Plan Bay Area allocated growth through a combination of actions at the local, regional, state and federal level including, most significantly, the restoration of the originally intended authority of redevelopment agencies to assist with parcel assembly and tax-increment-based financial support for infrastructure and vertical development."<sup>41</sup>

If 20 percent of the growth allocated to the PDAs cannot occur due to feasibility constraints unrelated to the loss of redevelopment, and those units are not accommodated elsewhere in the region, we will fall short of meeting our projected housing need by over 100,000 units over 28 years. This translates into about 25,000 units in the 8-year RHNA. If these units are built at all, they are likely to take the form of greenfield sprawl due to lack of adequate zoning in infill locations to feasibly accommodate the region's housing needs.

<sup>38</sup> *Associated Homebuilders of the Greater East Bay, Inc., v. City of Livermore*, 18 Cal.3d 582 (1976).

<sup>39</sup> The EPS report, entitled "Priority Development Area Development Feasibility and Readiness Assessment," dated March 29, 2013, is available at [http://onebayarea.org/pdf/Draft\\_Plan\\_Bay\\_Area/Draft\\_PBA\\_PDA\\_Development\\_Feasibility\\_and\\_Readiness.pdf](http://onebayarea.org/pdf/Draft_Plan_Bay_Area/Draft_PBA_PDA_Development_Feasibility_and_Readiness.pdf).

<sup>40</sup> *Id.*, pp. 4-5.

<sup>41</sup> *Id.*, p. 29.

Re-allocating a portion of the PDA share of the SCS and RHNA to eligible TPPs and other infill locations near job centers that lack sufficient affordable housing will not only assure that housing is built where it is needed, but will also help widen the bottleneck the region's housing market will experience under the draft Plan's hyper-concentration of growth in PDAs that are not equipped for the scale and rate of housing production the draft Plan assumes.

B25a-3

### 3. The PDA-Centered Housing Distribution, and the draft RHNA, Violate Federal and State Civil Rights Laws

The U.S. Department of Housing and Urban Development (HUD) recently noted that ABAG's draft allocation of the Bay Area's regional housing need may violate federal civil rights laws. In its April 9, 2013, letter to ABAG,<sup>42</sup> HUD expressed serious concerns about the fact that ABAG's housing plan "is largely based upon its PDA program which allocates the majority of housing development in areas that local jurisdictions have voluntarily committed for future housing, transit, and job growth." HUD noted that ABAG's PDA-heavy allocation limits housing growth in other cities with "neighborhoods comparably suited for the same type of growth," and expressed concern that this could "limit housing options for low-income families and negatively impact minorities," in violation of the Fair Housing Act, and other federal civil rights laws.

To ensure against civil rights violations, HUD instructed ABAG to

"analyze the extent to which local jurisdictions with neighborhoods eligible for PDA designation were participating in or foregoing participation in the PDA program in order to determine how the PDA program would impact housing in the Bay Area. In performing such analysis, ABAG should compare the areas designated as PDAs to areas that are not PDAs, particularly considering differences in the racial and ethnic demographics."

Though the analysis HUD requested is not hard to carry out, ABAG has so far failed to conduct it in any meaningful way. To frame the analysis, it is important to note that the fifteen cities to which the draft Plan assigns 95 percent of the long-range housing growth are significantly more minority and lower-income than the rest of the region: taken together, the white (non-Hispanic) population of those fifteen cities is under 35 percent, compared to over 50 percent for the remainder of the region. And the fifteen cities have a poverty rate of 11.2 percent, compared to 8.2 percent in the rest of the region.

These disparities can be traced back to significant differences in both race and income between PDAs and non-PDA areas. In aggregate, the population in PDAs is 8.4 percent African American, while outside of PDAs, that figure is just 4.8 percent. Similarly, 28.1 percent of PDA residents are Hispanic, while 19.6 percent of non-PDA residents are Hispanic. These disparities persist even when PDAs are compared to other TOD locations, the Transit Priority Project areas that were eligible for designation as PDAs but not so designated. These TPPs are 42.4 percent

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<sup>42</sup>

Available at

[http://www.publicadvocates.org/sites/default/files/library/letter\\_from\\_hud\\_to\\_the\\_association\\_of\\_bay\\_area\\_governments\\_4.9.13.pdf](http://www.publicadvocates.org/sites/default/files/library/letter_from_hud_to_the_association_of_bay_area_governments_4.9.13.pdf)

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white (non-Hispanic), compared to 35.1 percent in the PDAs. Only 19 percent of their residents are in very-low income households, compared 27 percent in the PDAs.

This data demonstrates a clear disparate impact on low-income minority populations in PDAs, who are at high risk of displacement from their communities. It also demonstrates a clear impact of exacerbating patterns of segregation in high-opportunity communities in our region.

Because the extraordinary emphasis on PDAs over similarly-situated transit-oriented places is irrational, and because that intense PDA-focused development is not feasible, there is no substantial legitimate justification for this disparate impact.

Where a policy or practice has an unjustified discriminatory impact, federal and state civil rights laws require the selection of a less discriminatory alternative where one is available. One is available here: shift 100,000 SCS units and 25,000 RHNA units from the PDAs to TPPs and suburban job centers that were not volunteered as PDAs, and provide anti-displacement safeguards through the OBAG program, as described below.

B25a-4

#### 4. The PDA-Centered draft RHNA Violates the Housing Element Law.

In addition to the issues raised above, the draft RHNA allocation violates the Housing Element Law.<sup>43</sup> That law requires that ABAG's methodology for distributing the regional housing need "shall include" the statutory factors in Government Code § 65584.04 (d) and must be "consistent with all of the" objectives set forth in § 65584 (d). The proposed methodology instead severely limits access to job-rich, transit-connected "high opportunity" areas by weighting the RHNA allocation to those communities that happen to volunteer for PDA status. The methodology suffers from three statutory deficiencies.

First, it fails to include several of the statutory factors in determining the allocation of the vast majority of the RHNA to the locally-nominated PDAs. Specifically, the methodology fails to address: the loss of units contained in assisted housing developments (§ 65584.04(d)(6)), high housing cost burdens (§ 65584.04(d)(7)); and the housing needs of farmworkers (§ 65584.94(d)(8)). Ignoring the loss of affordable housing, housing costs and farmworker housing needs results in an inaccurate determination of the true need. And although the statute requires the methodology to include "opportunities to maximize the use of public transportation and existing transportation infrastructure,"<sup>44</sup> ABAG's proposed methodology includes this factor *only* with respect to PDAs, excluding other places with TPPs that are similarly situated in all relevant respects.

Second, the methodology makes prominent use of the one factor the statute expressly prohibits. While the *availability* of land suitable for development within a jurisdiction is a statutory factor that ABAG must include (§ 65584.04(d)(2)(B)), it may not rely upon that jurisdiction's *willingness to rezone* available land for housing as a factor.<sup>45</sup> The PDA criterion,

<sup>43</sup> Gov. Code §§ 65580- 65589.8.

<sup>44</sup> *Id.*, §65584.04(d)(3).

<sup>45</sup> § 65584.94(d)(2)(B).

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notwithstanding this prohibition, expressly restricts the designation of PDAs to those places where a city has “planned or is planning for more housing.”<sup>46</sup>

Finally, the methodology arbitrarily applies some factors to some cities while failing to apply them in a similar manner to similarly-situated cities. This violates the requirement that the methodology “shall be consistent with all of the . . . objectives” set forth in § 65584 (d). The methodology is inconsistent with each of the four statutory objectives. The first objective is “[i]ncreasing the supply and mix of housing types, tenure and affordability in *all* cities and counties within the region in an *equitable* manner. . . .”<sup>47</sup> The PDA-weighted allocation is clearly inconsistent with this objective. It likewise is inconsistent with the objective to promote socioeconomic equity as required by § 65584(d)(2) and runs afoul of fair housing and civil right obligations as discussed above. It is also inconsistent with the objective of “[p]romoting an improved intraregional relationship between jobs and housing”<sup>48</sup> because it exempts from any share of the 70 percent portion of the RHNA, or allocates a very small share of it to, many mid-size cities that are rich in jobs. And it is inconsistent with the fourth objective to alleviate overconcentration of lower income housing by exempting many cities from any share in the 70 percent portion of the RHNA thereby ensuring that the total RHNA that it distributes to these cities is so small that the lower-income portion of their RHNA is also extremely small.

B25a-5

#### **E. The Plan must Reduce and Mitigate Displacement and Disruption of Lower-Income Communities.**

In the Bay Area and nationally, low-income communities and communities of color are models of environmental sustainability. Living in core urban areas that have suffered from decades of disinvestment, residents in these neighborhoods use public transit frequently, own fewer cars, live in dense neighborhoods with compact homes, and travel shorter distances to work, shop, learn, worship, and socialize. In order to achieve both our environmental goals and our equity targets, regional and local plans must build on this strong foundation, rather than undermining it. As ABAG concluded in a 2009 report:

“There are regional benefits to creating socially and economically diverse neighborhoods – for the economy and environment as well as for social equity. The lack of affordable housing near transit leads families to look for housing they can afford that is further away, or to trade their housing and transportation costs, contributing to sprawl and congestion.”<sup>49</sup>

Recognizing the importance of preventing displacement to advancing a host of regional goals, ABAG and MTC adopted zero displacement as one of the performance targets for the SCS. Target 2 reads:

<sup>46</sup> *Application Guidelines for Priority Development Area Designation*, available at: [http://www.bayareavision.org/pdaapplication/ApplicationGuidelines\\_OCT2011\\_FINAL.pdf](http://www.bayareavision.org/pdaapplication/ApplicationGuidelines_OCT2011_FINAL.pdf).

<sup>47</sup> § 65584(d)(1) (emphasis added).

<sup>48</sup> § 65584(d)(3).

<sup>49</sup> ABAG “Development without Displacement, Development with Diversity” 2009 p. 7 available at <http://www.bayareavision.org/initiatives/dwd-final.pdf>.

“House 100% of the region’s projected 25-year growth by income level (very-low, low, moderate, above-moderate) without displacing current low-income residents.”<sup>50</sup>

The draft Plan wholly fails to achieve this goal. Instead, it places 36% of struggling renters at high risk of displacement from their neighborhoods. The predictable result of implementing draft Plan in its current form will be to force tens of thousands of struggling renters out of their homes and communities, and into long commutes from the distant fringes of the region.

The methodology used to determine displacement risk is simple and meaningful, though it likely under-represents the actual displacement that would result from implementation of the draft Plan.<sup>51</sup> It is based on the overlap of neighborhoods with high concentrations of renters paying more than 50% of their incomes in rent and neighborhoods with substantially above-average housing growth.<sup>52</sup> Rent-burdened households are unlikely to be able to afford further rent increases, and intensive new development is likely to cause just such rent increases. As a 2009 study of gentrification in the Bay Area observed: “It is easy to envision what occurs in this case: as an influx of newcomers increases area rents, these overburdened renters find themselves unable to pay an even higher share of their income for rent, so they depart, leaving more vacancies for new gentrifiers.”<sup>53</sup>

The conclusion that the draft Plan’s hyper-concentration of development near transit in existing lower-income neighborhoods will lead to high rates of displacement is squarely in line with past local and national studies. Past gentrification in the Bay Area has been highly correlated to transit proximity.<sup>54</sup> A national study of TOD areas spelled out the danger of displacement when there is investment in transit infrastructure:

“a new transit station can set in motion a cycle of unintended consequences in which core transit users—such as renters and low income households—are priced out in favor of higher-income, car owning residents who are less likely to use public transit for commuting.”<sup>55</sup>

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<sup>50</sup> <http://www.onebayarea.org/pdf/ScenarioAnalysisOverview.pdf> (emphasis added).

<sup>51</sup> A more refined and less static measure of displacement risk could have been generated by the UrbanSim econometric land use model, which has the capacity to relate propensity to move to localized changes in housing cost. See SSR Memorandum, pp. 7-8.

<sup>52</sup> Choosing 50% of income spent on rent as the threshold likely leads to an under-estimation of the actual displacement risk, as many renters will be unable to afford rent increases even if they pay well under that share of their income. A 2009 report on gentrification in the Bay Area found that “if there is a high share of renters who pay *over 35% of their income* for rent, then the neighborhood is more susceptible” to gentrification. Chapple, Karen, “Mapping Susceptibility to Gentrification” 2009 (emphasis added) available at <http://communityinnovation.berkeley.edu/reports/Gentrification-Report.pdf>.

<sup>53</sup> *Id.* at 7.

<sup>54</sup> *Id.* at 5.

<sup>55</sup> The Dukakis Center “Maintaining Diversity In America’s Transit-Rich Neighborhoods” 2010 p. 1 available at <http://www.dukakiscenter.org/storage/TRNEquityFull.pdf>.

ABAG has observed just this pattern: “In some parts of the Bay Area, increased migration into existing transit-oriented neighborhoods (such as San Francisco’s Mission District and West Oakland) is associated with rent increases, evictions, loss of affordable housing units, and disrupted social networks.”<sup>56</sup>

Past patterns suggest that low income families driven from their neighborhoods as rents increase are likely to move to areas that are less well served by transit or to move out of the region entirely. For example, a 2012 study of the Bay Area by the Federal Reserve Bank of San Francisco found that between 2000 and 2009, “the percentage of the poor population living within half a mile of a rail station decreased by 1.5 percentage points, while the percentage of the total population with the same proximity to rail did not change.”<sup>57</sup> Similarly, San Francisco’s black population declined from a high of 88,000 in the 1970s to an estimated 46,779 by 2005, and Oakland lost 33,000 black residents, 25 percent of its black population, from 2000 to 2010. Over this same time period transit-, employment-, and service-poor areas of eastern Contra Costa and southern Solano Counties saw their black populations increase dramatically.

Despite the high risk of displacement the draft Plan creates, and a host of academic and government research documenting the dangers of gentrification and displacement in TOD areas, the draft Plan includes no policies to minimize or mitigate displacement. Again, EEJ points the way toward reducing displacement. By embracing a more equitable growth pattern, EEJ would cut the draft Plan’s displacement risk by 42 percent. This reduction would be even greater if the DEIR properly modeled displacement and a more full slate of anti-displacement protections and neighborhood stabilization activities had been incorporated into the study of EEJ.

A few targeted responses to this significant local and regional impact would help the Plan begin to address this shortcoming. There are three key actions that should be incorporated into the Plan to minimize and mitigate displacement:

- 1. Strengthen the OneBayArea Grant Program to Incentivize Appropriate Local Policies to Protect Tenants, Stabilize Communities, and Preserve and Create Affordable Homes.**

MTC’s new OneBayArea Grant (OBAG) program gives the region a powerful tool to realize SB 375’s vision by coordinating transportation expenditures and local land use policies. This tool is cited repeatedly in the DEIR as a mitigation, but to serve that purpose it must be targeted to address the substantial regional problem presented by localized community disruption and displacement predicted to result from implementation of the draft Plan.

We commend MTC and ABAG for designing the OBAG grant program in a manner that begins to incentivize local planning for affordable housing by requiring HCD-certified Housing Elements. This requirement has driven at least a dozen jurisdictions that were more than three years late in adopting their Housing Elements to come into compliance with state law.

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<sup>56</sup> “Development without Displacement” p. 6.

<sup>57</sup> Matthew Soursourian, Suburbanization of Poverty in the Bay Area, January 2012 <http://www.frbsf.org/publications/community/research-briefs/Suburbanization-of-Poverty-in-the-Bay-Area.pdf>.

However, the current OBAG program fails to do anything to incentivize local jurisdictions to enact protections against displacement or producing and preserving affordable housing. While there have been requests from MTC Commissioners and ABAG Executive Board Members to strengthen subsequent rounds of the OBAG program, there is nothing in the draft Plan that would accomplish this goal.

The draft Plan should be modified to require adoption of appropriate local anti-displacement and affordable housing policies as a condition of future rounds of OBAG funding.<sup>58</sup> Incorporating these changes into the final Plan is vital and timely, as the Federal Cycle 3 funding criteria and allocations, the core of the OBAG program, must be made well before the next RTP/SCS is adopted in 2017.

Making anti-displacement and/or affordable housing policies a requirement of the OBAG program has been recommended consistently for more than two years by dozens of community organizations from throughout the region.<sup>59</sup> It has also been endorsed by the region's three largest cities, San Jose, San Francisco and Oakland, and three largest transit operators, BART, Muni, and AC Transit.<sup>60</sup> These eligibility requirements could be implemented in a way that recognizes the full diversity of Bay Area neighborhoods while ensuring that appropriate policies are adopted in all jurisdictions. This approach would build on the PDA Investment and Growth strategies being developed by the CMAs, which will analyze and identify local needs and responsive policies.<sup>61</sup>

## **2. Dedicate Regional Funding to Neighborhood Stabilization Activities in Communities at High-Risk of Displacement and Disruption.**

Measures to address local community disruption and displacement are urgently needed to meet regional environmental, economic, and equity goals. As discussed above, national studies and MTC and ABAG's own analysis conclude that that without strong policy interventions, new TOD investments are likely to cause substantial displacement of lower-income renters from around transit. This means that low income families will be forced to move to locations with more affordable housing that likely have less transit. These families will then be forced to drive

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<sup>58</sup> Such policies include: just cause eviction protections, rent stabilization, condominium conversion restrictions, contemporaneous replacement housing requirements for existing units that are redeveloped or lost, priority right of return for displaced residents, prohibition of discrimination against Section 8 voucher holders, land banking, affordable housing or community stabilization impact fees, jobs-housing linkage fees, strong inclusionary zoning policies that target production of lower-income rental housing, programs for acquisition and rehabilitation of dilapidated housing to create permanently affordable units.

<sup>59</sup> Such a program would also be in line with a recommendation from ABAG's 2009 report, which suggested linking capital infrastructure funds to local progress toward meeting established equity goals to achieve income-diverse neighborhoods. "Development without Displacement" at p. 60.

<sup>60</sup> Available at [http://www.publicadvocates.org/sites/default/files/library/obag\\_6\\_wins\\_comment\\_letter\\_2-24-12\\_with\\_attachments.pdf](http://www.publicadvocates.org/sites/default/files/library/obag_6_wins_comment_letter_2-24-12_with_attachments.pdf).

<sup>61</sup> Resolution 4035 Attachment A, Appendix A-6, available at [http://www.mtc.ca.gov/funding/onebayarea/RES-4035\\_approved.pdf](http://www.mtc.ca.gov/funding/onebayarea/RES-4035_approved.pdf).

long distances to access jobs, services, and community centers – undermining GHG reduction goals. It also means that core transit riders will be displaced, likely replaced by higher income residents who are much less likely to use transit, thereby undermining the ability of transit operators to run and maintain successful service.<sup>62</sup> As ABAG concluded in 2009, “It is essential that Sustainable Communities Strategies explicitly promote community diversity and minimize the potential for residential displacement.”<sup>63</sup>

Because displacement pressures will be increased by the regional plan and displacement will have negative regional consequences, regional funds should be invested in activities to minimize and mitigate displacement pressures. Such investments would yield substantial regional environmental and transportation benefits, while providing vital protections to lower-income families.

Specifically, substantial funding should be devoted to community stabilization activities in at-risk neighborhoods, such as land banking, acquisition and rehabilitation, and affordable housing construction of units targeted toward existing or displaced low-income households.

### **3. Ensure that Private Developers Do Their Part to Address Gentrification and Displacement.**

The private real estate development market must also do its part to minimize and mitigate the risks of community disruption and displacement. While the final Plan may not delve into project-specific mitigation measures, it must establish the proper framework for future analysis and development of such mitigations. It can do this in a number of ways: providing a more transparent and localized analysis of displacement risk so that projects in high-risk neighborhoods receive proper study; making explicit that local general plans and area plans must address the risks of displacement and establish appropriate project-level mitigations; and including a menu of potential displacement mitigation actions that could be incorporated into projects. This makes it all the more important that the draft EIR’s failure to identify and mitigate economic displacement impacts be corrected.

### **F. Conclusion.**

To improve the performance of the final Plan on a range of individually and cumulatively significant measures, staff should bring forward for consideration and adoption by the policy boards of MTC and ABAG three proposed amendments, as follows:

1. Transit operations: a proposal to provide \$3 billion in additional operating revenue for local transit service, and a long-range policy to boost transit operating subsidies by another \$9 billion over the coming years, as new operating-eligible sources of funds become available

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<sup>62</sup> See California Housing Partnership Corporation “Building and Preserving Affordable Homes Near Transit: Affordable TOD as a Greenhouse Gas Reduction and Equity Strategy” (January 2013) pp. 3-4, available at <http://www.chpc.net/dnld/AffordableTODReport030113.pdf>.

<sup>63</sup> “Development without Displacement” p. 63.

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2. SCS and RHNA housing distribution: Shift 100,000 SCS units from PDAs to “PDA-like places” – Transit Priority Project areas (TPPs) and job-centers in the 63 cities in the attached list; and shift 25,000 RHNA units from the “PDA share” to these locations.
3. Displacement protections: Modify the conditions of OBAG grants to ensure that recipients adopt and implement strong anti-displacement protections, provide substantial regional funding for community stabilization measures, such as land banking and preservation of affordable housing in at-risk neighborhoods, and perform the appropriate analysis to ensure that private developers do their part to address gentrification and displacement.

Sincerely,

Richard A. Marcantonio, Managing Attorney  
Samuel Tepperman-Gelfant, Senior Staff Attorney  
**Public Advocates, Inc.**

Allen Fernandez Smith, President & CEO  
**Urban Habitat**

Michael Rawson, Director  
**California Affordable Housing Law Project**

Ilene Jacobs, Director of Litigation, Advocacy & Training  
**California Rural Legal Assistance**

**Attachments:**

- A. Comments on draft Environmental Impact Report for Plan Bay Area.
- B. Proposal to Modify the Focused Growth Scenario, as adopted by ABAG Executive Board on 07/21/11
- C. Sustainable Systems Research, LLC “Technical Memorandum: Review of the Draft Environmental Impact Report for *Plan Bay Area*” May 15, 2013.
- D. Excerpt from Staff Memo of June 1, 2012 (available at [http://apps.mtc.ca.gov/meeting\\_packet\\_documents/agenda\\_1888/Item\\_4\\_EIR.pdf](http://apps.mtc.ca.gov/meeting_packet_documents/agenda_1888/Item_4_EIR.pdf), p. 21)
- E. MTC staff chart, “Environment, Equity, and Jobs Alternative – Policy Levers” (April 16, 2013)
- F. Letter to Ezra Rapport regarding RHNA allocation issues from Public Advocates et al., dated Oct. 26, 2011
- G. Letter to Ezra Rapport regarding RHNA allocation issues from PILP et al., dated July 16, 2012
- H. HUD letters to ABAG, dated Sept. 2012 and April 2013

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- I. HCD letter to ABAG, dated Feb. 6, 2013
- J. OBAG comment letter of Feb. 24, 2012, with attachments

Cc: Steve Heminger, MTC  
Ezra Rapport, ABAG  
[info@OneBayArea.org](mailto:info@OneBayArea.org)

May 16, 2013

DELIVERED BY EMAIL

Metropolitan Transportation Commission (MTC)  
Association of Bay Area Governments (ABAG)  
101 Eighth Street  
Oakland, CA 94607

**Re: Plan Bay Area Public Comment**

Dear MTC and ABAG:

The Redwood City/San Mateo County Chamber of Commerce offers the following comments on both the draft Plan Bay Area and the Environmental Impact Report (EIR) for the Plan. Ours is the third largest chamber of commerce in the Bay Area, representing approximately 1,000 businesses that employ more than 45,000 workers, including many of the largest employers on the Peninsula. The Chamber has a strong interest in ensuring that the region's transportation and housing needs are met, and supports efforts by local governments and regional agencies to promote economic vitality throughout the Bay Area. We have followed the progress of Plan Bay Area, and received a presentation from ABAG staff at our transportation and housing committee last November to keep our members informed.

The Chamber offers the following brief comments on both the plan and the EIR:

B26-1

- The **deadline for public comment on the draft Plan and the draft EIR should be extended** beyond the minimum legal requirement of 45 days. Both documents are lengthy and complex. One public hearing was held in each county since the release of the draft, and the hearing in San Mateo County was only two weeks ago. The previous opportunity for formal comment on the EIR was a year ago when the notice of preparation was released. An organization like our Chamber needs more time to offer meaningful comments on the draft, to have those comments reviewed by our board of directors, and to educate our members about the opportunity for them to comment.
- The **Plan should be more flexible on the percentage of transportation funds that must be invested in Priority Development Areas (PDAs)**. In San Mateo County, our City/County Association of Governments (C/CAG) has been proactive and innovative in creating incentives for cities to pursue the kind of growth that Plan Bay Area envisions. These efforts to tie land use to transportation investments predate the Plan and have been very successful. It is important for our County agency to have more flexibility to make informed judgments about how to invest regional transportation funds, and we are concerned that a strict requirement to invest 70% of those funds in PDAs will limit the agency's local effectiveness. In practice, most of these funds have gone, and will continue to go, into city-designated PDAs, but flexibility is preferable to a fixed percentage.
- We also offer a thought on the Plan Bay Area website. The website could be much clearer in helping the public to comment in writing. There is no indication of where to send comments on the home page of the Plan, the FAQ page, the Get Involved page, or the original news release. Only within the last few days was a reminder added to the release announcement that included the email address.

Thank you for your consideration, and for your continued work on integrated planning for the region.

Sincerely,

Amy Buckmaster  
President/CEO



May 16, 2013

MTC

Plan Bay Area Public Comment

101 Eighth Street

Oakland, CA 94607

**Re: Comments on the Plan Bay Area and its associated Draft Environmental Impact Report**

The purpose of this letter is to summarize the results of my overall review and traffic analysis conducted on the Plan Bay Area (the “Plan”) and the associated Environmental Impact Report (the “DEIR”). The primary issue I’ve identified is that both documents are very misleading about the potential traffic and economic impacts of the proposed plan.

**Comments on Plan Bay Area**

- B27-1** 1) Is the traditional transportation planning goal of maintaining the “*efficient movement of people and good*” identified as a goal for the Plan? Does the Plan eliminate this goal in favor of transit and environmental goals?
- B27-2** 2) Isn’t it true that the \$57 billion in discretionary revenue identified in the plan would be largely generated from motorists through increased bridge tolls, a 10 cent gas tax, creation of toll lanes on almost all the freeways, and cordon pricing for traffic entering Downtown San Francisco? What percentage of the \$57 billion in discretionary funds would be generated from future increases in taxes and tolls on motorists?
- B27-3** 3) According to my calculations it appears up to 70% or more of the \$62 Billion of the new funds available under the Plan will be dedicated to operations and maintenance of transit systems. Considering Table 1.2-10 of the DEIR, what is the exact percentage of new funding identified under Plan Bay Area proposed to be allocated solely to the operations and maintenance of transit?
- B27-4** 4) According to my calculations it appears about 6% or more of the \$62 Billion in new funds available under the Plan will be dedicated to expansion of roadway. Considering Table 1.2-10 of the DEIR, what is the exact percentage of the \$62 billion in new funding identified under Plan Bay Area proposed to be allocated to expansion of roads and bridges?

- B27-5 | 5) Isn't it true that Plan Bay Area does not allocate any discretionary funding toward the maintenance of the state highway system?
- B27-6 | 6) Isn't it true that for the proposed network of toll lanes to be financially viable they would most likely require that many existing HOV lanes which require carpools to have two persons would need to be increased to a minimum requirement of three (or more)? Is the retention of the 2 person carpool requirements built into the financial calculations or do they assume an increase in the carpool lane requirements to 3 persons?
- B27-7 | 7) Isn't it true that many of the Bus Rapid transit projects being funded largely by motorists would actually substantially increase traffic congestion? For example, the plan highlights projects like the Van Ness BRT project which will reduce Van Ness Avenue (U.S. 101) from three travel lanes to two in each direction and eliminate almost all the left-turn pockets.
- B27-8 | 8) Isn't it true that consumers in low-income ranges spend a much greater share of their income on gasoline and tolls and as a result bridge tolls, toll lanes, and gas taxes have a regressive impact, imposing greater difficulty on low-income consumers than on higher-income groups? How was this factored into the development of the plan and the evaluation of the toll lanes?
- B27-9 | 9) Isn't it true that AB 375 actually allows alternative planning strategies to achieve the greenhouse gas emission reduction targets? Isn't it misleading for the document to portray the Sustainable Communities Strategy as mandated while failing to mention the actual language of the Bill allows alternative planning strategies?
- B27-10 | 10) Isn't it true that extensive financial incentives in the Plan to “*encourage*” Cities to focus development in PDA's could theoretically be considered way to avoid the fact that the Plan Bay Area is not supposed to regulate land use? Isn't it true that SB 375 states that: “*the adopted strategies do not regulate the use of land and are not subject to state approval, and that city or county land use policies, including the general plan, are not required to be consistent with the regional transportation plan, which would include the sustainable growth strategy, or the alternative planning strategy.*”

**Comments on the Plan Bay Area DEIR**

- B27-11** 11) Isn't it true that one component of what's being proposed is to approve Plan Bay Area as a replacement to the existing Regional Transportation Plan (RTP 2035)?
- 12) If the above is true, isn't it misleading that the transportation analysis only compares the proposed Plan to existing conditions? Shouldn't a comparison of the traffic congestions and economic impacts of the proposed Plan be compared what would otherwise occur under the RTP 2035 if the plan were not approved?
- B27-12** 13) Table 1.2-10 of the DEIR is one of the few areas where any comparison between the RTP 2035 is compared to the proposed Plan Bay Area (which would replace the RTP). Isn't it true that this table specifies that Plan Bay Area would spend 69% of this additional funding (not included in the RTP 2035) on the operations and maintenance of transit?
- B27-13** 14) Isn't it true that MTC developed and analyzed the Plan Bay Area and EIR based on their own in-house models of future land use (UrbanSim) and travel forecasts (Travel Model One) which were based largely on MTC's 2000 Bay Area Household Travel Survey (BATS 2000)?
- B27-14** 15) Isn't it also true that ABAG and MTC were the lead agencies on the DEIR and that MTC conducted the most critical analyses in house using their own proprietary model?
- B27-15** 16) Isn't it true that MTC developed their own transportation significance criteria for the DEIR that compare the proposed Plan Bay Area only to existing conditions and not to the conditions that would otherwise occur under the RTP 2035 if the plan were not approved?
- B27-16** 17) Given that MTC and ABAG stand to be among the primary beneficiaries of the significant new authority and funding created under the plan, isn't it a conflict of interest (or at least an appearance of one) for MTC to develop the plan and then also serve as the lead agency on the DEIR? Isn't it true that MTC developed the plan using their own forecasts, established their own significance criteria on transportation, and then conducted the analysis of transportation impacts in house using their own proprietary model?

## Conclusions

**B27-17** Based on the results of my review I would strongly recommend that the affected Cities and Counties consider funding an independent third-party peer review of the Plan Bay Area DEIR. Before they could serve as the basis for reallocating billions of dollars in transportation funds (and to maintain the public's trust on these issues) I believe the following three items clearly warrant additional review by MTC as well as an objective third party.

**B27-18** 1) Additional review of the assumptions and results from the in-house computer models used for future land use forecasts (UrbanSim) and travel demand forecasts (Travel Model One) since they served as the basis for justifying the Plan and analyzing its traffic impacts in the DEIR.

**B27-19** 2) Additional review of the transportation impacts analysis in the DEIR with a particular focus on the traffic impacts of the plan as compared to those forecast to occur under the existing RTP 2035.

**B27-20** 3) Additional review of economic impacts. There does not appear to be an economic impact analysis provided. My review indicates there are significant unidentified economic impacts associated the Plan's proposal for substantial increases in costs to motorists (i.e. increased bridge tolls, toll lanes, increased gas taxes, etc.), the significant reduction proposed to the percentage of funding allocated to roadway and pavement maintenance, and the significant reduction proposed to the percentage of funding allocated to roadway expansion.

I appreciate the opportunity to submit these comments and I look forward to providing constructive input to help ABAG and MTC improve on the plan before final approval.

Sincerely,



Stephen C. Abrams  
President  
Abrams Associates  
T.E. License No. 1852



## Bay Area Regional Health Inequities Initiative

Alameda County | City of Berkeley | Contra Costa County | Marin County | Napa County | City and County of San Francisco | San Mateo County | Santa Clara County | Santa Cruz County | Solano County | Sonoma County

May 16, 2013

Amy Worth, Chair  
Metropolitan Transportation Commission  
Mark Luce, President  
Association of Bay Area Governments

### **Re: Comments on the Draft Plan Bay Area and Draft Environmental Impact Report**

Esteemed Commissioners:

The mission of the Bay Area Regional Health Inequities Initiative (BARHII), a collaborative of the eleven local public health departments in the San Francisco Bay Area and the County of Santa Cruz, is to eliminate health inequities – unjust differences in health status and life expectancy between different socio-economic, racial, and ethnic groups in our region. Public health relies on and partners with other public agencies to help achieve this vision of good health for all. In addition to addressing our region’s climate change mitigation and economic development goals, Plan Bay Area is a welcome opportunity to address the health needs of Bay Area communities. We urge each of you to hold health and equity as high priorities in your consideration of the final Plan and any necessary mitigation strategies.

We sincerely applaud your staff’s efforts to address the various issues raised by public health, affordable housing, equity, and other stakeholders throughout the process and your inclusion of a public health perspective in advisory bodies such as the Regional Equity Working Group and the MTC Policy Advisory Council. We believe that through an inclusive process, stakeholders and the regional agencies collectively created a stronger Plan, and have forged relationships that will serve future regional planning processes.

For many reasons, the Bay Area has emerged as a state leader in the development of its SCS. This is due to a robust participatory process, our ambitious GHG reduction targets, and the development of a sustainable communities strategy which goes beyond legislative emissions requirements by striving to create an equitable, prosperous, and healthy Bay Area region. There are many strong elements to the Draft Plan Bay Area and several of the alternatives, including strategic investments in sustainable transportation options that yield public health co-benefits, and thoughtful planning for future housing and jobs so that Bay Area residents can easily access all that is necessary for good quality of life.

However, BARHII believes some adjustments to Plan Bay Area and to the DEIR mitigation measures could greatly benefit health, economic development, and equity outcomes in the region. As you partake in trade-off discussions over the coming months, progressive strategies identified in some of the alternatives, in particular, the Equity, Environment and Jobs Scenario, should be considered for adaptation and adoption in a final environmental impact report and Plan Bay Area.

B28-1

**Increasing Housing Costs and Displacement**

B28-1.5

While the proposed plan performs admirably in many areas, it could be strengthened to support health by supporting housing affordability and limiting displacement. In both respects the plan fails to meet its targets, and is outperformed by other alternatives.

***Prioritize the development of affordable housing across the region.***

As evidenced by the Draft Equity Analysis Report, inequities in the region, especially around housing costs, are going to continue to grow. Housing affordability can significantly affect health. Facing unaffordable housing, households compensate by trimming other expenses such as health care, healthy food or transportation—often yielding worse health outcomes. Households also adapt by squeezing more people into smaller spaces, subdividing units and sharing rooms. This crowding is associated with poorer health. Where adaptation is not possible, families may be pushed out of their housing entirely, exposing them to the dramatic reductions in health associated with homelessness and displacement.

Concentrated investments and efforts should be made to equalize health outcomes across incomes and races, and to analyze the impact of neighborhood-specific housing and transportation plans on health in communities of concern. Incentivizing this through investments that MTC has jurisdiction over, such as the One Bay Area Grant program, would support local efforts.

***Support Efforts to Reduce Displacement and Gentrification***

Because the proposed plan directs significant development to traditionally low or mixed-income neighborhoods, it also exposes these communities to increased displacement pressure. The Draft Plan shows the worst displacement of all alternatives studied, suggesting that changes should be considered to mitigate the resulting health impacts.

Displacement can result in increased rent burden, decreased access to health care, healthy food and financial stability, as well as potential job loss and difficulties at school. Displacement can also be responsible for mental health and stress-related physical illness, and can push families into unhealthy, substandard housing and into lower-opportunity neighborhoods with less access to health promoting activities.

Additionally, displacement pressure can fracture neighborhood social and economic structures, leading to decreased social cohesion, increased social isolation (associated with higher rates of disease and death), financial losses, instability, and losses of political power, which can reverberate for generations. These factors, in turn, all show strong links to negative health outcomes.

B28-2

The DEIR inadequately addresses rising housing costs or resulting displacement pressure. It also fails to provide any measures to mitigate these impacts. These deficiencies are elaborated below.

- 1. The DEIR fails to consider the impacts of residential and commercial displacement caused by increased housing costs.** The DEIR explicitly states that the land use and transportation changes proposed by the plan may affect affordability and cause displacement: “Changing development types and higher prices resulting from increased demand could disrupt business patterns and displace existing residents to other parts of the region or outside the region altogether”(2.3-35). However, it fails to evaluate the health or social impacts of this.

B28-3

- 2. The DEIR does not provide effective measures to mitigate displacement.** As noted above, the DEIR finds that the plan could push people out of their neighborhoods or the region. However the

mitigation measures proposed do not provide any policies to reduce displacement due to rising housing costs.

B28-4

3. **The DIER assumes that no displacement will take place from the region entirely**, despite evidence that this assumption is not realistic. The result is an analysis that masks the contribution of affordable housing to decreasing VMT, GHG and toxic air pollution.

The DIER assumes that there will be no displacement out of the region (because the plan “houses” 100% of projected growth) and that all the scenarios will be the same in this regard. Unfortunately, MTC/ABAG’s empirical analysis suggests that the first assumption is inaccurate. The PDA (priority development areas) feasibility study conducted as part of the planning process found that the areas surveyed could accommodate only slightly more than half of the housing units allocated to them.

B28-5

The DEIR also incorrectly assumes that the alternatives studied will all perform the same in this regard. The alternatives show different levels of housing affordability. The likely result is that the scenarios with higher housing costs will yield higher rates of displacement out of the region, as households trade off longer commutes for lower housing costs. This displacement results in higher in-commuting rates, VMT, and air pollution, and decreases health, sustainability and environmental equity.

B28-6

**Regional funding should be leveraged to encourage local jurisdictions to adopt policies to prevent displacement.** Specifically, OBAG program guidance should be strengthened to ensure that all jurisdictions receiving OBAG funds have in place an appropriate set of policies that protect tenants, preserve existing deed restricted and “market rate” affordable housing, and promote new affordable housing production. The region should also consider how it could contribute to anti-displacement and community stabilization programs, such as land banking, acquisition and rehabilitation of substandard housing to create permanently affordable units, and community planning activities that focus on developing and implementing anti-displacement policies.

### **Investments in Public Transit**

A recent report by Alameda County Public Health Department, one of BARHII’s member local health departments, examines the health impacts of funding in bus transit service in Alameda County. It documents the importance of affordable, convenient, reliable public transit in helping all residents be healthy and thrive. Bus riders facing service cuts and fare increases had difficulties getting to school, work, social activities, and health care services, resulting in decreases in all of these activities. They also experience increased stress as a result of longer bus waits, crowded buses, and longer commutes, which as stated earlier, can have negative health impacts.

B28-7

**We recommend additional funding be allocated to local transit service** since the share of transit-dependent riders is predicted to increase over the next 25 to 30 years. The EEJ alternative would likely result in the best mobility-related public health benefits – improving access to destinations essential for good health, reducing stress and safety concerns, and helping support good health and quality of life for all. Though broadly distributed, these benefits make local transit service a worthy investment for the region.

Increases in active transport, the combination of walking and bicycling alone or in combination with public transit as a substitute for short car trips, can lead to substantial health improvements and savings in health care costs related to obesity and chronic disease. Active transport also reduces air pollution from cars. The EEJ scenario is predicted to have higher increases in average daily time for walking or biking per person for transportation.

These housing and transportation policies and investments will protect the most vulnerable populations in the region, enable the region's workforce to maintain the great quality of life that draws so many to the Bay Area, and contribute to improved health outcomes for all of our region's residents. Thank you for your consideration of our comments.

Sincerely,



Sandi Galvez, MSW  
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## Transportation Solutions Defense and Education Fund

P.O. Box 151439 San Rafael, CA 94915 415-331-1982

May 15, 2013  
By E-Mail

Amy Worth, Chair  
Metropolitan Transportation Commission  
101 Eighth Street  
Oakland, CA 94607

Re: 2013 SCS DEIR Comments

Dear Ms. Worth:

The Transportation Solutions Defense and Education Fund, TRANSDEF, is an environmental non-profit advocating the regional planning of transportation, land use and air quality at MTC for the past twenty years. We are pleased that, in its first Sustainable Communities Strategy, MTC is no longer planning most of the region's growth to be sprawl on the fringes of the region.

The front page of today's *Chronicle* announces the release of *A New Direction*. (Attachment H.) This U.S. PIRG study captures a profound change in travel preferences, in which millennials drive much less than past generations. This study suggests that agencies like MTC need to recognize a much greater degree of uncertainty in their assumptions about the future, including the magnitude of growth in travel demand for different modes.

MTC should now stop facilitating Single-Occupant Vehicle (SOV) travel. Investing in Express Lanes diverts resources from viable alternatives to SOV travel while merely delaying inevitable gridlock. The public and MTC's own environmental review support shifting funding away from the highway projects in the Proposed Plan.

Atmospheric CO<sub>2</sub> levels reached 400 ppm this week, an event unprecedented in the human habitation of this planet. Reducing GHG emissions from transportation is critical to our state's future, as motor vehicles are the largest GHG-emissions generating sector in California. The Draft 2013 Regional Transportation Plan/Sustainable Communities Strategy (SCS), also known as Plan Bay Area, is an inadequate response to that challenge.

## Introduction

The legislative findings for SB 375 identify that:

...greenhouse gas emissions from automobiles and light trucks can be substantially reduced by new vehicle technology and by the increased use of low carbon fuel. However, even taking these measures into account, it will be necessary to achieve **significant additional** greenhouse gas reductions from changed land use patterns and improved transportation. Without improved land use and transportation policy, California will not be able to achieve the goals of AB 32. (Chapter 728, Statutes of 2008, Section 1(c) and (i), emphasis added.)

**B29-1** | The Draft 2013 Regional Transportation Plan/Sustainable Communities Strategy will result in:

- an 18% **overall increase** in transportation GHG emissions between 2010 and 2040.<sup>1</sup>

**B29-2** | • a 28% **overall increase** in land use GHG emissions between 2010 and 2040.<sup>2</sup>

**B29-3** | The addition of the Scoping Plan measures (new vehicle technology and low-carbon fuel) implemented by the Air Resources Board, will reduce emissions enough to create:

- a net 19% reduction in transportation GHGs by 2040.<sup>3</sup>
- a net 12% reduction in land use GHG emissions between 2010 and 2040.<sup>4</sup>
- a net 15% reduction in total regional GHG emissions between 2010 and 2040.<sup>5</sup>

**B29-4** | Because the SCS does not reduce 2040 regional GHG emissions apart from reductions from Scoping Plan measures, the SCS violates the legislative intent of SB 375.\* The

**B29-5** | SCS will interfere with the state's goal of an 80% reduction below 1990 GHG emissions by 2050.

Had the SB 375 GHG emissions reduction targets required an **actual** reduction in GHGs, that would have forced MTC to use its financial resources strategically, in sharp contrast to its past practice. As the mode share chart<sup>6</sup> shows, over a twenty year period, nothing has changed in Drive Alone or Transit mode shares. Carpooling and Walking

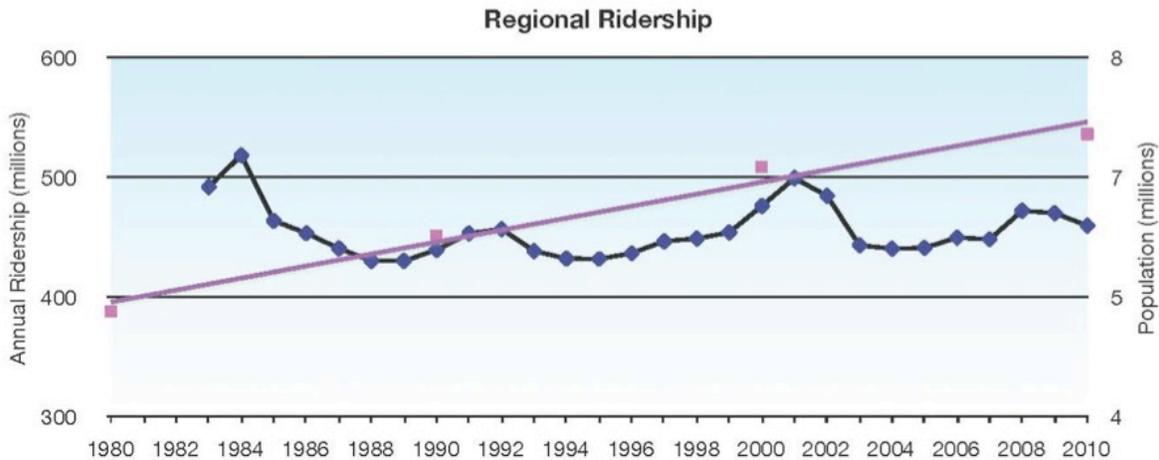
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\* TRANSDEF objected strenuously to ARB's adoption of regional emissions reduction targets recommended by the MPOs including MTC, because it was obvious then that the "GHG emissions reduction targets" would result in actual GHG emissions **increases**. TRANSDEF acknowledges that the SCS per capita GHG reduction achieves the regional emissions reduction target set by ARB, Criterion 1. However, the Bay Area's projected 30% increase in population (p. 3.1-11) will overwhelm the modest 18% per capita transportation GHG reductions (p. 2.5-50), making that reduction meaningless from a climate change perspective.

have declined. Work at Home has doubled, but not because of MTC. Bike access has improved, but that started from a very low base.

Over the past thirty years, MTC has failed to increase transit ridership. (see Regional Ridership chart below. The blue line is annual ridership while the magenta is population.) These two charts demonstrate MTC's inability and/or unwillingness to create a meaningful alternative to solo driving.

In 2001, TRANSDEF litigated MTC's failure to implement TCM 2, a commitment to a 15% increase in regional transit ridership, based on 1982 levels. TRANSDEF and its coalition received a court ruling declaring that MTC had failed to implement TCM 2, and ordering MTC to fulfil its commitment. This decision was later overturned on appeal. Despite a substantial increase in population and many billions of dollars spent on BART extensions, regional transit ridership<sup>7</sup> on the six largest operators has actually fallen since 1982. More than anything else, this chart demonstrates that MTC has no institutional discipline requiring it to achieve results when deploying financial resources.



**B29-6 The GHG Impact Analysis**

While the DEIR's analysis of GHG emissions is far more orderly and clear than SCAG's, for example, it is still inadequate, both in its criteria and its impact analysis conclusions. It fails to clearly distinguish between statewide level and the regional level requirements, and fails to maintain a clear distinction as to which emissions sectors are being counted. Key data are missing that are needed to tie all measurements together to a single point for analysis. For starters, a table of regulatory requirements and another with the performance of the SCS would be helpful. (See Attachments A and B.)

**B29-7 Scoping Plan**

The DEIR failed to demonstrate project consistency with the Scoping Plan's 2020 target of 427 MMTCO<sub>2</sub>e (the 1990 Level).<sup>8</sup> TRANSDEF's analysis is that 21 MMTCO<sub>2</sub>e of reductions are needed to attain the target, starting from the 2010 GHG inventory level of 448 MMTCO<sub>2</sub>e.<sup>9</sup> The Scoping Plan statewide measures for mobile sources, waste, electricity and natural gas sectors total 97.4 MMTCO<sub>2</sub>e (see Attachment D), or 56% of the total Scoping Plan measures. This results in a need for a statewide reduction of 11.8

MMTCO<sub>2</sub>e in these sectors (56% of 21; see Attachment C), which in turn is a 2.6% reduction from the 2010 levels in those sectors. While there are no numeric 2020 data in the EIR, a chart suggests that the 2020 regional GHG emissions in these sectors will be roughly 46.4 MMTCO<sub>2</sub>e,<sup>10</sup> a 4.9% reduction from 2010 levels. The SCS is therefore consistent with the Scoping Plan's 2020 target.<sup>†</sup>

#### Criterion 2

B29-8

Even with the acknowledged need to update the Scoping Plan, the DEIR analyses for 2040 and 2050 are problematic. For 2040, the GHG threshold of significance, Criterion 2, is legally inadequate. The selection of a 'net increase over 2010 GHG levels'<sup>11</sup> as the CEQA threshold of significance for 2040 is arbitrary, capricious and inconsistent with state law. First, as cited from SB 375 *supra*, the region is clearly expected to significantly reduce emissions. Second, a very challenging numeric 2050 target was set by Executive Order S-3-05.<sup>12</sup> While the DEIR claims that MTC is not responsible for implementing the Executive Order,<sup>13</sup> as the legislatively appointed Metropolitan Planning Organization for the Bay Area, MTC is required to operate within the state's policy framework. Under Criterion 2, maintaining level emissions from 2010 to 2040 would result in a finding of No Adverse Impact. That would clearly be contrary to the state's GHG regulatory framework, including SB 375 and Executive Order S-3-05.

B29-9

Reducing GHG emissions 80% below 1990 levels results in a statewide 2050 target of 85 MMTCO<sub>2</sub>e. This, in turn, is an 81% reduction below 2010 levels. A trendline is needed on Figure 2.5-8, indicating what an 81% reduction looks like. For the mobile

B29-10

sources, waste, electricity and natural gas sectors, a reduction like that would result in total regional 2050 emissions of 9.3 MMTCO<sub>2</sub>e. Compared to such a trendline, it is obvious that the SCS is not doing anywhere near enough to reduce future GHGs.

B29-11

The FEIR should carefully evaluate the entirety of this data, and make a reasoned determination of the appropriate threshold of significance for Criterion 2, supported by substantial evidence. Clearly, a 0% reduction below 2010 is too low a target for 2040, while an 81% reduction would be too high. The project's emissions reductions would then be compared to that threshold, most likely resulting in a potentially significant impact, for which mitigation strategies would need to be offered.

Rather than wait another 20 years or so to think further about the 2050 target, impacts on the region will be cumulatively less if the region were to proceed with a steeper reductions trendline now. Because such emissions reductions are both compounded by the network effect and cumulative over time, early reductions are much more beneficial than later ones. This was the rationale behind SB 375: change the pattern of land development to lock in lower per capita VMT before 2020, to avoid locking in more

<sup>†</sup> Upon reviewing ARB's GHG Inventories, it became clear that statewide GHG emissions have already peaked in California, and are now heading downwards, probably because of the 2008 economic downturn. (See Attachment E.) If this trend continues, the Scoping Plan's 2020 Business as Usual GHG emissions projection of 596 MMTCO<sub>2</sub>e (p. 2.5-25) will never be reached. (See linear BAU trendline projection to 2020 on Attachment E.)

Business as Usual development later. More change sooner will make the transition to a low-carbon future less disruptive.

**B29-12** Criterion 3

TRANSDEF's criticism of the Criterion 3 analysis<sup>14</sup> builds from its criticism of the Criterion 2 analysis. In particular, the following determination as to whether the project would substantially impede the attainment of 2050 goals is a *non sequitur*:

While modeling may not be able to show achievement of an 80 percent reduction today, given the overall downward trajectory beyond 2040, which indicates that implementation of the proposed Plan would not impede achievement of executive order goals, the impact is considered less than significant (LS).<sup>15</sup>

No evidence is offered in support of the allegation that "implementation of the proposed Plan would not impede achievement of executive order goals." Claiming that new technologies and measures will be available by 2050 is mere conjecture. Figure 2.5-7<sup>16</sup> purportedly demonstrates the SCS will not impede. However, even a cursory examination of the chart discloses less than a 20% per capita reduction from 2010 to 2050, a reduction that will be totally offset by population growth. It is not evidence of anything. (These per capita figures are inappropriate for this analysis, as the Executive Order goals refer to total emissions, not per capita emissions.) The finding of No Adverse Impact was in error. The FEIR must acknowledge that the SCS has a Potentially Significant Impact under Criterion 3.

**B29-13** Criterion 4<sup>17</sup>

The 18% increase in regional transportation GHG emissions<sup>18</sup> over the life of the SCS (prior to Scoping Plan measures) discussed in the Introduction, *supra*, is evidence that implementation of the SCS would be in direct conflict with the GHG emission reduction goals of SB 375. The FEIR must acknowledge that the SCS has a Potentially Significant Impact under Criterion 4, even though there is No Adverse Impact under Criterion 1, the SB 375 per capita GHG emissions goals.

**B29-14** MTC proposed its own per capita emissions reduction targets, and submitted them to ARB. Because they were lower than the rate of population growth, MTC put itself in direct conflict with the goals of SB 375.

**B29-15** The calculations demonstrating the 2020 attainment of Scoping Plan goals, *supra*, need to be part of the analysis of Criterion 4 impacts in the FEIR.

**B29-16** The FEIR should evaluate the 6.6 MT per SP per year threshold of significance recommended by BAAQMD for analyzing plan level impacts.<sup>19</sup>

**B29-17** Miscellaneous

Please provide the definitions of MMTCO<sub>2</sub>e and MTCO<sub>2</sub>e, perhaps by linking them with a footnote to Table 2.5-1, where they are first introduced.

**B29-18** It appears that the graphing of Figures 3.1-1<sup>20</sup> and 3.1-2<sup>21</sup> is incorrect. Straight lines are extended from the 2010 to 2040 segments back to 1990. This has the bizarre effect of showing the region's historic GHG emissions as being dependent on the choice of an alternative years in the future. Unless 1990 regional GHG emissions can be verified in the FEIR, these straight-line extrapolations should be eliminated.

**B29-19** On p. 2.5-50, the DEIR claims that "The proposed plan also results in an increase in the share of trips that are made by transit and by walking, while drive alone trips are expected to decline." No mode share data is presented to substantiate those claims.

**B29-20** **Regional Express Lanes Network**

The SCS documents are inconsistent in their characterization of the so-called Regional Express Lane Network Project, RTPID 240741. This project appears in the draft Air Quality Conformity Analysis as operational by 2040 and regionally significant. The only mention of cost in the Regional Express Lane Network section of Plan Bay Area is for \$600 million. (p. 82.) Appendix C displays no construction funding for HOT lanes, yet there is \$600 million in discretionary funds in RTPID 240732 for something called "Grant Funding." These data stand in conflict with those for RTPID 240732, hidden away in an obscure database (<http://www.bayarea2040.com/public/default.aspx>) called Plan Bay Area Project Search. The 5/1/13 printout shows the project will not be operational by 2040, and has no discretionary funds. These discrepancies cast doubt on the entire SCS analysis process, as this database appears to be the master source for the conformity analysis, financial reporting, travel demand modeling and Appendix C.

Worse yet, the database shows a cost of \$6.7B for RTPID 240741, but neither the regional significance box nor a project completion date is checked, implying that this project is not moving forward. However, it is allegedly included in SCS Alternatives 2, 3 and 4. With the documents available to the public, it is impossible to definitively determine whether the biggest single project in the SCS, Express Lanes, is alive or dead.

**B29-21** **Transportation Impact Analysis**

After extended deliberation and public input, MTC formally adopted these SCS 2040 performance targets for transportation:

Target 9a: Increase non-auto mode share by 10 percentage points (to 26% of trips).

Target 9b: Decrease automobile vehicle miles traveled (VMT) per capita by 10 percent.<sup>22</sup>

However, instead of using these targets as its thresholds of significance, the DEIR ignored mode share entirely, and adopted a different threshold than Target 9b as Criterion 4 : "A substantial increase in per capita VMT compared to existing conditions. A substantial increase in per capita VMT is defined as greater than 5 percent."<sup>23</sup>

CEQA gives the lead agency the discretion to select thresholds of significance, but there must be a rational basis for significance determinations. In this instance, the performance targets were selected as part of a comprehensive planning effort to avoid future adverse environmental and social impacts. These targets were not a means to optimize future benefits. Not achieving these targets would mean that future adverse

impacts would be worsened. Because mode share and VMT were readily available as outputs from the model, these two targets should have been DEIR impact criteria.

The DEIR fails its function as a public information document because it restricts the public's right to know and comment on the failure of the SCS to meet explicit lead agency goals. The selection of thresholds that ignored the policy context for the SCS--the region's need to increase non-auto travel and to reduce VMT per capita--was arbitrary and capricious, and a blatantly improper attempt to avoid a finding of an unavoidable significant impact. The Impact Analysis for the Transportation section of the DEIR is legally inadequate. There is no legal justification for avoiding the process of public comment under CEQA.

**B29-22** Even though Target 9a explicitly required calculating mode share, we were unable to find any results reported in the DEIR. This is inconsistent with 20 years of MTC's EIR practice. Plan Bay Area reported only a 4 percentage point increase was achieved.<sup>24</sup> The SCS resulted in a 2040 per capita VMT decrease of 6%,<sup>25</sup> which was reported in Plan Bay Area as a 9% decrease.<sup>26</sup> No matter which of these results was more truthful, both failed to reach the 10% Target 9b. Although these performance targets were evaluated in the Plan Bay Area document, their omission from the DEIR appears to be the burying of bad results.

**B29-23** As discussed in detail in *A New Direction* (Attachment H), the future of VMT growth is quite uncertain. Figure 9 on page 30 displays the historic trend for VMT, along with three future scenarios: Back to the Future, Enduring Shift, and Ongoing Decline. What VMT growth assumptions are built into MTC's travel demand model? Has the model been accurate in backcasting the decline in VMT since 2004? Is there any reason to have confidence in the model's projections if future travel demand remains lower than the historic trend?

**B29-24** Finally, the transportation analysis excludes intrazonal travel.<sup>27</sup> We are concerned that this distorts the overall results and fails to provide the fine-grained detail needed to evaluate the multimodal performance of PDA policy sets.

**B29-25** **Feasible Mitigations**  
Had the Criterion 2 significance threshold been set properly, the DEIR would have identified the 15% reduction of GHG emissions in 2040 relative to 2010<sup>28</sup> as a significant unavoidable impact, because it will interfere with attaining the state's adopted goal of an 80% reduction by 2050.

**B29-26** Had the Criteria 3 and 4 analyses been done properly, the DEIR would have identified the 20.5% reduction of GHG emissions in 2050 relative to 2010<sup>29</sup> as a significant unavoidable impact, because it will interfere with attaining the state's adopted goal of an 80% reduction by 2050, and with the Scoping Plan's emissions reduction goals.

**B29-27** The draft SCS had other significant impacts:

“Congested per capita VMT would increase by 29 percent during the AM peak hours, by 71 percent during the PM peak hours, and by 51% for the day as a whole. These

roadway traffic service levels reflect the impact of total VMT growth far exceeding the growth of roadway capacity.”<sup>30</sup>

In addition, had the impact criteria been legally adequate (see Transportation Impact Analysis, *infra.*), there would have been two additional significant impacts: a failure to reduce per capita auto VMT by 10% (only a 6% reduction was achieved<sup>31</sup>) and a failure to increase non-auto mode share by 10 percentage points (only a 4 percentage point increase was achieved<sup>32</sup>).

**B29-28** CEQA mandates that agencies not approve projects that will do significant environmental damage if mitigation is available and feasible. (Public Resources Code, §§ 21002, 20181(a); *City of Marina v. Board of Trustees of the California State University* (2006) 39 Cal.4th 341, 361-62.) TRANSDEF identifies the following mitigations as available and feasible:

- B29-29** 1. Alternative 5, the Environment, Equity, and Jobs Alternative (EEJ), has the lowest Daily VMT<sup>33</sup> of the alternatives. It would have had the lowest per capita Daily VMT, had the analysis<sup>‡</sup> not artificially lowered the population.<sup>34</sup> It is clear that the model validated the premise that VMT could be reduced by increasing the supply of local bus transit and deferring the construction of additional highway facilities. Therefore, those elements of the the EEJ Alternative must be moved into the Final SCS.
- B29-30** 2. In addition to reducing VMT, the EEJ alternative had the lowest 2040 transportation GHG emissions<sup>35</sup> and the lowest total regional GHG emissions<sup>36</sup> of all the alternatives. These results strengthen CEQA's mandate requiring the selection of the least impactful alternative.
- B29-31** 3. The EEJ's Vehicles In Use is 1.6% lower than that of the Proposed Plan.<sup>37</sup> (The DEIR does not explain how this term is different from Auto Ownership, or why EEJ would have a 1% higher Average Vehicles per Household.<sup>38</sup>) Because the availability of a vehicle is one of the most important determinants of mode choice, any other elements of EEJ that influence auto ownership must be moved into the Final SCS.
- B29-32** 4. Because car sharing is a direct method of supporting lower auto ownership, the Final SCS should contain additional policies that support car sharing. OBAG grants could be conditioned on the adoption of rules requiring a minimum number of car sharing spaces in new projects within PDAs, and on PDA streets.
- B29-33** 5. The SCS contains committed highway capacity expansion projects as well, including elements of the Regional Express Lane Network. Given the success of the EEJ in reducing projected VMT and GHGs, the FEIR must study an alternative that eliminates all highway capacity-increasing projects that are not yet under contract, and compare the trade-offs with other alternatives.

<sup>‡</sup> To be credible, any change in assumptions significant enough to change the impact ranking order for alternatives must be demonstrated, in the DEIR, to be non-arbitrary.

B29-34

6. The BART Berryessa to Santa Clara extension is shown in the SCS as having a Benefit/Cost ratio of 5, with a price tag of \$4.094 billion.<sup>39</sup> Given that the Van Ness Avenue BRT is able to achieve a B/C of 6 for only \$140 million,<sup>40</sup> this analysis is asserting that the BART extension produces 29 times the benefits of the BRT project. TRANSDEF finds this result unbelievable. As demonstrated above, MTC's transit investments over the past 30 years have failed to increase regional transit ridership. That history of over-promised benefits is a strong evidentiary basis for seriously doubting this benefit calculation. Because of the extraordinary cost of this project and MTC's historic failure to achieve transportation results, the FEIR must test an alternative that excludes this BART project. It is feasible to shift the funding proposed for this project, as it is not under contract. Eliminating the most expensive project and shifting the funds to smaller unfunded transit projects that are cost-effective should benefit a much larger transit-riding population, thereby reducing the significant adverse impacts of the draft SCS.

B29-35

7. RTPID 94525 discloses \$43.5 billion for BART's capital and operations, while RTPID 94636 discloses \$49 billion for Muni's capital and operations.<sup>41</sup> These two exceptional outlays demand close MTC supervision, as they represent a very large share of the region's resources. Given the past 30 years failure to achieve meaningful statistical results, MTC must develop an oversight plan to ensure that these extraordinary sums achieve maximum reduction of significant impacts, and achieve maximum benefits for the region.

B29-36

8. Funds saved through the cancellation of projects described above could be reprogrammed as additional transit operations funding to support the EEJ program (via a swap with a sales tax agency like LACMTA, if a change in the color of money is needed), or additional OBAG funding to support PDA infrastructure.

B29-37

TRANSDEF proposed a similar program in its 2005 Smart Growth Alternative.<sup>42</sup> It excluded the BART Extension to San Jose via Warm Springs, the Central Subway and all highway expansions. In their place was a broad network of Rapid Buses, with commuter rail in the North Bay. The FEIR found it to be the Environmentally Superior Alternative, and demonstrated that the approach reduced VMT and provided the most benefits to low-income communities. Its program could readily serve as a source of mitigation projects.

B29-38

In addition, TRANSDEF proposes as feasible mitigations the series of mitigations adopted by SCAG for its SCS, making those mitigations feasible by definition. Attachment F to these comments is the Appendix G that was adopted by SCAG as part of its SCS Final EIR. The GHG and Transportation measures excerpted below from Attachment F will be the ones most relevant for MTC. Appendix G was intended to provide local jurisdictions with a list of mitigations to consider, when adopting local projects.

Because SB 375 preserved local jurisdictions' land use autonomy, the accomplishment of regional GHG emissions reductions is dependent on the voluntary actions of many

decisionmakers, requiring incentives. TRANSDEF urges MTC to select elements from Appendix G for a carefully constructed set of prerequisites to qualify local jurisdictions for the receipt of OBAG funds.

Please note that SCAG was overly solicitous of the autonomy concerns of local jurisdictions, and phrased each proposed mitigation with a “may.” This approach lacked the needed reminder that lead agencies are required under CEQA to adopt all feasible mitigations, in an enforceable effort to reduce impacts to the maximum extent feasible.

TRANSDEF suggests the following measures from the Attorney General’s list:

- B29-39** • Adopt a comprehensive parking policy that discourages private vehicle use and encourages the use of alternative transportation
- B29-40** • Build or fund a major transit stop within or near development
- B29-41** • Provide public transit incentives such as free or low-cost monthly transit passes to employees, or free ride areas to residents and customers
- B29-42** • Incorporate bicycle lanes, routes and facilities into street systems, new subdivisions, and large developments
- B29-43** • Require amenities for non-motorized transportation, such as secure and convenient bicycle parking.

**B29-44** **GHG2:** Project sponsors may require Best Available Control Technology (BACT) during construction and operation of projects, including:

- a) Solicit bids that include use of energy and fuel-efficient fleets;
- b) Solicit preference construction bids that use BACT, particularly those seeking to deploy zero- and/or near-zero emission technologies;
- c) Employ use of alternative fueled vehicles;

**B29-45** **TR12:** Project sponsors of a commercial use may submit to the Lead Agency (or other appropriate government agency) a Transportation Demand Management (TDM) plan containing strategies to reduce on-site parking demand and single occupancy vehicle travel. The sponsor may implement the approved TDM plan. The TDM should may include strategies to increase bicycle, pedestrian, transit, and carpools/vanpool use. All four modes of travel may be considered. Strategies to consider include the following:

- Inclusion of additional bicycle parking, shower, and locker facilities that exceed the requirement
- Construction of bike lanes per the prevailing Bicycle Master Plan (or other similar document)
- Signage and striping onsite to encourage bike safety
- Installation of pedestrian safety elements (such as cross walk striping, curb ramps, countdown signals, bulb outs, etc.) to encourage convenient crossing at arterials
- Installation of amenities such as lighting, street trees, trash and any applicable streetscape plan.
- Direct transit sales or subsidized transit passes
- Guaranteed ride home program
- On-site carpooling program
- Distribution of information concerning alternative transportation options
- Parking spaces sold/leased separately

- Parking management strategies; including attendant/valet parking and shared parking spaces

B29-46

**TR43:** Transit Funding: Local jurisdictions may prioritize transportation funding to support a shift from private passenger vehicles to transit and other modes of transportation, including:

- Give funding preference to improvements in public transit over other new infrastructure for private automobile traffic;
- Before funding transportation improvements that increase roadway capacity and VMT, evaluate the feasibility and effectiveness of funding projects that support alternative modes of transportation and reduce VMT, including transit, and bicycle and pedestrian access.

B29-47

**TR67:** Parking Policy: Local jurisdictions may adopt a comprehensive parking policy to discourage private vehicle use and encourage the use of alternative transportation by incorporating the following:

- Reduce the available parking spaces for private vehicles while increasing parking spaces for shared vehicles, bicycles, and other alternative modes of transportation;
- Eliminate or reduce minimum parking requirements for new buildings;
- “Unbundle” parking (require that parking is paid for separately and is not included in the base rent for residential and commercial space);
- Use parking pricing to discourage private vehicle use, especially at peak times;
- Create parking benefit districts, which invest meter revenues in pedestrian infrastructure and other public amenities;
- Establish performance pricing of street parking, so that it is expensive enough to promote frequent turnover and keep 15 percent of spaces empty at all times;
- Encourage shared parking programs in mixed-use and transit-oriented development areas.

TRANSDEF appreciates this opportunity to comment on the 2013 SCS DEIR. We would be pleased to assist in the development of any of the ideas suggested herein.

Sincerely,

/s/ DAVID SCHONBRUNN

David Schonbrunn,  
President

Copies

Lisa Trankley, DOJ

Doug Ito, ARB

Jack Broadbent, BAAQMD

Steve Heminger, MTC

Ezra Rapport, ABAG

Attachments

- A- GHG Emissions Reduction Targets
- B- SCS Performance Re: Targets
- C- Scoping Plan Targets
- D- Scoping Plan Measures Not Included in Regional Totals
- E- CA GHG Emissions
- F- SCAG SCS FEIR Appendix G
- H- *A New Direction*, U.S. PIRG, 2013

DEIR Page References, unless otherwise noted:

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- <sup>1</sup> 2.5-55
  - <sup>2</sup> 2.5-53
  - <sup>3</sup> 2.5-55
  - <sup>4</sup> 2.5-54
  - <sup>5</sup> 2.5-56
  - <sup>6</sup> 2.1-15
  - <sup>7</sup> Data from Statistical Summary of Bay Area Transit Operators, MTC, various years.
  - <sup>8</sup> Adopted Scoping Plan, Air Resources Board, 2008; p. 5
  - <sup>9</sup> [http://www.arb.ca.gov/cc/inventory/data/tables/ghg\\_inventory\\_ipcc\\_00-10\\_sum\\_2013-02-19.pdf](http://www.arb.ca.gov/cc/inventory/data/tables/ghg_inventory_ipcc_00-10_sum_2013-02-19.pdf) and [http://www.arb.ca.gov/cc/inventory/archive/tables/ghg\\_inventory\\_ipcc\\_90\\_04\\_sum\\_2007-11-19.pdf](http://www.arb.ca.gov/cc/inventory/archive/tables/ghg_inventory_ipcc_90_04_sum_2007-11-19.pdf)
  - <sup>10</sup> 2.5-59
  - <sup>11</sup> 2.5-41
  - <sup>12</sup> 2.5-24
  - <sup>13</sup> *Id.*
  - <sup>14</sup> 2.5-57
  - <sup>15</sup> 2.5-60
  - <sup>16</sup> 2.5-58
  - <sup>17</sup> 2.5-60
  - <sup>18</sup> 2.5-55
  - <sup>19</sup> CEQA Air Quality Guidelines, BAAQMD, June 2010, p. 9-3
  - <sup>20</sup> 3.1-63
  - <sup>21</sup> 3.1-64
  - <sup>22</sup> Plan Bay Area, p. 103
  - <sup>23</sup> 2.1-23
  - <sup>24</sup> Plan Bay Area, *Id.*
  - <sup>25</sup> 2.1-28
  - <sup>26</sup> Plan Bay Area, *Id.*
  - <sup>27</sup> 2.1-28, FN 2
  - <sup>28</sup> 2.5-56
  - <sup>29</sup> 2.5-59, interpolated from Figure 2.5-8
  - <sup>30</sup> 2.1-32
  - <sup>31</sup> 2.1-28
  - <sup>32</sup> Plan Bay Area, *Id.*
  - <sup>33</sup> 3.1-24
  - <sup>34</sup> 3.1-29, FN 3

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- <sup>35</sup> 3.1-59  
<sup>36</sup> 3.1-61  
<sup>37</sup> 2.1-38 [sic. --should be 3.1-38]  
<sup>38</sup> 3.1-11  
<sup>39</sup> Plan Bay Area, p. 113  
<sup>40</sup> *Id.*  
<sup>41</sup> DEIR Appendix C, p. C-2  
<sup>42</sup> See 2005 RTP FEIR.



Sierra Club Marin Group  
P.O. Box 3058, San Rafael, CA 94912  
<http://sanfranciscobay.sierraclub.org/marin/>

Plan Bay Area Public Comment  
101 8<sup>th</sup> St.  
Oakland, CA 94607

May 16, 2013

Ladies and Gentlemen:

Thank you for the opportunity to submit comments on the Plan Bay Area (PBA) Draft Environmental Impact Report (DEIR).

The Sierra Club understands that PBA is intended to satisfy the requirements for a Regional Transportation Plan and Sustainable Communities Strategy under SB 375, as amended.

A primary goal of Sierra Club is a good, viable public transit that serves more people, more reliably and with adequate area coverage. National Club policy emphasizes the dangerous and undesirable effects of Climate Change.

The Sierra Club Marin Group is the Sierra Club entity charged with evaluating issues that affect Marin County. As such, our comments will principally pertain solely to PBA as it relates to Marin County, while remaining consistent with established Sierra Club policies and positions.

B30-1

At this time, we feel that the approaches adopted by PBA are too generic to be specifically sensitive to the particular needs of Marin.

B30-1.2

We feel that many of the approaches adopted by PBA and applied to Marin County, are inadequately evaluated relative to alternatives that are more likely to meet the goals of PBA. Approaches considered should be far more consistent with Marin's existing, local planning goals, community character, and the established goals of Marin's major environmental organizations.<sup>1</sup>

B30-1.5

Therefore, we feel that in light of Marin's unique set of parameters, the PBA DEIR is inadequate in several ways.

<sup>1</sup> The *Community Marin* document provides a basis for advocacy by Marin's environmental organizations (including the Marin Audubon Society, Marin Baylands Advocates, the Marin Conservation League, the Sierra Club, the Salmon Protection and Watershed Network, and the San Geronimo Valley Planning Group). It also provides a policy framework for actions by the organizations themselves. Member groups may advocate positions that go beyond these recommendations, but all support the policies as a minimum set of standards. A set of relevant recommendations is included as an attachment to this letter. The entire *Community Marin* document is available online (<http://www.conservationleague.org/comm-marin.html>).

Principally, we feel that PBA should isolate and evaluate each proposed project area, with respect to PBA goals, by comparing to alternatives that are sensitive to the contexts of existing planning frameworks, physical land constraints, community concerns (including recommendations from environmental organizations), existing community characters, and existing community preferences. Such evaluation should be performed in detail for each proposed land use project and for each segment of each transportation modality. Normally, these sorts of evaluations would take place within local governments; to any extent that PBA would influence or override local jurisdiction decision-making, PBA should meet the same standards of evaluation. We feel that this is particularly important because, despite enormous expense, PBA in its current form is projected to achieve only 2-3% improvement versus no PBA. PBA fails to adequately evaluate whether other alternatives would be superior at achieving PBA goals. For example, in Marin, prominent environmental groups have proposed alternative approaches not considered by PBA.

B30-2

In addition, we have the following specific comments and questions regarding PBA and the PBA DEIR as they pertain to Marin County; **please respond to each point and provide supporting citations to your responses.**

- Marin TOD's and GHG Emissions - In Marin communities, the ability of the high-density developments recommended for placement near freeways by Plan Bay Area are widely disputed. Recent studies indicate that residents of high-density transit oriented developments tend to be people who would have utilized public transportation or pedestrian and bicycle paths regardless of where they live. In addition, greenhouse gas (GHG) emissions may increase due to congestion increases that frequently occur around high-density transit oriented developments (ToDs). Other externalized impacts may also escape accounting.

B30-3

We wish any recommendations or targets for Marin County to be thoroughly evaluated before they are established, taking into account all impacts and all alternatives.<sup>2</sup> How will this be achieved by PBA?

- Please describe how the PBA DEIR plans to evaluate, within Marin County, the degree to which incentive funding earmarks would result in less GHG emissions than would occur in the "no project" alternative.<sup>3</sup> Please include the analysis and conclusions in the EIR.
- Please describe how transportation investments will be evaluated for GHGs on

B30-4

B30-4.5

<sup>2</sup> The claimed Green House Gas ("GHG") reductions attributable to the plan do not appear to be adequately supported, reasonably quantified or sufficiently explained in the Plan itself or the EIR. There does not appear to be a clear methodology for calculating the claimed reductions, or how the reductions would be attributable to the Plan itself versus what GHG reductions (or increases) with the Plan.

<sup>3</sup> Ultimately, the Plan appears to be an incentive program to encourage and reward increased density development within the PDA's. In exchange, local jurisdictions are eligible for awards of money for a discretionary fund. However, these "discretionary" funds are already earmarked primarily for more road and highway development, which likely will encourage more automobile use. Only .57 of 1% of the "discretionary funds" are earmarked for GHG reductions. This appears likely to create more GHG emissions.

their own merits, rather than relying on land use changes for SB375 compliance.

- Water Supply - The PBA DEIR provides inadequate information regarding water supply for countywide growth assumptions. If desalination is necessitated, it could negate the ostensible benefits of PBA.<sup>4</sup> The PBA and the PBA DEIR do not currently recognize that there is an inadequate supply of water to serve projected growth in Marin County. How will the PBA address long-term source limitations, so that development does not exceed the capacity of a secure water supply? Given the historical evidence for potential for drought in Marin, and the County's unique water supply issues, how will the PBA ensure adequate water supplies for incentivized development on a County-by-County and Water District basis, in Marin County in particular? Please include the analysis and conclusions in the EIR. B30-5
- Please add to the PBA EIR an evaluation of the long-term impacts of increased densities on natural habitat and ecosystems functions relative to the "no project" alternative. B30-6
- Local Environmental Policies – Please identify guidelines in PBA for protecting and preserving the natural environment and rural lands within Marin, relative to all existing Marin policies and protections that do. Please include the analysis and conclusions in the PBA EIR. B30-7
- Natural Resource Protection - The PBA should specify how to protect sensitive wetlands and other natural resources that could be affected by development in Priority Development Areas. The preferred means of protection should be avoidance of impacts, rather than mitigation. Please indicate how PBA proposes to handle this issue, on a site-by-site basis, and include the analysis and conclusions in the EIR. B30-8
- Sea Level Rise - The PBA DEIR does not adequately evaluate whether proposed high-density development target areas in Marin are safe from foreseeable sea level rise, or other potential impacts of sea-level rise. In the PBA DEIR, please extend projections for sea level rise to at least 2100, and identify locations and numbers of residences and businesses that are likely to be displaced in various response scenarios.<sup>5</sup> B30-9
- Please add to the PBA EIR an evaluation of whether targets can best be met in Marin County by focusing solely on bringing additional public transportation services to where people currently live. B30-10

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<sup>4</sup> E.g. The Pacific Institute has released a study this month that concludes that, "removing the salt from seawater is an energy-intensive process that consumes more energy per gallon than most other water supply and treatment options," with substantial implications for greenhouse gas production. See, "Key Issues for Seawater Desalination in California: Energy and Greenhouse Gas Emissions" [May 2013], available at [http://www.pacinst.org/reports/desalination\\_2013./energy/](http://www.pacinst.org/reports/desalination_2013./energy/)

<sup>5</sup> Many of the Proposed Development Areas ("PDA's") in Marin (and other counties) are located in areas adjacent to the San Francisco Bay that are subject to sea level rise in the next few decades, and may be forced to relocate by 2100. If so, that would constitute poor planning in economic, environmental, and social terms.

- Please add to the PBA EIR an evaluation of whether targets can best be met in Marin County solely by allowing the population to decrease naturally as a result of sea level rise. B30-11
  
- How will PBA plan for or accommodate plans for existing residents to move to new locations within Marin, when displaced by sea level rise in the future? Please explain. Please develop guidelines for such programs, and include resultant impacts in the PBA EIR. B30-12
  
- Earthquake – Considering the seismic activity of Northern California, why is there not a PBA section on assessment of the economic and environmental impacts, including GHG production, that may be the result of PBA's location of Planned Development Areas (PDAs) in Marin? Please add a thorough analysis on this topic. What are the potential economic and environmental impacts of PBA PDAs located in areas subject to increased risk of liquefaction in the event of earthquake(s)? Please include the analyses and conclusions needed for this response in the PBA EIR. B30-13
  
- Wastewater - The PBA DEIR fails to address the wastewater impacts of proposed increased development within Marin County. Many of the sewer agencies in Marin County are already out of compliance with State of California discharge regulations and/or subject to Cease and Desist orders, including the Ross Valley Sanitary District.<sup>6</sup> Please explain how PBA proposes to resolve the increased stress from development, on Marin's aging sewer systems. Please include analyses of such impacts in the PBA EIR. B30-14
  
- Community Character – How does PBA propose to include guidelines or alternatives for protecting and preserving the existing community characters of Marin towns? Please develop such guidelines, and circulate for adequate public review prior to adoption, and include in the PBA EIR. B30-15
  
- Local Alternatives – Does the PBA DEIR plan on evaluating other local land use and transportation approaches? Please thoroughly analyze, in the PBA EIR, whether approaches identified in the *Community Marin* 2013 document could meet PBA goals as well or better than PBA approaches (such as reductions in sizes of new Single Family Units (SFUs), infill affordable housing near existing transportation, improved public bus service, etc.; see attached selected recommendations from the *Community Marin* 2013 document). B30-16
  
- Housing Issues – Where in the DEIR does or will PBA adequately evaluate options for integrating new affordable housing into existing neighborhoods as in-fill, rather than as stand-alone high-density developments? Please include a thorough and detailed analysis in the PBA EIR. B30-17

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<sup>6</sup> San Pablo Bay has been identified as an especially polluted area of the San Francisco Bay. San Pablo Bay receives the highest volume of toxic discharges in the state, according to a report titled "Wasting Our Waterways: Industrial Toxic Pollution and the Unfulfilled Promise of the Clean Water Act," was issued by Los Angeles-based Environment California, which analyzed U.S. Environmental Protection Agency data from 2010.

- Please include in the PBA DEIR, an evaluation of conversion of market rate housing to permanently affordable below-market-rate housing, as a means to reduce long-distance commutes into the County by low-paid workers. B30-18
- Please include in the PBA DEIR, an evaluation of allowing conversions of market-rate housing to affordable housing to count toward goals; likewise for new, and newly legalized second units, to satisfy PBA requirements. B30-19
- Rezoning to higher densities will not assure that affordable housing gets built so that people can live closer to work and reduce vehicle miles traveled. How does the PBA propose to identify and evaluate funding sources to ensure availability of additional resources and mechanisms, such as an expanded revolving loan fund? B30-19.5
- Local Jobs – Marin residents who commute out of the county tend to do so for higher-paying jobs, and people who commute into Marin tend to do so for medium to low paying jobs. Creation of higher-paying jobs within Marin County could reduce work-related vehicle miles travelled. Please develop guidelines so that planning actions and projects that could reduce VMT/VHO (vehicle miles traveled /vehicle hours operated) are allowed to count toward PBA job/housing goals, and include these in the PBA EIR. B30-20
- PBA's projected reduction in affordability of housing would be particularly counter-productive in Marin County, where it would very likely force more low-wage workers to commute into Marin County from outside of the County. Please evaluate whether housing affordability will improve in Marin under the PBA. Please include guidelines in the PBA EIR to ensure that housing affordability in Marin County is increased without detriment to existing community characters. B30-21

Finally, we wish to request a 6-month extension to offer a full time period for adequate review of the PBA DEIR, and to confirm the transportation, GHG studies, sea-level rise and water issues, and to explore other issues. B30-22

The PBA was released on March 22, and its 1,300 page EIR was released on March 29. Comment period for the EIR closes on May 16, affording approximately six weeks for public review and comment. Understandably, this truncated review period has created a great deal of public frustration, as it does not afford a sufficient opportunity to review a project of this magnitude and impact to local jurisdictions. This quick review period also raises serious concerns for our group that opportunity for meaningful public review and CEQA process has not been fulfilled.

We summarize with the following remarks:

With respect to Marin County, the PBA DEIR appears to overlook numerous environmental issues, which we feel need to be addressed before a meaningful evaluation can be completed. The hoped-for benefits of the PBA (reducing GHG emissions, reducing commuter times, or reducing the cost of housing and transportation for low income residents), as described in the PBA, do not appear to likely to be achieved with any significance, despite the enormous expenditures of monies that might be more B30-23

effectively utilized through other approaches that are also more sensitive to the needs and desires of local communities.

The PBA exists primarily as a funding source of “Discretionary Funds” as a *quid pro quo* for jurisdictions to pre-approve the increased density of PDA’s within their boundaries. However, in Marin County, many of the PDA’s tentatively identified are located in low-lying areas adjacent to the Bay. As such, the PBA appears to create incentives to steer high-density development into the path of imminently rising sea water areas. Marin County’s Master Plan and other local documents clearly address this issue in Marin, and strongly indicate that development in these areas is not desirable from any perspective – environmental, social or economic.

B30-24

In Marin County, restoration and expansion of North Bay bus and shuttle services, and of pedestrian and bicycle roadways, are vitally needed. Yet the majority of PBA “discretionary funds” are earmarked for more highway and automobile infrastructure, ostensibly to accommodate the increased development. However, the PBA earmarks *less than 1% of such funds for GHG reductions*. It does not appear that the PBA makes any more funds available for public transit than would otherwise be available through the MTC.

B30-25

Ultimately, incentivizing the location of development by making discretionary highway funds available to improve the capacity of roads near such development, does not appear to be supported by PBA’s own data, to be a very productive or efficient use of funds to reduce GHG emissions or reduce the costs of housing and transportation in Marin County.

In Marin County, we would instead encourage *additional* investment in creating a robust, user-friendly public transportation system to reduce the cost of transportation, reduce traffic, and improve commute times, along with other approaches, such as improvements in publicly-owned and operated telecommunications infrastructure, walkable communities, and achieving a better balance of jobs for local residents by attracting higher-wage job providers and establishing a great deal more truly affordable and attractive low-income housing. In our opinion, for Marin County, such approaches constitute the most effective path toward GHG reductions, and the other PBA, AB32, and SB375 goals.

B30-26

Thank you for the opportunity to make these comments.



Michele Barni  
Chair, Marin Group  
Sierra Club



Plan Bay Area 2040 Final Environmental Impact Report

**From:** "Katherine Gavzy" <kathgav@comcast.net>  
**To:** <info@OneBayArea.org>  
**Date:** 5/14/2013 9:41 PM  
**Subject:** League of Women Voters of Oakland supports Plan Bay Area

Amy Worth, Chair

Metropolitan Transportation Commission

Mark Luce, President

Association of Bay Area Governments

Re: Plan Bay Area

Dear Ms. Worth and Mr. Luce:

The League of Women Voters of Oakland wishes to underscore the Bay Area League's support of the regional planning process undertaken by ABAG, MTC, and other regional agencies to implement SB375. Coordinating land use and transportation planning to develop Plan Bay Area (PBA) has been a difficult task. The draft PBA shows the value of regional planning and of collaboration among the Bay Area's regional agencies, and we applaud your leadership in keeping the goals clear and the public involved.

**B31-1** The draft environmental impact report for the PBA is designed to curb urban sprawl and to house all of the Bay Area's population growth in urban areas. We support focusing growth in Oakland and other cities. Accomplishing these development goals will, however, require new funding sources and incentives for building affordable housing.

The League places a high priority on reducing carbon and other emissions that worsen air quality and the impacts of climate change. We are pleased that the projections in the draft Plan slightly exceed the threshold of a 15 percent per capita reduction in greenhouse gases by 2030 that is required under SB 375.

Sincerely,

Katherine Gavzy

President, League of Women Voters of Oakland

president@lwvoakland.org

(510) 508-9062

**ATTACHMENT: Relevant Passages from the Community Marin 2013 Document.**

The following are recommendations that are supported by the most prominent environmental organizations in Marin County and which have the potential to meet the same goals as PBA.

These recommendations establish a context of alternatives that should be considered relative to any PBA proposals for Marin County.

- Conversion of market- rate units to below-market-rate or assisted living units, second units, and inclusionary units.
- Restoration and expansion of north bay bus services.
- Locate affordable housing near existing jobs and services, as in-fill development and conversion of market-rate units to affordable housing.

4.1 Establish a maximum size of 3,500 square feet for new and remodeled homes, plus another 500 square feet for accessory buildings, unless a lower maximum is specified in adopted city or community plans. Allow a size larger than the maximum only if the unit is subject to design review, meets all planning standards, has no adverse impacts on sensitive habitat and service capacities, does not exceed the energy use of a typical 3,500 square foot floor area house, conforms to the average size of houses in the neighborhood, and the developer makes a compensatory contribution to a trust fund for support of environmental protection. Establish strict standards for floor area ratio, lot coverage, conformance with community character, bulk, mass, slope, height, accessory structures, and design review. The house size calculation should include all enclosed or partially enclosed space that is attached to the living space. Accessory structures include garages. Make it clear that a maximum is not an entitlement.

4.4 Encourage infill and mixed use development where it is consistent with height limits and community character, and reuse of existing non-residential buildings for housing.

4.5 Locate housing near transit and other services, without impairing natural resources, in order to encourage walking and bicycle use, discourage use of the private automobile and reduce vehicle miles traveled.

4.7 Retain existing below market rate housing.

This may be done through zoning, tax incentives, permanent deed restrictions, permitting of second units, and technical assistance. Work with state and local jurisdictions to establish procedures for retaining below market rate housing.

Support housing trust funds to pay for conversion of existing single-family units to create affordable housing. A possible mechanism for accomplishing this would be the use of the real estate transfer tax.

4.10 Prioritize placement of affordable housing in mixed-income neighborhoods. Avoid overconcentration of affordable units in any one area.

Increase the percentage requirements for below-market-rate units, with a minimum requirement of 20 percent, and reduce the project size threshold in inclusionary zoning ordinances. Require provision of below market rate housing on site rather than allowing in lieu fees, where appropriate. If in lieu fees are permitted, they should be adequate to cover the actual cost of developing affordable units. The county currently has a 20 percent inclusionary requirement for two units or more and city standards should match or exceed county requirements.

4.13 Require developers of commercial properties to provide or fully fund an appropriate amount of below-market-rate housing within the county. San Rafael and the county have jobs/housing linkage fees. Other cities and towns should adopt similar requirements.

4.14 Consider increasing density in infill locations, consistent with community character, availability of resources and environmental constraints, to provide less expensive housing. Outlying areas should be reduced in density to offset increases.

4.18 Require point-of-sale inspections for all property sales. These should ensure that the property meets all public health and safety requirements and environmental protection measures, and that required permit fees are paid and inspections completed for work that occurred on the property.

- 4.19 Conduct a point-of-sale energy audit program to convey upgrade recommendations and disclose areas of energy inefficiencies to buyers as part of the pre-sale inspection.
- 5.3 Incorporate into general plans economic policies and programs to reduce Marin County's carbon footprint, including promoting local food production and market supplies.
- 5.4 Ensure that the net public costs and impacts of all commercial development are understood, and require the development to contribute its fair share to a fund that will provide affordable housing and support city services. Require that commercial development fully meet those costs and mitigate impacts as part of the planning and approval process.
- 5.7 Support expansion and funding of the county's Green Business Certification Program, and support businesses that implement program requirements.
- 5.8 Incorporate economic policies that support reducing greenhouse gas emissions, including promoting local food production and market supplies, incentives for use of fuel efficient vehicles, and expansion of energy efficient public transit in the City Centered Corridor.
- 6.1 Reduce the total amount of additional growth, especially commercial development, allowed by current plans; do not just mitigate its impacts. Future growth should be planned in accordance with standards for protection of environmental resources and goals for protection and enhancement of the county's existing character, and should take into account the potential availability of services and resources.
- 6.2 Recognize that there is an ultimate limit to growth based on environmental and service constraints, and all land use designations should be based on these constraints. City and county general plans should limit projected buildout to levels that can exist reliably and continue into the future on local natural resources, including existing developed water sources.
- 6.3 Offset density increases at infill sites with reductions in development potential at outlying locations.
- 6.4 Focus new development on existing community centers, through infill and reuse. Maintain the existing scale and enhance the historic, community-centered character of Marin.
- 6.6 Balance parking requirements with the need to reduce car use, through such means as zip cars, loaner bikes, and other innovative techniques, to minimize spillover into adjacent neighborhoods.
- 6.7 Provide for a range of activities and opportunities for interaction within town centers, such as housing, shopping, services, jobs and outdoor public spaces, along with easy access to transportation.
- 6.9 Make more efficient and/or aesthetic use of parking areas and public garages by adding solar panels on roofs, water retention areas, planted areas, and shade trees.
- 6.11 Require new development, both residential and commercial, to incorporate energy efficiency and other resource conserving measures in all aspects of siting, infrastructure, construction techniques and materials, and landscaping, such as those listed below:
- Encourage compact development patterns that promote efficient use of resources.
  - Maintain natural landforms and habitats by prohibiting massive grading, encroachment into or filling of floodplains and wetlands, and removal of native vegetation.
  - Optimize microclimate orientation to reduce building energy demands in the siting of buildings, and use resource-conserving materials and construction technologies.
  - Minimize conversion of water absorbent ground surfaces to impervious materials.  Cluster development to preserve the maximum amount of the property as natural habitat, for agricultural use or open space, prioritizing habitat protection.
  - Assure that donation of open space by a property owner is not at the expense of inappropriate development.
  - Where feasible, use on-site renewable energy technologies, including active and passive solar, to reduce demands for grid-delivered electricity.
  - Use recycled or renewable materials for roads and structures, including materials from sustainable-certified sources and materials that can be recycled in the future.
  - Conserve water use through installation of locally adapted and drought-tolerant landscaping; use recycled (waste) or reclaimed water or gray water wherever possible. Make recycling facilities and services, including dual piping, readily available.
- 6.12 Determine the effectiveness and cost of green building techniques, including the total energy

cost of materials, operation and maintenance, and environmental impacts or costs, before relying on them.

6.13 Prohibit use of green building techniques as a substitute for compliance with all other planning and zoning requirements and protection of natural resources.

6.14 Anticipate the effects of sea level rise and other consequences of a changing climate. Establish adaptive strategies and legal mechanisms to regulate new development or redevelopment in areas projected to be inundated or flooded in the future, including prohibition of new development and requirements for special design standards, and make plans to minimize damage to habitat and existing infrastructure and facilities as inundation proceeds.

7.25 Develop and maintain an effective telecommunication infrastructure in Marin, in accordance with existing law, that avoids adverse impacts on humans, wildlife, and the natural environment.

8.1 Reduce vehicle trips by expanding flextime, walking and biking, ridesharing, telecommuting, compressed work week, traffic information, subsidized bus pass, guaranteed ride, and similar transportation demand techniques.

8.3 Implement Intelligent Transportation Systems (ITS) that will include the following measures: (a) better traffic surveillance and faster removal of disabled vehicles when they are located in a highway or arterial bottleneck; (b) selectively applying ramp metering at on-ramps to enhance freeway traffic flow; and (c) improving real time information about "Next Bus" and travel times to allow people to schedule their travel more efficiently.

8.4 Expand shuttle bus services and satellite parking to serve popular tourist sites such as Sausalito, Fort Baker, Muir Woods, Stinson Beach, and Point Reyes National Seashore. Consider placing tourist-based shuttle bus service parking lots at the Presidio, Fisherman's Wharf, and other locations such as the Larkspur and Sausalito ferry terminals.

8.5 Transit systems and employers should provide satellite parking and shuttle service to and from transit stations and work places as appropriate.

8.6 Expand the Safe Routes to School program and related infrastructure with the objective of reducing vehicle trips and improving safety while protecting environmental resources. Operate more school buses so as to reduce VMT during periods of peak congestion.

8.8 Wherever possible, public agencies should utilize low emission, fuel-efficient vehicles and encourage the development of new technologies and necessary infrastructure support.

8.10 Encourage construction and use of bicycle/pedestrian pathways in already-developed areas and transit centers to support non-motorized commuter travel while not negatively impacting natural resources. Construct Class I bicycle/pedestrian pathways for improved safety where possible.

8.14 Improve traffic flow design of Highway 101 interchanges with the specific purpose of promoting auto, bicycle, pedestrian, and public transit safety without impacting sensitive environmental resources, including views.

8.15 Provide well maintained bus stop facilities with safe access to park-and-ride lots and connections to other modes of transit. Landscape interchanges with drought tolerant native plantings for aesthetic and air quality purposes.

8.17 Confine aviation to the existing Gness Field operations for general aviation only. Any runway extension should be for safety only and not for accommodation of larger craft. Do not approve the movement of larger jets. San Rafael (Smith Ranch) Airport and the Richardson Bay Heliport and sea plane base operations should not be expanded.

8.18 Provide transit hubs that offer convenient and timely transfers among all transit modes: auto, bus, bike, pedestrian, and rail.

8.20 Intra-county transit is the most likely means of increasing transit capacity of the east-west arterials and should be expanded. Buses work well on fixed routes; shuttles and vans have flexibility and capability to be reconfigured in response to land use changes and population shifts.

8.21 Plan and integrate local transit systems and transit modes to the greatest extent possible.

8.22 San Rafael Transit Center should be designed to minimize congestion on adjoining streets and sidewalks, and insure safety of pedestrians while they are changing transit modes.

8.23 All transit vehicles should have maximum fuel efficiency and minimum GHG emissions.

8.25 Establish and expand bus routes that are responsive to the needs of workers, students, the elderly, and other transit-dependent population sectors and/or communities. Maintain service to West Marin.

8.26 Expand the ability of buses to accommodate bicycles, and encourage employers to provide secure bicycle storage, showers, and financial incentives to non-motorized commuters.

8.27 Expand paratransit services to meet the needs of seniors and the disabled.

8.29 Telecommuting should be regarded as a form of transportation and public and/or privately-owned telecommunications infrastructure to serve Marin residents should be developed.

8.30 Ensure that local traffic congestion and poor Level of Service (LOS) intersections do not negatively impact local residents as a consequence of high density housing.

8.34 Fully consider the relative effects on greenhouse gas emission of increases in the use of alternative fuel vehicles.

8.35 Encourage use of high efficiency vehicles and the infrastructure to support them.



**COUNCIL OF  
COMMUNITY  
HOUSING  
ORGANIZATIONS**

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May 16, 2013

Amy Worth, Chair, Metropolitan Transportation Commission  
Mark Luce, President, Association of Bay Area Governments  
101 8<sup>th</sup> Street  
Oakland, CA 94604

Submitted via email: [info@onebayarea.org](mailto:info@onebayarea.org)

Subject: Comments on Draft Plan Bay Area and Draft EIR

Dear MTC Chair Worth and ABAG President Luce:

We are deeply concerned about the implications of the draft “Plan Bay Area” as it is currently proposed, and submit the following comments on the Plan and its draft Environmental Impact Report. The Council of Community Housing Organizations (CCHO) is dedicated to working for sustainable population growth and development while ensuring that existing communities remain stable, affordable and inclusive.

B32-1

Though Plan Bay Area proposes a regional vision of “smart growth,” the execution of that vision and its impacts both potentially positive and potentially deleterious happens at ground level within local jurisdictions and even more localized neighborhoods. As an overarching comment, the fact that the current draft Plan readily acknowledges that the potential for “community disruption” and displacement will increase under the proposed Plan Bay Area scenario by 71% (from 21% displacement potential under 2040 Baseline forecast to 36% displacement potential under the Draft Plan Bay Area. PBA, pg. 109, Table 2) and yet offers no substantive or enforceable mitigations, is shocking. The core premise of Plan Bay Area and smart growth in general of focusing development into urbanized areas (so-called Priority Development Areas), many of which are also identified as “communities of concern,” has since the inception of this planning process raised concerns about the unintended consequence of gentrification and displacement pressures in existing low income and working class communities and communities

The Council of Community Housing Organizations plans common actions to expand affordable housing, needed services and employment opportunities for lower-income San Franciscans. CCHO member organizations have developed over 20,000 units of affordable housing and provided thousands of construction and permanent jobs for City residents.

of color. These impacts are very real, and it would be irresponsible for the regional agencies to advance a Plan that purports to “improve” the region’s communities as population grows while that Plan simultaneously presents greater risk and uncertainty for many vulnerable communities than they already experience today under current real estate development pressures. A truly “equitable” vision for regional smart growth must be expected to address and counterbalance these known risks head on.

San Francisco alone is envisioned under the proposed Plan to accommodate 92,410 new housing units over 30 years, which is 25% of *all* the growth among the “top 15 cities” in the region and 16% of the total growth throughout the entire Bay Area (PBA, pg. 11, Table 2). Thus the potential impacts at ground level within the communities we directly work with are indisputable. These risks, however, are not just of San Francisco “uniqueness”— other communities of concern across the landscape of urban PDAs have also experienced the pressure of “hot markets” for infill development. We believe that regional policy and planning in Plan Bay Area should be well informed by this local experience.

B32-2

Plan Bay Area as proposed claims to have fully satisfied the performance target to “house 100 percent of the region’s projected population growth by income level without displacing current low-income residents.” (PBA, pg. 97). This is a curious assertion given that the displacement potential under the Plan *increases* in comparison to the baseline (ie, no project) scenario. The fundamental flaw in this pollyanish conclusion is that Plan Bay Area only plans for housing to accommodate projected population growth but does not offer pragmatic implementation mechanisms or funding strategies to actually achieve affordable housing performance according to those plans. The prospect of a resulting affordable housing production shortfall is a major vulnerability of the Plan because much of the environmental analysis depends on projections of housing production -- and a major component of this projected production is supposed to be affordable. The consequence of getting *actual housing production* wrong undermines the GHG reduction analysis, regional displacement analysis, etc. In other words there is a potential domino effect of incorrect analyses about the impacts of Plan Bay Area if the affordable housing production assumptions are not valid.

With San Francisco as an example, our jurisdiction is tasked to produce a total of 92,410 units over 30 years. Utilizing the Regional Housing Needs Allocations for 2014-22 (PBA, pg.57) and extrapolating those projections by household income levels for the full period of Plan Bay Area, then 38% of San Francisco’s total net-new housing production needs to be affordable to households below 80% Area Median Income. That is approximately 35,000 units of affordable housing, or an average production of 1,170 units annually. The existing track-record, however, shows that *actual* production is less than half that level—from 2001-2012 an average of 480 units of affordable housing was constructed for that household income range (see table below).

**San Francisco Affordable Housing units new construction  
2001-2012**

|      | affordable units<br>up to 60%AMI | affordable units<br>up to 80%AMI | Total |
|------|----------------------------------|----------------------------------|-------|
| 2001 | 512                              | 0                                | 512   |
| 2002 | 792                              | 0                                | 792   |

|      |     |     |     |
|------|-----|-----|-----|
| 2003 | 211 | 33  | 244 |
| 2004 | 385 | 0   | 385 |
| 2005 | 689 | 0   | 689 |
| 2006 | 321 | 12  | 333 |
| 2007 | 512 | 20  | 532 |
| 2008 | 462 | 0   | 462 |
| 2009 | 550 | 140 | 690 |
| 2010 | 501 | 0   | 501 |
| 2011 | 140 | 21  | 161 |
| 2012 |     |     | 465 |

Source: SF Housing Inventory reports.

When the “middle income” housing needs for 80%-120% AMI households is added to the 30-year demand under Plan Bay Area, a full 57% of all new housing production in San Francisco will need to service the resident population at incomes below 120%AMI. That is a staggering assumption of the Plan and its Draft EIR analysis given the reality of historical production.

Comparing historical 480 units/year affordable housing production for 0%-80% AMI units to the Plan Bay Area’s 1,170 units/year assumptions, there could very well be a shortfall of 20,400 affordable housing units over the 30-year period, or a 59% under-performance relative to the production projections assumed in the Plan. This would mean a commensurate increase in VMTs and potential regional displacement as lower wage workers are displaced from existing housing and the growing low and moderate-wage workforce is excluded by the unaffordability of housing, and would increasingly have to commute back to San Francisco to work. Moreover, it is likely that many of these displaced workers would have worse access to transit in other communities of the region, in comparison to living in San Francisco, and so may be forced to drive.

To put this potential affordable housing production shortfall in terms of needed funding, 34,803 units of affordable housing over 30 years would require fourfold the amount of San Francisco’s recent Prop C Housing Trust Fund resources. In other words, about \$5 billion in local funds will be necessary if the full scale of affordable housing production assumed for San Francisco in Plan Bay Area is to be achieved.

This analysis for San Francisco’s “share” of regional housing production is likely not much different than what can be expected in other jurisdictions in the region faced with the challenge of meeting project housing needs under the Plan. The specter of such a housing production shortfall thus undermines the Draft EIR analysis that regional housing production will somehow moderate the potential displacement impacts noted above. If Plan Bay Area already confesses to increasing displacement risks under an assumption of achieving total projected housing needs, it is only logical to assume that displacement impact rises even more dramatically when the housing production assumptions do not become a reality.

Additional specific comments on the draft Plan and EIR fall into three primary areas of concern: 1) risks of community "disruption" and displacement of existing residents; 2) under-production of affordable housing to meet needs; 3) consequences of CEQA streamlining.

**B32-3 | 1. Risks of community disruption and displacement of existing residents.**

Under the Draft EIR section entitled “Residential or business disruption or displacement of substantial numbers of existing population and housing,” it states:

“...the development of additional housing units and commercial space in PDAs could have the long-term effect of stimulating demand by attracting new residents and businesses that are seeking improved access to transit, a tighter network of commercial markets, and other amenities. Changing development types and higher prices resulting from increased demand could disrupt business patterns and displace existing residents to other parts of the region or outside the region altogether. However, the proposed Plan seeks to accommodate the projected population and employment growth in the region, consistent with historic trends. As such, any displacement or disruption would most likely occur locally, and in general, more units and jobs would be created to replace any lost jobs and housing overall. Displacement impacts as a result of land use projects at the regional level would therefore be less than significant (LS). **No additional mitigation measures are required.**” (PBA DEIR, pg. 2.3-35. Emphasis added).

The conclusion here that displacement impacts at a local level are essentially insignificant as long as a new location for the business or household displaced is accommodated somewhere within the Bay Area region is terribly flawed and serves only to mask the community-scale impacts of intensified development induced by Plan Bay Area.

**B32-4 |** Given the long-term significance of the impacts identified in this section, the mitigation measures proposed are totally insufficient at addressing real concerns by focusing primarily on construction impacts and pedestrian safety. Further substantive measures are needed in order to fully address these risks.

**B32-5 |** Plan Bay Area revisions/Mitigations needed:  
 -- Identify and obligate or incentivize actionable local measures to mitigate the identified long term impacts from disruption and displacement in existing communities as a result of Plan Bay Area.

**B32-6 |** -- State level reforms must be identified to re-instate and/or strengthen tenant protection and anti-displacement tools for local jurisdictions in the wake of impacts from the Costa Hawkins Act, the Ellis Act, the Palmer decision on Inclusionary law, Redevelopment dissolution, etc.

**B32-7 |** -- Identify and incentivize preservation strategies that can ensure protection of existing affordable housing in communities susceptible to gentrification and displacement pressures.

**B32-8 | 2. Under-production of affordable housing to meet needs.**

As noted previously, the Plan Bay Area claims to have fully satisfied the performance target to “house 100 percent of the region’s projected population growth by income level without displacing current low-income residents.” A simplified breakdown of housing needs from the RHNA indicates that we need to produce approximately the same amount of low-income housing as market-rate housing (40% each), and 20% median-income housing. Almost 40,000 of

those units will need to be affordable to households at 80%AMI and below. That is proportional to four times the funding recently secured by San Francisco’s Proposition C Housing Trust Fund, and four times as much as the historical annual production of low-income housing. Moreover, while San Francisco has a robust inclusionary housing policy of 12% on-site units for median income residents, many developers choose to fee out, and historical production for those below-market-rate units has been far below the RHNA goals of 20% units targeted to 80%-120% AMI households.

Plan Bay Area revisions/Mitigations needed:

-- Identify reliable dedicated sources for achieving affordable housing production goals as assumed in Plan Bay Area.

-- A principle of 1 to 1 replacement of all low-income housing displaced by TOD development and relocation either on-site or within the local community at an affordable rent of all low-income households directly displaced.

-- An analysis of how to link overall housing production to creation of new affordable housing for very-low, low and moderate-income needs so as to counterbalance the risks of disruption and displacement and in order to achieve RHNA goals.

B32-9

**3. Consequences of CEQA streamlining on ensuring high-quality development and minimizing displacement impacts.**

The impacts of “Transit Priority Project” Streamlining are particularly concerning for us given that the entire City of San Francisco would be eligible for CEQA exemption at the project level (PBA, pg. 59, Map 5). Pre-empting local land use planning processes and project-level entitlement processes undermines local communities’ ability to ensure high-quality development. In the context of the identified displacement impacts in the Draft EIR and the highly-probable under-performance of affordable housing production assumed in the Draft EIR, this proposed reduction in scrutiny of development projects could further exacerbate those “disruptive” impacts to existing communities.

B32-10

The Draft EIR states:

“...where projects taking advantage of CEQA Streamlining provisions of SB375 (Public Resources Code sections 21155.1, 21155.2, and 21159.28) must apply the mitigation measures, as feasible, to address site-specific conditions. **MTC/ABAG cannot require local implementing agencies to adopt mitigation measures, and it is ultimately the responsibility of a lead agency to determine and adopt mitigation.** Therefore if this EIR finds that it cannot be ensured that a mitigation measure would be implemented in all cases, impacts would remain significant.” (PBA DEIR, pg. 1.1-3. Emphasis added).

If the Draft EIR finds that the only way to mitigate the displacement impacts of Plan Bay Area’s CEQA streamlining provisions is through mitigation measures that MTC/ABAG cannot require, then it should make the implementation of CEQA streamlining be specific to each locality and conditional upon the following criteria:

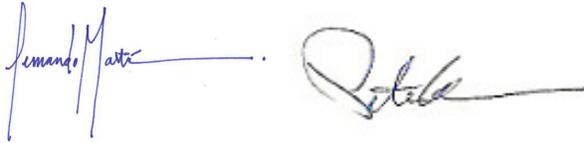
-- eligibility for project-level TPP CEQA streamlining should be conditioned upon the project demonstrating mitigation of any local disruption or displacement impacts, including adoption of locally-enforceable mitigation measures identified in the EIR.

**B32-11** -- eligibility for project-level TPP CEQA streamlining should also be conditioned upon satisfactory performance toward affordable housing production by the local jurisdiction in direct relationship to RHNA goals. That should include local identified sources of funding and/or sufficient inclusionary housing obligations to meet the affordable housing production goals for projected job growth at all income levels as identified in the EIR

**B32-12** The “EEJ” alternative analyzed in the Draft EIR reduces negative impacts by limiting CEQA streamlining, and is thus a good starting point as a superior approach to the proposed Plan Bay Area scenario. However, it alone is not enough, and limits on CEQA streamlining must also be coupled with anti-displacement and affordable housing production measures as outlined above.

We ask that you direct staff to address these critical concerns in substantive improvements to the draft Plan Bay Area before it is brought to the full MTC and ABAG decision makers for adoption.

Sincerely,

Handwritten signatures of Fernando Martí and Peter Cohen. The signature on the left is 'Fernando Martí' and the signature on the right is 'Peter Cohen'.

Fernando Martí and Peter Cohen  
for the Council of Community Housing Organizations

## Transportation Solutions Defense and Education Fund

P.O. Box 151439 San Rafael, CA 94915 415-331-1982

B33

May 15, 2013  
By E-Mail

Amy Worth, Chair  
Metropolitan Transportation Commission  
101 Eighth Street  
Oakland, CA 94607

Re: 2013 SCS DEIR Comments

Dear Ms. Worth:

The Transportation Solutions Defense and Education Fund, TRANSDEF, is an environmental non-profit advocating the regional planning of transportation, land use and air quality at MTC for the past twenty years. We are pleased that, in its first Sustainable Communities Strategy, MTC is no longer planning most of the region's growth to be sprawl on the fringes of the region.

The front page of today's *Chronicle* announces the release of *A New Direction*. (Attachment H.) This U.S. PIRG study captures a profound change in travel preferences, in which millennials drive much less than past generations. This study suggests that agencies like MTC need to recognize a much greater degree of uncertainty in their assumptions about the future, including the magnitude of growth in travel demand for different modes.

MTC should now stop facilitating Single-Occupant Vehicle (SOV) travel. Investing in Express Lanes diverts resources from viable alternatives to SOV travel while merely delaying inevitable gridlock. The public and MTC's own environmental review support shifting funding away from the highway projects in the Proposed Plan.

Atmospheric CO<sub>2</sub> levels reached 400 ppm this week, an event unprecedented in the human habitation of this planet. Reducing GHG emissions from transportation is critical to our state's future, as motor vehicles are the largest GHG-emissions generating sector in California. The Draft 2013 Regional Transportation Plan/Sustainable Communities Strategy (SCS), also known as Plan Bay Area, is an inadequate response to that challenge.

## Introduction

The legislative findings for SB 375 identify that:

...greenhouse gas emissions from automobiles and light trucks can be substantially reduced by new vehicle technology and by the increased use of low carbon fuel. However, even taking these measures into account, it will be necessary to achieve **significant additional** greenhouse gas reductions from changed land use patterns and improved transportation. Without improved land use and transportation policy, California will not be able to achieve the goals of AB 32. (Chapter 728, Statutes of 2008, Section 1(c) and (i), emphasis added.)

The Draft 2013 Regional Transportation Plan/Sustainable Communities Strategy will result in:

- an 18% **overall increase** in transportation GHG emissions between 2010 and 2040.<sup>1</sup>
- a 28% **overall increase** in land use GHG emissions between 2010 and 2040.<sup>2</sup>

The addition of the Scoping Plan measures (new vehicle technology and low-carbon fuel) implemented by the Air Resources Board, will reduce emissions enough to create:

- a net 19% reduction in transportation GHGs by 2040.<sup>3</sup>
- a net 12% reduction in land use GHG emissions between 2010 and 2040.<sup>4</sup>
- a net 15% reduction in total regional GHG emissions between 2010 and 2040.<sup>5</sup>

Because the SCS does not reduce 2040 regional GHG emissions apart from reductions from Scoping Plan measures, the SCS violates the legislative intent of SB 375.\* The SCS will interfere with the state's goal of an 80% reduction below 1990 GHG emissions by 2050.

Had the SB 375 GHG emissions reduction targets required an **actual** reduction in GHGs, that would have forced MTC to use its financial resources strategically, in sharp contrast to its past practice. As the mode share chart<sup>6</sup> shows, over a twenty year period, nothing has changed in Drive Alone or Transit mode shares. Carpooling and Walking

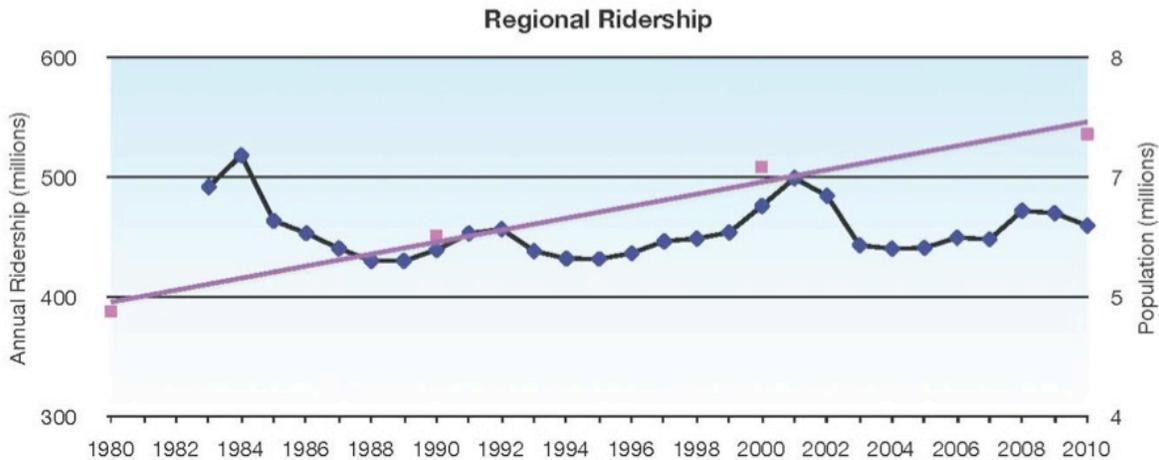
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\* TRANSDEF objected strenuously to ARB's adoption of regional emissions reduction targets recommended by the MPOs including MTC, because it was obvious then that the "GHG emissions reduction targets" would result in actual GHG emissions **increases**. TRANSDEF acknowledges that the SCS per capita GHG reduction achieves the regional emissions reduction target set by ARB, Criterion 1. However, the Bay Area's projected 30% increase in population (p. 3.1-11) will overwhelm the modest 18% per capita transportation GHG reductions (p. 2.5-50), making that reduction meaningless from a climate change perspective.

have declined. Work at Home has doubled, but not because of MTC. Bike access has improved, but that started from a very low base.

Over the past thirty years, MTC has failed to increase transit ridership. (see Regional Ridership chart below. The blue line is annual ridership while the magenta is population.) These two charts demonstrate MTC's inability and/or unwillingness to create a meaningful alternative to solo driving.

In 2001, TRANSDEF litigated MTC's failure to implement TCM 2, a commitment to a 15% increase in regional transit ridership, based on 1982 levels. TRANSDEF and its coalition received a court ruling declaring that MTC had failed to implement TCM 2, and ordering MTC to fulfil its commitment. This decision was later overturned on appeal. Despite a substantial increase in population and many billions of dollars spent on BART extensions, regional transit ridership<sup>7</sup> on the six largest operators has actually fallen since 1982. More than anything else, this chart demonstrates that MTC has no institutional discipline requiring it to achieve results when deploying financial resources.



**The GHG Impact Analysis**

While the DEIR's analysis of GHG emissions is far more orderly and clear than SCAG's, for example, it is still inadequate, both in its criteria and its impact analysis conclusions. It fails to clearly distinguish between statewide level and the regional level requirements, and fails to maintain a clear distinction as to which emissions sectors are being counted. Key data are missing that are needed to tie all measurements together to a single point for analysis. For starters, a table of regulatory requirements and another with the performance of the SCS would be helpful. (See Attachments A and B.)

Scoping Plan

The DEIR failed to demonstrate project consistency with the Scoping Plan's 2020 target of 427 MMTCO<sub>2</sub>e (the 1990 Level).<sup>8</sup> TRANSDEF's analysis is that 21 MMTCO<sub>2</sub>e of reductions are needed to attain the target, starting from the 2010 GHG inventory level of 448 MMTCO<sub>2</sub>e.<sup>9</sup> The Scoping Plan statewide measures for mobile sources, waste, electricity and natural gas sectors total 97.4 MMTCO<sub>2</sub>e (see Attachment D), or 56% of the total Scoping Plan measures. This results in a need for a statewide reduction of 11.8

MMTCO<sub>2</sub>e in these sectors (56% of 21; see Attachment C), which in turn is a 2.6% reduction from the 2010 levels in those sectors. While there are no numeric 2020 data in the EIR, a chart suggests that the 2020 regional GHG emissions in these sectors will be roughly 46.4 MMTCO<sub>2</sub>e,<sup>10</sup> a 4.9% reduction from 2010 levels. The SCS is therefore consistent with the Scoping Plan's 2020 target.<sup>†</sup>

### Criterion 2

Even with the acknowledged need to update the Scoping Plan, the DEIR analyses for 2040 and 2050 are problematic. For 2040, the GHG threshold of significance, Criterion 2, is legally inadequate. The selection of a 'net increase over 2010 GHG levels'<sup>11</sup> as the CEQA threshold of significance for 2040 is arbitrary, capricious and inconsistent with state law. First, as cited from SB 375 *supra*, the region is clearly expected to significantly reduce emissions. Second, a very challenging numeric 2050 target was set by Executive Order S-3-05.<sup>12</sup> While the DEIR claims that MTC is not responsible for implementing the Executive Order,<sup>13</sup> as the legislatively appointed Metropolitan Planning Organization for the Bay Area, MTC is required to operate within the state's policy framework. Under Criterion 2, maintaining level emissions from 2010 to 2040 would result in a finding of No Adverse Impact. That would clearly be contrary to the state's GHG regulatory framework, including SB 375 and Executive Order S-3-05.

Reducing GHG emissions 80% below 1990 levels results in a statewide 2050 target of 85 MMTCO<sub>2</sub>e. This, in turn, is an 81% reduction below 2010 levels. A trendline is needed on Figure 2.5-8, indicating what an 81% reduction looks like. For the mobile sources, waste, electricity and natural gas sectors, a reduction like that would result in total regional 2050 emissions of 9.3 MMTCO<sub>2</sub>e. Compared to such a trendline, it is obvious that the SCS is not doing anywhere near enough to reduce future GHGs.

The FEIR should carefully evaluate the entirety of this data, and make a reasoned determination of the appropriate threshold of significance for Criterion 2, supported by substantial evidence. Clearly, a 0% reduction below 2010 is too low a target for 2040, while an 81% reduction would be too high. The project's emissions reductions would then be compared to that threshold, most likely resulting in a potentially significant impact, for which mitigation strategies would need to be offered.

Rather than wait another 20 years or so to think further about the 2050 target, impacts on the region will be cumulatively less if the region were to proceed with a steeper reductions trendline now. Because such emissions reductions are both compounded by the network effect and cumulative over time, early reductions are much more beneficial than later ones. This was the rationale behind SB 375: change the pattern of land development to lock in lower per capita VMT before 2020, to avoid locking in more

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<sup>†</sup> Upon reviewing ARB's GHG Inventories, it became clear that statewide GHG emissions have already peaked in California, and are now heading downwards, probably because of the 2008 economic downturn. (See Attachment E.) If this trend continues, the Scoping Plan's 2020 Business as Usual GHG emissions projection of 596 MMTCO<sub>2</sub>e (p. 2.5-25) will never be reached. (See linear BAU trendline projection to 2020 on Attachment E.)

Business as Usual development later. More change sooner will make the transition to a low-carbon future less disruptive.

### Criterion 3

TRANSDEF's criticism of the Criterion 3 analysis<sup>14</sup> builds from its criticism of the Criterion 2 analysis. In particular, the following determination as to whether the project would substantially impede the attainment of 2050 goals is a *non sequitur*:

While modeling may not be able to show achievement of an 80 percent reduction today, given the overall downward trajectory beyond 2040, which indicates that implementation of the proposed Plan would not impede achievement of executive order goals, the impact is considered less than significant (LS).<sup>15</sup>

No evidence is offered in support of the allegation that "implementation of the proposed Plan would not impede achievement of executive order goals." Claiming that new technologies and measures will be available by 2050 is mere conjecture. Figure 2.5-7<sup>16</sup> purportedly demonstrates the SCS will not impede. However, even a cursory examination of the chart discloses less than a 20% per capita reduction from 2010 to 2050, a reduction that will be totally offset by population growth. It is not evidence of anything. (These per capita figures are inappropriate for this analysis, as the Executive Order goals refer to total emissions, not per capita emissions.) The finding of No Adverse Impact was in error. The FEIR must acknowledge that the SCS has a Potentially Significant Impact under Criterion 3.

### Criterion 4<sup>17</sup>

The 18% increase in regional transportation GHG emissions<sup>18</sup> over the life of the SCS (prior to Scoping Plan measures) discussed in the Introduction, *supra*, is evidence that implementation of the SCS would be in direct conflict with the GHG emission reduction goals of SB 375. The FEIR must acknowledge that the SCS has a Potentially Significant Impact under Criterion 4, even though there is No Adverse Impact under Criterion 1, the SB 375 per capita GHG emissions goals.

MTC proposed its own per capita emissions reduction targets, and submitted them to ARB. Because they were lower than the rate of population growth, MTC put itself in direct conflict with the goals of SB 375.

The calculations demonstrating the 2020 attainment of Scoping Plan goals, *supra*, need to be part of the analysis of Criterion 4 impacts in the FEIR.

The FEIR should evaluate the 6.6 MT per SP per year threshold of significance recommended by BAAQMD for analyzing plan level impacts.<sup>19</sup>

### Miscellaneous

Please provide the definitions of MMTCO<sub>2</sub>e and MTCO<sub>2</sub>e, perhaps by linking them with a footnote to Table 2.5-1, where they are first introduced.

It appears that the graphing of Figures 3.1-1<sup>20</sup> and 3.1-2<sup>21</sup> is incorrect. Straight lines are extended from the 2010 to 2040 segments back to 1990. This has the bizarre effect of showing the region's historic GHG emissions as being dependent on the choice of an alternative years in the future. Unless 1990 regional GHG emissions can be verified in the FEIR, these straight-line extrapolations should be eliminated.

On p. 2.5-50, the DEIR claims that "The proposed plan also results in an increase in the share of trips that are made by transit and by walking, while drive alone trips are expected to decline." No mode share data is presented to substantiate those claims.

### **Regional Express Lanes Network**

The SCS documents are inconsistent in their characterization of the so-called Regional Express Lane Network Project, RTPID 240741. This project appears in the draft Air Quality Conformity Analysis as operational by 2040 and regionally significant. The only mention of cost in the Regional Express Lane Network section of Plan Bay Area is for \$600 million. (p. 82.) Appendix C displays no construction funding for HOT lanes, yet there is \$600 million in discretionary funds in RTPID 240732 for something called "Grant Funding." These data stand in conflict with those for RTPID 240732, hidden away in an obscure database (<http://www.bayarea2040.com/public/default.aspx>) called Plan Bay Area Project Search. The 5/1/13 printout shows the project will not be operational by 2040, and has no discretionary funds. These discrepancies cast doubt on the entire SCS analysis process, as this database appears to be the master source for the conformity analysis, financial reporting, travel demand modeling and Appendix C.

Worse yet, the database shows a cost of \$6.7B for RTPID 240741, but neither the regional significance box nor a project completion date is checked, implying that this project is not moving forward. However, it is allegedly included in SCS Alternatives 2, 3 and 4. With the documents available to the public, it is impossible to definitively determine whether the biggest single project in the SCS, Express Lanes, is alive or dead.

### **Transportation Impact Analysis**

After extended deliberation and public input, MTC formally adopted these SCS 2040 performance targets for transportation:

Target 9a: Increase non-auto mode share by 10 percentage points (to 26% of trips).

Target 9b: Decrease automobile vehicle miles traveled (VMT) per capita by 10 percent.<sup>22</sup>

However, instead of using these targets as its thresholds of significance, the DEIR ignored mode share entirely, and adopted a different threshold than Target 9b as Criterion 4 : "A substantial increase in per capita VMT compared to existing conditions. A substantial increase in per capita VMT is defined as greater than 5 percent."<sup>23</sup>

CEQA gives the lead agency the discretion to select thresholds of significance, but there must be a rational basis for significance determinations. In this instance, the performance targets were selected as part of a comprehensive planning effort to avoid future adverse environmental and social impacts. These targets were not a means to optimize future benefits. Not achieving these targets would mean that future adverse

impacts would be worsened. Because mode share and VMT were readily available as outputs from the model, these two targets should have been DEIR impact criteria.

The DEIR fails its function as a public information document because it restricts the public's right to know and comment on the failure of the SCS to meet explicit lead agency goals. The selection of thresholds that ignored the policy context for the SCS--the region's need to increase non-auto travel and to reduce VMT per capita--was arbitrary and capricious, and a blatantly improper attempt to avoid a finding of an unavoidable significant impact. The Impact Analysis for the Transportation section of the DEIR is legally inadequate. There is no legal justification for avoiding the process of public comment under CEQA.

Even though Target 9a explicitly required calculating mode share, we were unable to find any results reported in the DEIR. This is inconsistent with 20 years of MTC's EIR practice. Plan Bay Area reported only a 4 percentage point increase was achieved.<sup>24</sup> The SCS resulted in a 2040 per capita VMT decrease of 6%,<sup>25</sup> which was reported in Plan Bay Area as a 9% decrease.<sup>26</sup> No matter which of these results was more truthful, both failed to reach the 10% Target 9b. Although these performance targets were evaluated in the Plan Bay Area document, their omission from the DEIR appears to be the burying of bad results.

As discussed in detail in *A New Direction* (Attachment H), the future of VMT growth is quite uncertain. Figure 9 on page 30 displays the historic trend for VMT, along with three future scenarios: Back to the Future, Enduring Shift, and Ongoing Decline. What VMT growth assumptions are built into MTC's travel demand model? Has the model been accurate in backcasting the decline in VMT since 2004? Is there any reason to have confidence in the model's projections if future travel demand remains lower than the historic trend?

Finally, the transportation analysis excludes intrazonal travel.<sup>27</sup> We are concerned that this distorts the overall results and fails to provide the fine-grained detail needed to evaluate the multimodal performance of PDA policy sets.

### **Feasible Mitigations**

Had the Criterion 2 significance threshold been set properly, the DEIR would have identified the 15% reduction of GHG emissions in 2040 relative to 2010<sup>28</sup> as a significant unavoidable impact, because it will interfere with attaining the state's adopted goal of an 80% reduction by 2050.

Had the Criteria 3 and 4 analyses been done properly, the DEIR would have identified the 20.5% reduction of GHG emissions in 2050 relative to 2010<sup>29</sup> as a significant unavoidable impact, because it will interfere with attaining the state's adopted goal of an 80% reduction by 2050, and with the Scoping Plan's emissions reduction goals.

The draft SCS had other significant impacts:

“Congested per capita VMT would increase by 29 percent during the AM peak hours, by 71 percent during the PM peak hours, and by 51% for the day as a whole. These

roadway traffic service levels reflect the impact of total VMT growth far exceeding the growth of roadway capacity.”<sup>30</sup>

In addition, had the impact criteria been legally adequate (see Transportation Impact Analysis, *infra.*), there would have been two additional significant impacts: a failure to reduce per capita auto VMT by 10% (only a 6% reduction was achieved<sup>31</sup>) and a failure to increase non-auto mode share by 10 percentage points (only a 4 percentage point increase was achieved<sup>32</sup>).

CEQA mandates that agencies not approve projects that will do significant environmental damage if mitigation is available and feasible. (Public Resources Code, §§ 21002, 20181(a); *City of Marina v. Board of Trustees of the California State University* (2006) 39 Cal.4th 341, 361-62.) TRANSDEF identifies the following mitigations as available and feasible:

1. Alternative 5, the Environment, Equity, and Jobs Alternative (EEJ), has the lowest Daily VMT<sup>33</sup> of the alternatives. It would have had the lowest per capita Daily VMT, had the analysis<sup>‡</sup> not artificially lowered the population.<sup>34</sup> It is clear that the model validated the premise that VMT could be reduced by increasing the supply of local bus transit and deferring the construction of additional highway facilities. Therefore, those elements of the the EEJ Alternative must be moved into the Final SCS.
2. In addition to reducing VMT, the EEJ alternative had the lowest 2040 transportation GHG emissions<sup>35</sup> and the lowest total regional GHG emissions<sup>36</sup> of all the alternatives. These results strengthen CEQA's mandate requiring the selection of the least impactful alternative.
3. The EEJ's Vehicles In Use is 1.6% lower than that of the Proposed Plan.<sup>37</sup> (The DEIR does not explain how this term is different from Auto Ownership, or why EEJ would have a 1% higher Average Vehicles per Household.<sup>38</sup>) Because the availability of a vehicle is one of the most important determinants of mode choice, any other elements of EEJ that influence auto ownership must be moved into the Final SCS.
4. Because car sharing is a direct method of supporting lower auto ownership, the Final SCS should contain additional policies that support car sharing. OBAG grants could be conditioned on the adoption of rules requiring a minimum number of car sharing spaces in new projects within PDAs, and on PDA streets.
5. The SCS contains committed highway capacity expansion projects as well, including elements of the Regional Express Lane Network. Given the success of the EEJ in reducing projected VMT and GHGs, the FEIR must study an alternative that eliminates all highway capacity-increasing projects that are not yet under contract, and compare the trade-offs with other alternatives.

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<sup>‡</sup> To be credible, any change in assumptions significant enough to change the impact ranking order for alternatives must be demonstrated, in the DEIR, to be non-arbitrary.

6. The BART Berryessa to Santa Clara extension is shown in the SCS as having a Benefit/Cost ratio of 5, with a price tag of \$4.094 billion.<sup>39</sup> Given that the Van Ness Avenue BRT is able to achieve a B/C of 6 for only \$140 million,<sup>40</sup> this analysis is asserting that the BART extension produces 29 times the benefits of the BRT project. TRANSDEF finds this result unbelievable. As demonstrated above, MTC's transit investments over the past 30 years have failed to increase regional transit ridership. That history of over-promised benefits is a strong evidentiary basis for seriously doubting this benefit calculation. Because of the extraordinary cost of this project and MTC's historic failure to achieve transportation results, the FEIR must test an alternative that excludes this BART project. It is feasible to shift the funding proposed for this project, as it is not under contract. Eliminating the most expensive project and shifting the funds to smaller unfunded transit projects that are cost-effective should benefit a much larger transit-riding population, thereby reducing the significant adverse impacts of the draft SCS.
7. RTPID 94525 discloses \$43.5 billion for BART's capital and operations, while RTPID 94636 discloses \$49 billion for Muni's capital and operations.<sup>41</sup> These two exceptional outlays demand close MTC supervision, as they represent a very large share of the region's resources. Given the past 30 years failure to achieve meaningful statistical results, MTC must develop an oversight plan to ensure that these extraordinary sums achieve maximum reduction of significant impacts, and achieve maximum benefits for the region.
8. Funds saved through the cancellation of projects described above could be reprogrammed as additional transit operations funding to support the EEJ program (via a swap with a sales tax agency like LACMTA, if a change in the color of money is needed), or additional OBAG funding to support PDA infrastructure.

TRANSDEF proposed a similar program in its 2005 Smart Growth Alternative.<sup>42</sup> It excluded the BART Extension to San Jose via Warm Springs, the Central Subway and all highway expansions. In their place was a broad network of Rapid Buses, with commuter rail in the North Bay. The FEIR found it to be the Environmentally Superior Alternative, and demonstrated that the approach reduced VMT and provided the most benefits to low-income communities. Its program could readily serve as a source of mitigation projects.

In addition, TRANSDEF proposes as feasible mitigations the series of mitigations adopted by SCAG for its SCS, making those mitigations feasible by definition. Attachment F to these comments is the Appendix G that was adopted by SCAG as part of its SCS Final EIR. The GHG and Transportation measures excerpted below from Attachment F will be the ones most relevant for MTC. Appendix G was intended to provide local jurisdictions with a list of mitigations to consider, when adopting local projects.

Because SB 375 preserved local jurisdictions' land use autonomy, the accomplishment of regional GHG emissions reductions is dependent on the voluntary actions of many

decisionmakers, requiring incentives. TRANSDEF urges MTC to select elements from Appendix G for a carefully constructed set of prerequisites to qualify local jurisdictions for the receipt of OBAG funds.

Please note that SCAG was overly solicitous of the autonomy concerns of local jurisdictions, and phrased each proposed mitigation with a “may.” This approach lacked the needed reminder that lead agencies are required under CEQA to adopt all feasible mitigations, in an enforceable effort to reduce impacts to the maximum extent feasible.

TRANSDEF suggests the following measures from the Attorney General’s list:

- Adopt a comprehensive parking policy that discourages private vehicle use and encourages the use of alternative transportation
- Build or fund a major transit stop within or near development
- Provide public transit incentives such as free or low-cost monthly transit passes to employees, or free ride areas to residents and customers
- Incorporate bicycle lanes, routes and facilities into street systems, new subdivisions, and large developments
- Require amenities for non-motorized transportation, such as secure and convenient bicycle parking.

**GHG2:** Project sponsors may require Best Available Control Technology (BACT) during construction and operation of projects, including:

- a) Solicit bids that include use of energy and fuel-efficient fleets;
- b) Solicit preference construction bids that use BACT, particularly those seeking to deploy zero- and/or near-zero emission technologies;
- c) Employ use of alternative fueled vehicles;

**TR12:** Project sponsors of a commercial use may submit to the Lead Agency (or other appropriate government agency) a Transportation Demand Management (TDM) plan containing strategies to reduce on-site parking demand and single occupancy vehicle travel. The sponsor may implement the approved TDM plan. The TDM should include strategies to increase bicycle, pedestrian, transit, and carpools/vanpool use. All four modes of travel may be considered. Strategies to consider include the following:

- Inclusion of additional bicycle parking, shower, and locker facilities that exceed the requirement
- Construction of bike lanes per the prevailing Bicycle Master Plan (or other similar document)
- Signage and striping onsite to encourage bike safety
- Installation of pedestrian safety elements (such as cross walk striping, curb ramps, countdown signals, bulb outs, etc.) to encourage convenient crossing at arterials
- Installation of amenities such as lighting, street trees, trash and any applicable streetscape plan.
- Direct transit sales or subsidized transit passes
- Guaranteed ride home program
- On-site carpooling program
- Distribution of information concerning alternative transportation options
- Parking spaces sold/leased separately

- Parking management strategies; including attendant/valet parking and shared parking spaces

**TR43:** Transit Funding: Local jurisdictions may prioritize transportation funding to support a shift from private passenger vehicles to transit and other modes of transportation, including:

- Give funding preference to improvements in public transit over other new infrastructure for private automobile traffic;
- Before funding transportation improvements that increase roadway capacity and VMT, evaluate the feasibility and effectiveness of funding projects that support alternative modes of transportation and reduce VMT, including transit, and bicycle and pedestrian access.

**TR67:** Parking Policy: Local jurisdictions may adopt a comprehensive parking policy to discourage private vehicle use and encourage the use of alternative transportation by incorporating the following:

- Reduce the available parking spaces for private vehicles while increasing parking spaces for shared vehicles, bicycles, and other alternative modes of transportation;
- Eliminate or reduce minimum parking requirements for new buildings;
- “Unbundle” parking (require that parking is paid for separately and is not included in the base rent for residential and commercial space);
- Use parking pricing to discourage private vehicle use, especially at peak times;
- Create parking benefit districts, which invest meter revenues in pedestrian infrastructure and other public amenities;
- Establish performance pricing of street parking, so that it is expensive enough to promote frequent turnover and keep 15 percent of spaces empty at all times;
- Encourage shared parking programs in mixed-use and transit-oriented development areas.

TRANSDEF appreciates this opportunity to comment on the 2013 SCS DEIR. We would be pleased to assist in the development of any of the ideas suggested herein.

Sincerely,

/s/ DAVID SCHONBRUNN

David Schonbrunn,  
President

Copies

Lisa Trankley, DOJ  
Doug Ito, ARB  
Jack Broadbent, BAAQMD  
Steve Heminger, MTC  
Ezra Rapport, ABAG

- 
- <sup>35</sup> 3.1-59  
<sup>36</sup> 3.1-61  
<sup>37</sup> 2.1-38 [sic. --should be 3.1-38]  
<sup>38</sup> 3.1-11  
<sup>39</sup> Plan Bay Area, p. 113  
<sup>40</sup> *Id.*  
<sup>41</sup> DEIR Appendix C, p. C-2  
<sup>42</sup> See 2005 RTP FEIR.

Attachments

- A- GHG Emissions Reduction Targets
- B- SCS Performance Re: Targets
- C- Scoping Plan Targets
- D- Scoping Plan Measures Not Included in Regional Totals
- E- CA GHG Emissions
- F- SCAG SCS FEIR Appendix G
- H- *A New Direction*, U.S. PIRG, 2013

DEIR Page References, unless otherwise noted:

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- <sup>1</sup> 2.5-55
  - <sup>2</sup> 2.5-53
  - <sup>3</sup> 2.5-55
  - <sup>4</sup> 2.5-54
  - <sup>5</sup> 2.5-56
  - <sup>6</sup> 2.1-15
  - <sup>7</sup> Data from Statistical Summary of Bay Area Transit Operators, MTC, various years.
  - <sup>8</sup> Adopted Scoping Plan, Air Resources Board, 2008; p. 5
  - <sup>9</sup> [http://www.arb.ca.gov/cc/inventory/data/tables/ghg\\_inventory\\_ipcc\\_00-10\\_sum\\_2013-02-19.pdf](http://www.arb.ca.gov/cc/inventory/data/tables/ghg_inventory_ipcc_00-10_sum_2013-02-19.pdf) and [http://www.arb.ca.gov/cc/inventory/archive/tables/ghg\\_inventory\\_ipcc\\_90\\_04\\_sum\\_2007-11-19.pdf](http://www.arb.ca.gov/cc/inventory/archive/tables/ghg_inventory_ipcc_90_04_sum_2007-11-19.pdf)
  - <sup>10</sup> 2.5-59
  - <sup>11</sup> 2.5-41
  - <sup>12</sup> 2.5-24
  - <sup>13</sup> *Id.*
  - <sup>14</sup> 2.5-57
  - <sup>15</sup> 2.5-60
  - <sup>16</sup> 2.5-58
  - <sup>17</sup> 2.5-60
  - <sup>18</sup> 2.5-55
  - <sup>19</sup> CEQA Air Quality Guidelines, BAAQMD, June 2010, p. 9-3
  - <sup>20</sup> 3.1-63
  - <sup>21</sup> 3.1-64
  - <sup>22</sup> Plan Bay Area, p. 103
  - <sup>23</sup> 2.1-23
  - <sup>24</sup> Plan Bay Area, *Id.*
  - <sup>25</sup> 2.1-28
  - <sup>26</sup> Plan Bay Area, *Id.*
  - <sup>27</sup> 2.1-28, FN 2
  - <sup>28</sup> 2.5-56
  - <sup>29</sup> 2.5-59, interpolated from Figure 2.5-8
  - <sup>30</sup> 2.1-32
  - <sup>31</sup> 2.1-28
  - <sup>32</sup> Plan Bay Area, *Id.*
  - <sup>33</sup> 3.1-24
  - <sup>34</sup> 3.1-29, FN 3



Plan Bay Area 2040 Final Environmental Impact Report  
**CITIZENS COMMITTEE TO COMPLETE THE REFUGE**

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May 16, 2013

One Bay Area

Association of Bay Area Governments  
Metropolitan Transportation Commission  
info@OneBayArea.org

RE: Comments on *Draft Plan Bay Area - Strategy for a Sustainable Region*

Citizens Committee to Complete the Refuge appreciates the opportunity to comment on the Draft Plan Bay Area. The Citizens Committee to Complete the Refuge (CCCR) has a long-standing interest in the protection, restoration, and acquisition of San Francisco Bay wetlands; therefore, our comments will focus on how the Plan impacts lands along the edges of the Bay.

CCCR was originally formed in 1965 by a group of citizens who became alarmed at the degradation of the Bay and its wetlands. We joined together, and with the support of Congressman Don Edwards, requested that Congress establish a wildlife refuge. The process took seven long years and in 1972 legislation was passed to form the San Francisco Bay National Wildlife Refuge, the first national wildlife refuge in an urban area. In 1988, Congress authorized expansion of the refuge boundary to potentially double the original size. Our membership is approximately 2,000 people and we have the support of 40 local and national organizations-- including open space advocates, hunters and environmental groups.

CCCR applauds elements of the Draft Plan Bay Area that help reduce greenhouse gas emissions and tie regional transportation funding to future growth in already-urbanized areas; however, we believe the Plan falls short of its goal to ensure that important regional open space lands and wildlife habitats are actually protected from future development.

Throughout the Plan document, preservation of open space and natural environments is mentioned repeatedly as a Plan objective and an expected outcome of Plan implementation. In fact, under "Comprehensive Objectives for Plan's Land Use Pattern" (page 42), one of the objectives listed states:

*4) Protect the region's unique natural environment*

*The Bay Area's greenbelt of ag, natural resource and open space lands is a treasured asset that contributes to residents' quality of life and supports regional economic development.*

Based on information in the Introduction section of the Plan document, each Priority Development Area (PDA) and Priority Conservation Area (PCA) identified by local governments through the Association of Bay Area Governments' FOCUS program "form the implementing framework for Plan Bay Area". PDAs and PCAs are meant to complement one another "because development within PDAs takes development pressure off the region's open space and ag lands". The Plan defines PCAs as "regionally significant open spaces for which there exists broad consensus for long-term protection but nearer-term development pressure".

Unfortunately, this basic PDA/PCA framework was established through a fundamentally flawed process that has left some of the Bay Area's more important natural habitats unprotected from increasing threats from urban development. The Plan document describes the formation of Plan Bay Area as a transparent, deliberative process, during which "public input was sought at every step of the way". In sharp contrast, the inclusion or omission of a particular conservation area for designation in the Plan was entirely at the discretion of local government officials. Essentially, this policy allows a local jurisdiction to disregard broad regional support for conservation and still receive regionally funded transportation dollars.

B34-1

Because of this ABAG policy, baylands and wildlife habitats identified and documented by scientists and federal, state and regional resource agencies as being regionally significant to the health of the San Francisco Bay Estuary never made the list - baylands that also face imminent threats of urban development. Specific important sites for protection and restoration are well documented in the report, *Baylands Ecosystem Habitat Goals* - a report of recommendations prepared by the San Francisco Bay Area Wetlands Ecosystem Goals Project (published in 1999 US EPA and SFBRWQCB), and also by the US Fish and Wildlife Service with their approved acquisition boundary for the Don Edwards San Francisco Bay National Wildlife Refuge. Why weren't local governments required to solicit recommendations from scientists and resource agencies for specific PCA designations in their respective jurisdictions?

According to the Draft Environmental Impact Report for Plan Bay Area, many of the Plan's associated Transportation Improvement Program (TIP) projects could actually lead to intensified development pressure on nearby open space areas. For this reason, it is alarming that a local jurisdiction such as Redwood City has been allowed to designate a Downtown Priority Development Area in order to receive significant regional TIP funding, with no obligation from either ABAG or MTC to submit a corresponding Priority Conservation Area for consideration.

B34-2

Redwood City's jurisdiction includes a good candidate for a PCA designation - 1400 acres of San Francisco Bay salt ponds that host thousands of migratory shorebirds. The site is currently under a Williamson Act Open Space contract, but has already seen one plan submitted and withdrawn for a bayfill development, with a promised revised project on the horizon. Both the Bay Goals Report and the US Fish and Wildlife Service identify these ponds as being regionally significant and valuable for restoration and habitat enhancement. The site fits the definition of a Priority Conservation Area perfectly; however, with no PCA designation in place, the local transportation projects associated with the Plan will most certainly increase the vulnerability of these adjacent open space baylands to urban development.

B34-3

A similar situation exists on the eastern side of the bay. A PDA was designated in the City of Newark, the Dumbarton Transit Oriented Development Area. The City of Newark describes its vision for this area as a "transit oriented community built next to a Dumbarton Commuter Rail station. The hope is for a neighborhood that takes advantage of its transit investment to facilitate alternative commutes, dramatically increase pedestrian mobility and to take full advantage of its location and surrounding open space resources." The closest open space resources of any significance are within the Don Edwards San Francisco Bay National Wildlife Refuge. Of particular concern are the substantial, adverse and persistent impacts to existing threatened and endangered species habitat that will occur if the Dumbarton Rail project were to be implemented.

Similar to Redwood City, no corresponding PCA has been identified within the City of Newark's sphere of influence, even though a 500+ acre site containing a mosaic of endangered species habitat, and seasonal and permanent wetlands exists nearby. This site has been identified by the Bay Goals Report and the Refuge Land Protection Plan, as worthy of preservation, and is currently threatened by plans for urban development. This threat would be intensified with the regionally funded Dumbarton Rail project.

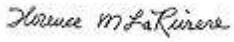
Clearly, the ABAG policy for designating regional PCA's must be re-examined and modified to ensure a comprehensive, inclusive and transparent process for identifying important open space lands needing long-term protection from near-term threats of urbanization. The process must take into consideration the knowledge, expertise and recommendations of Bay Area scientists and the government agencies charged with protecting and enhancing the region's natural resources. This is of particular importance along the edges of the Bay as sea level rises. Areas that can provide transitional and upland habitats must be protected if we are to preserve the biodiversity and long-term health of the Bay ecosystem.

Until that inclusive process has taken place, the Plan must be considered incomplete because the Plan Bay Area comprehensive objective of protecting "the region's unique natural environment" hasn't been adequately addressed.

B34-4

Again, thank you for the opportunity to comment. We look forward to your response.

Sincerely,



Florence LaRiviere



May 16, 2013

The Honorable Amy Rein Worth, Chair  
Metropolitan Transportation Commission  
Councilmember, City of Orinda  
22 Orinda Way  
Orinda, CA 94563  
aworth@cityoforinda.org

The Honorable Mark Luce, President  
Association of Bay Area Governments  
Supervisor, Napa County  
County Administration Building  
1195 Third Street, Suite 310  
Napa, CA 94559  
mark.luce@countyofnapa.org

**Re: Final Comments on the Draft Plan Bay Area and the Future**

Dear Chair Worth and President Luce:

On behalf of the Safe Routes to School National Partnership, I am writing to provide comments on the Draft Plan Bay Area. The Safe Routes to School National Partnership is a network of more than 600 nonprofit organizations, government agencies, schools, and professionals working together to grow the Safe Routes to School movement in the United States; dozens of our partners are based in the Bay Area. Our mission is to advance safe walking and bicycling to and from schools, and in daily life, to improve the health and well-being of America's children and to foster the creation of livable, sustainable communities.

Safe Routes to School National Partnership – Bay Area Network Region  
Marty Martinez, Bay Area Policy Manager, 415-637-6488, [marty@saferoutespartnership.org](mailto:marty@saferoutespartnership.org)

B35-1

We support regional planning and the overall efforts that the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG) have made to address California and the Bay Area's planned population growth. However, more needs to be done to address the region's goals on health and climate protection. Stronger investments in active transportation will help the region meet its targets related to AB 32, SB 375, reducing greenhouse gas (GHG) emission levels, rising sea levels, and for addressing the health of our population, including reducing incidents of adult and childhood obesity, diabetes, asthma, heart disease and traffic injuries and fatalities.

We strongly support MTC's and ABAG's adoption of Healthy and Safe Communities targets on reducing injuries and fatalities from collisions and increasing walking and bicycling, but we are very disappointed that none of the considered Draft Plan Bay Area alternatives or scenarios gets the region anywhere near those targets. Significant new investment in active transportation, coupled with investment in transit, and housing policies that encourage transit oriented development with affordable housing is the only way the region will move closer to our targets.

To truly make the Bay Area sustainable, MTC needs to make a much, much larger investment in active transportation, including a significant increase in the Regional Safe Routes to School Program and reinstatement of the Regional Bicycle Program. In addition, improved evaluation and monitoring of the Complete Streets and One Bay Area Grant (OBAG) requirements as well as increased data collection on active transportation and improved modeling of the benefits are essential for forward progress.

#### Plan Bay Area Does Not Meet Healthy and Safe Communities Targets

In particular, we would like to address the following Healthy and Safe Communities targets that were adopted by MTC and ABAG:

- Reduce by 50 percent the number of injuries and fatalities from all collisions (including bicycle and pedestrian), and
- Increase the average daily time walking or bicycling per person for transportation by 70 percent (for an average of 15 minutes per person per day).

These are strong goals, and we applaud MTC and ABAG for adopting them. However, it is unfortunate that Plan Bay Area falls so short of meeting these targets. We are disappointed, for instance, that in [MTC's performance report](#), the analysis shows that under all scenarios and environmental impact report (EIR) alternatives explored, there will be a significant *increase* in the number of injuries and fatalities from collisions (between +16 percent and +35 percent). The performance report states that, "to a certain extent, this is due to model limitations. MTC's model-based collision forecasting is based on vehicle miles traveled (VMT) and speed data, and it does not capture safety-enhancing infrastructure on the region's roads or safety improvements to the vehicle fleet." As we will address below, this indicates that there is a need to invest significantly in MTC's ability to model and capture this information so that we can determine whether infrastructure improvements are making a positive or negative change in improving collision rates. We are also disappointed that the performance report does not attempt (or perhaps have the ability) to differentiate the injuries and fatalities that will come from bicycle and pedestrian collisions, and provide specific recommendations for their reduction, or assess how the alternate scenarios differentially change bicycle/pedestrian collisions.

B35-2

B35-3

The target of increasing daily walking and/or bicycling an average of 15 minutes per person per day is also not met under any examined scenario/EIR alternative. Under each of the scenarios/EIR alternatives examined, there was increased daily walking or bicycling, but only between 10 percent and 20 percent. This is well short of the 70 percent goal MTC and ABAG set, and well short of what is needed to achieve the region's climate protection and health goals. We need much greater investments in creating a built environment that encourages walking and bicycling.

Several studies of urban areas have shown that significant investments in active transportation networks could achieve between 8-14.5 percent reductions in GHG emissions, as well as significant co-benefits to public health.<sup>1 2</sup> In addition, 23 percent of serious roadway injuries and fatalities statewide involve a bicyclist or pedestrian. In order to create a healthier, more climate-friendly Bay Area, MTC and ABAG must increase its financial commitment to dedicated pedestrian and bicycling programs, most notably including the highly successful and national model, the Regional Safe Routes to School Program.

Dedicated Funds Needed to Increase Walking, Bicycling and Safe Routes to School

Currently, the region has only one dedicated program for pedestrian and bicycling projects. We greatly appreciate that last year MTC and ABAG both supported \$20 million in dedicated funding for the Regional Safe Routes to School program for a four-year period. Safe Routes to School is improving mobility and traffic safety, and through increasing physical activity the program is benefitting the health of children and the communities in which their schools are located across the Bay Area. Safe Routes to School initiatives focus on improving the built environment around schools so that streets are safe for children to walk and bicycle. Safe Routes to School programs also utilize education, encouragement and law enforcement techniques to promote safety, and to encourage parents and children to regularly choose walking and bicycling, which are active and healthy ways to get to school. This comprehensive approach results in building physical activity into children’s daily routines and in improving the built environment around schools so they can be safe hubs for physical activity. Studies show that when children engage in physical activity, they also perform better on test scores and in terms of classroom behavior, so Safe Routes to School benefits many goals related to traffic safety, reduction of greenhouse gas emissions, safety, improved academic performance and reduction of GHG emissions.

Safe Routes to School programs have been so successful nationally, statewide, and regionally that we believe an expanded regional commitment is a logical and important step to take in the Bay Area to work achieving toward our health and climate protection goals, and for helping to teach children at a young age about the importance of transportation choices and how they impact traffic, safety, the environment and health. Over the coming months, we will work with MTC and ABAG staff, as well as with Safe Routes to School programs in the region to determine what amount of increased investment would result in meaningful expansions of programs in each of the Bay Area’s nine counties, to help to achieve MTC’s stated goals.

B35-5 Assessing OBAG to Evaluate Active Transportation Investment

The OBAG program also provides funds to counties and local jurisdictions for projects, but not all of these projects need to increase active transportation. We are asking again for MTC staff to conduct an assessment this fall, after all OBAG funds have been allocated, to determine how much funding was dedicated to projects that will increase walking and/or bicycling, and thus contribute to meeting the region’s health and climate protection targets. The region is falling so short of its active transportation targets so there is a clear need for increased dedicated investments, and there should be a strategy to match that need. In addition to our recommendation for a significant increase in the Regional Safe Routes to School Program, MTC and ABAG should bring back funding for the Regional Bicycle Program, which was discontinued in this RTP cycle.

Complete Streets

B35-6 MTC should also push to improve current Complete Streets policies, including holding county Congestion Management Agencies (CMAs) accountable for enforcement of these policies, and investing in improving data collection and modeling capacities related to active transportation so that we can evaluate our

<sup>1</sup> City of Seattle Office of Sustainability & Environment, “*Technical Advisory Group Recommendations for the Seattle Climate Action Plan Update - Transportation and Land Use Sectors Final Summary Report*,” Nelson Nygard 2009. Accessed at: [http://www.seattle.gov/environment/documents/TAG\\_Transp&LandUse\\_Report.pdf](http://www.seattle.gov/environment/documents/TAG_Transp&LandUse_Report.pdf)  
<sup>2</sup> Neil Maizlish, PhD. “*Health Co-Benefits and Transportation Related Reductions in Greenhouse Gas Emissions in the Bay Area*.” California Department of Public Health, November 2011.

progress in meeting our regional goals and plan investments for the next RTP which will enable the Bay Area to measure meet its health and safety targets.

We appreciate MTC's and ABAG's vote of support last year for a Complete Streets policy that requires local jurisdictions that receive OBAG funds to have passed a Complete Streets policy resolution meeting nine criteria by April of this year, or to certify that their General Plan complies with the California Complete Streets Act of 2008 (AB 1358).

We have a concern that some local jurisdictions will certify that their General Plans comply with AB 1358 when in fact they do not comply, and perhaps have not even been recently updated. Alameda County's CMA has recently been highly successful in requiring each of their local jurisdictions to pass a Complete Streets policy resolution (regardless of whether the jurisdiction has updated its General Plan), and placing the resolutions on its website. [See here](#). This is a best practice MTC and ABAG should require of all CMAs in the region. This will increase ease of enforcement for MTC staff and public accountability for following the policies.

In addition to a requirement for all jurisdictions to pass a Complete Streets policy resolution (regardless of the status of their General Plan), MTC should also develop and provide to CMAs as soon as possible, guidance on how to determine whether a General Plan complies with AB 1358 to avoid confusion and provide regional consistency. We also look forward to continuing to work with MTC staff on the Complete Streets Checklist to ensure that it is appropriately updated and evaluated to maximize its usefulness as a tool to ensure that the needs of pedestrians and bicyclists are considered at every stage of project design and selection.

#### Data Collection and Modeling

**B35-7** It is critical that MTC invest in improvements to its active transportation data collection and modeling efforts, in a timely fashion, so that we can track what worked and to guide the region's next RTP. This is essential to get the Bay Area closer to achieving our health and climate protection targets. We urge MTC to prioritize and dedicate funding to improve and adopt activity-based models, and accelerate the implementation of the San Francisco County Transportation Authority's bicycle route choice model into the MTC travel model. This would allow for the direct quantification of the benefits of bicycle-focused infrastructure at the regional level while also supporting CMAs and local jurisdictions with active transportation planning and implementation. We also urge MTC to fund quarterly on-street data collection of bicycle and pedestrian travel, and to conduct annual user-intercept surveys, to learn more about the types of trips people are making, and the trends for usage, which will affect our ability to do good modeling. We also urge MTC to work more closely with Public Health Departments to improve data collection and models to demonstrate the benefits of investments in active transportation. It is critical that MTC move forward to invest in the activity based model now, so that the Bay Area will be ready to model walking and bicycling in a meaningful way for the next RTP. We would like to meet with MTC executive staff and the modeling team in the near future to discuss this need and the benefits of accelerating this process.

#### Equity

**B35-8** Finally, we want to emphasize the need to ensure that equity considerations are factored into the decision-making at MTC and ABAG. Low-income communities and communities of color have higher rates of obesity and chronic disease, have lower levels of car ownership, and are more reliant on public transportation and have higher traffic risks. We need to ensure that investments related to safety and health-promoting active transportation are targeted to communities most in need of them. In addition, it is important to work on housing policies that include lower income housing and anti-displacement policies.

#### Conclusion

In conclusion, while we strongly support MTC and ABAG in your efforts to plan for a healthy and climate-friendly region, all of the scenarios and alternatives currently under assessment fall far short of the region's health and climate goals. Significant new investments in Safe Routes to School, and bicycle and pedestrian

programs are required to meet our targets. We look forward to working with MTC and ABAG in the near future on ways to identify appropriate investments, evaluate OBAG funding and implementation of Complete Streets policies, and improve data collection and modeling efforts in time for the next RTP.

We also look forward to working with you on responding to changes in funding at the federal and state levels, including the possibility that there will be new funding for the region from Governor Brown's proposed Active Transportation Program (ATP). We hope you will agree with us that any new active transportation funding should be dedicated to increasing our region's total investment in Safe Routes to School, and dedicated walking and bicycling funding programs. The proposed Active Transportation Program would give more money to the regions due to distribution of state funding in addition to federal funding, so there would be an increase in revenue. We look forward to your response, and hope to meet soon about modeling and evaluation, as well as the proposed Active Transportation Program. Please do not hesitate to conduct us with any questions. Thank you.

Sincerely,



Marty Martinez, MPP  
Bay Area Policy Manager

CC: One Bay Area comments email addresses: [info@OneBayArea.org](mailto:info@OneBayArea.org), [eircomments@mtc.ca.gov](mailto:eircomments@mtc.ca.gov)  
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May 16, 2013



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Amy Worth, Chair  
Metropolitan Transportation Commission

Mark Luce, President  
Association of Bay Area Governments

Dear Ms. Worth and Mr. Luce:

We commend you and your staffs for your continuing work on Plan Bay Area, which makes a good start on integrating regional transportation and land use in service of a comprehensive approach to controlling climate change and addressing a range of environmental and equity needs.

We have the following suggestions for improving the current iteration of the Plan, as well as the on-going planning process leading to its periodic revision:

- We urge that the Plan clearly and repeatedly articulate the importance of meaningfully addressing climate change.
- We urge further incentives and resources for local planning and improvements within Priority Development Areas (PDAs) as the key path to decrease Vehicle Miles Traveled—and to promote communities that are healthier and more satisfying to live in and more resilient to cope with impending climate impacts.
- B36-1 • We urge that Sea Level Rise be more fully incorporated into the Plan, as a prime Bay Area example of the impacts that the Plan intends to address, and also since both the PDAs that the Plan promotes and the transportation and other infrastructure on which the region depends are directly threatened by increasing storm surges during the life of the Plan.
- B36-1.5 • We note that far less than 1% of the funding identified by the Plan is allocated for direct 'climate policies,' even though those policies produce a third of the Greenhouse Gas reductions tallied by the Plan (6% out of the full 17%, with the other 11% attained by 'focused growth'). We urge that the Plan incorporate the year-by-year flexibility to ratchet up the funding of these 'climate policies' since they result in by far "the most bang for the buck."

- B36-2**

  - It is fully appropriate that additional transportation-sourced funding be reallocated to these ‘climate policies,’ as well as to PDA and Sea Level Rise planning and adaptation: Not only are MTC-approved PDAs and regional transportation infrastructure at risk from flooding, but over half of the region’s GHG emissions stem directly from transportation. As a matter of principle and practicality, the transportation sector should pay for solving the climate crisis proportional to its role in causing the crisis.
  
- B36-3**

  - Finally, we urge that the Plan explicitly identify the nexus between its climate mitigation steps and the range of related climate mitigation measures being taken pursuant to AB32 and other local and regional Climate Change Action Plans. Specifically, the Plan should recognize and encourage the efficacy of a) Green Building regulations, including the zero-emission building standards targeted by the State for 2030, when applied to the considerable new development envisioned by the Plan, especially in PDAs; b) zero-emission transportation technologies for both vehicles and transit; c) zero-waste practices applied to the many land fills within the Plan areas subject to inundation from climate impacts; d) water conservation measures necessary to support the Plan’s anticipated development, in alignment with climate-change-induced fluctuations of water supply; e) carbon sequestration by agricultural, forest, wetlands, and other open space uses in the Plan area, especially in Preferred Conservation Areas; and f) the carbon sequestration potential within salt marshes restored and enhanced to create storm surge buffer zones throughout the region.

Only through such holistic climate planning will Plan Bay Area achieve its full potential. In furtherance of such a comprehensive approach, we strongly suggest that the sister regional organizations identified by SB375—the Bay Conservation and Development Commission and the Bay Area Air Quality District—be brought much more fully into the planning process.

Thank you for your consideration. We look forward to a continuing conversation and to your continuing leadership in forging viable climate solutions for the Bay Area.

Sincerely,

William Carney,  
President, Sustainable San Rafael

cc: Marin County Board of Supervisors  
Transportation Authority of Marin  
San Rafael City Council  
Steve Kinsey, Marin County MTC representative  
Katie Rice, Marin County ABAG representative  
Pat Eklund, Marin cities' ABAG representative



May 17, 2013

Amy Worth, Chair  
Metropolitan Transportation Commission

Mark Luce, President  
Association of Bay Area Governments

Association of Bay Area Governments  
101 Eighth Street  
Oakland, CA 94607

1000 North  
Alameda Street  
Los Angeles  
CA 90012

**Re: Comment on Draft Plan Bay Area**

213.928.8800  
FAX 213.928.8801  
800.449.4149

Dear Ms. Worth and Mr. Luce:

I am writing to congratulate you for your work developing a strong regional plan that meets the Bay Area's growing housing and economic development needs, while complying with the strong greenhouse gas emission limits established by the California Air Resources Board. I am also writing to suggest a few improvements that can help make this good plan a truly great one.

But first, I wanted to explain why The California Endowment has taken such a strong interest in the development of Sustainable Communities Strategies in the Bay Area and throughout California. At first glance, these documents may seem the exclusive domain of urban planners, transportation engineers and environmental scientists—experts far removed from the worlds of health care and public health.

However, decades of research have taught us this “siloe” worldview is completely wrong. Gridlocked highways aren't only a traffic nightmare, they also contribute to childhood asthma and other respiratory disease. Lively downtowns aren't just good housing and economic policy, they also encourage people to walk more, helping them get the activity they need to maintain good health.

As these examples illustrate, issues like zoning, transportation, economic development and sustainability are inextricably linked with health. Indeed, the connections between these fields are so close that I believe the SCS plans currently being developed across California may be the most important public health plans in a generation.

For far too long, health opportunities in low income Bay Area communities have been constrained by a legacy of poor planning decisions that have limited access to basic health protective resources, such as parks, safe streets, and connectivity to centers of

economic opportunity and employment. Public health research reveals that the average life expectancy of low income communities is profoundly impacted by the cumulative and synergistic impacts of planning inequity, particularly with regards to transportation, housing, and zoning. Any new effort to promote health equity requires both the explicit recognition of how past decisions shaped our current situation and the creation of strong mechanisms for robust and meaningful participation of low income communities in planning efforts moving forward. For this reason we wish to particularly acknowledge the efforts of the Metropolitan Planning Commission (MTC) to include and study the Environment, Equity, and Jobs (EEJ) scenario (Alternative 5), which appears to outperform other scenarios with respect to environmental and health equity measures. We encourage MTC and the Association of Bay Area Governments (ABAG) to incorporate the best elements from the EEJ Alternative to ensure the health and vitality of region.

B37-1

At The California Endowment, we say “Health Happens Here”—in schools, in neighborhoods, and with prevention. This simple phrase encapsulates the finding that the places we live, work, and play have a profound impact on our health. That philosophy underpins our Building Healthy Communities initiative, which works closely with 14 California communities to help local children and youth grow up healthy, safe and ready to learn. Two of our 14 Building Healthy Communities sites, East Oakland and Richmond, are located within the jurisdictions of the MTC and ABAG.

I have reviewed the Draft Plan Bay Area and believe it is an outstanding start. It does a particularly good job concentrating development in existing downtowns and other appropriate places. This minimizes commutes and also reduces harmful emissions that can trigger asthma attacks and other respiratory ailments. And, by contributing to the development of mixed-use downtowns, it promotes walking and biking—zero-emission forms of transportation that also promote good health.

I also support the draft plan’s emphasis on finding new and creative solutions to vexing urban planning challenges. The Climate Innovation Grant program is a strong example. By seeding promising approaches, like bicycle sharing, the innovation grants are likely to surface new strategies that simultaneously improve health and reduce harmful greenhouse gas emissions. Such strategies can be shared throughout California and across the country, solidifying the Bay Area’s reputation as a trailblazer and nationwide leader.

To build on these and other positive features of the draft plan, I encourage your focus on two areas where I believe improvements can be made. Specifically, I would encourage plan developers to:

B37-2

- **Develop stronger anti-displacement policies.** As indicated previously, the Draft Plan Bay Area promises to revitalize downtown areas, which is an extremely worthwhile goal. However, downtown revitalization can sometimes lead to gentrification, higher rents and the displacement of longtime residents. I encourage ABAG to adopt and implement strong anti-displacement protections and support community stabilization measures, potentially including land banking and the preservation of affordable housing in at-risk neighborhoods.

B37-3

- **Expand investment in alternatives to solo driving.** Although the direction of the Draft Plan Bay Area is undeniably positive, it still places a high emphasis on solo driving, particularly through the development of additional Express Lanes. These high-occupancy toll (HOT) lanes also raise serious equity questions, because fewer of the region’s low income residents will benefit from these investments due to prohibitively high costs of use and lower vehicle ownership. I encourage ABAG to embrace transportation alternatives that look beyond driving—especially solo driving. And to the extent that additional highways and highway lanes are included, please work to ensure that all Bay Area residents enjoy equitable access to these resources.

I thank you for your consideration of these comments, and again, I offer my congratulations on an outstanding draft plan.

Sincerely,



Robert K. Ross  
President and CEO  
The California Endowment

May 10, 2013

Amy Worth, Chair  
Metropolitan Transportation Commission

Mark Luce, President  
Association of Bay Area Governments

cc: Steve Heminger, MTC Executive Director  
Ezra Rapport, ABAG Executive Director

cc: League of Women Voters of the Bay Area

Dear MTC Chair Worth and ABAG President Luce:

The League of Women Voters of Berkeley, Albany and Emeryville joins with the League of Women Voters of the Bay Area in supporting the process of regional planning that has successfully coordinated land use and transportation planning for the draft Plan Bay Area. We specifically endorse the Plan's provisions that would reduce greenhouse gas emissions and meet the region's full housing needs for people of all income levels, in accord with Senate Bill 375.

The League places a high priority on reducing carbon and other emissions from cars and light trucks that worsen air quality and the impacts of climate change. We commend the draft Plan in its provisions that would exceed the threshold of a 15% per capita reduction in greenhouse gases within the Bay Area by 2035. The Plan would promote more compact development in areas with good transit service, thus reducing the use of private vehicles.

**B38-1** Despite the Plan's emphasis on maintaining the existing transportation system, its two largest expenditures are slated to be for a BART extension to San Jose/Santa Clara and a regional express lane system with 120 miles of new freeway lanes. Together, these two projects would cost more than \$15 billion, according to the Plan, although neither appears as one of the top ten high-performing projects of the draft Plan. We urge you to reconsider these projects in light of your own analyses.

The Plan specifies that transit agencies are to be given funds as rewards for increasing ridership and improving productivity -- goals that do not take into account the diverse needs of many residents for affordable transit. We urge that consideration be given to shifting draft Plan funding from high cost, low cost-effective projects to transit operations and transit system maintenance, thus better meeting the public service goal of meeting the needs of all residents.

**B38-2** We commend the regional agencies for their collaborative work to study the rise in sea and bay water levels that will increase at an accelerating rate over the Plan's duration. We are concerned, however, that many draft Plan investments will be located in areas projected to be in flood zones as the sea levels rise. Before new infrastructure and facilities are built in flood-prone areas, risk assessments need to be performed and mitigation measures, together with funding mechanisms to implement them, need to be designed.

**B38-3** We note that several of the draft Plan's alternatives contain elements that perform somewhat better than those in the "preferred" draft. For example, the "Equity, Environment and Jobs (EEJ)" alternative is judged the "environmentally preferred alternative," and the "Transit Priority Focus (TPF)" alternative is judged superior for transportation. We strongly urge that the elements of the alternatives that offer superior benefits to the environment, provide robust incentives for affordable housing and enhance the

services of the transit systems be included in the draft Plan.

Thank you for the opportunity to participate in the preparation of this most important document that will guide the many individual decisions in the course of developing a better Bay Area over the next 20 years.

Respectfully,

Sherry Smith, President

Nancy Bickel, President-elect



**LEAGUE OF WOMEN VOTERS  
of the Los Altos-Mountain View Area  
97 Hillview Avenue, Los Altos, CA 94022**

May 14, 2013

Amy Worth, Chair  
Metropolitan Transportation Commission

Mark Luce, President  
Association of Bay Area Governments

101 Eighth Street  
Oakland, CA 94607

Re: Plan Bay Area

Dear MTC Chair Worth and ABAG President Luce:

The League of Women Voters of the Los Altos-Mountain View Area strongly supports the process of regional planning that has successfully coordinated land use and transportation planning for Plan Bay Area. We are pleased that Mountain View has identified Priority Development Areas (“PDAs”) which basically align with the Plan, and that Los Altos and the VTA are considering the El Camino corridor in Los Altos as a PDA.

**B39-1** We are concerned that one of the PDAs earlier identified in Mountain View is the North Bayshore area, where the recently adopted General Plan does not allow housing. We would like to see housing at least considered for this area because of the great number of jobs planned for North Bayshore. However, we acknowledge that before housing is even considered for this area, rising water levels must be further studied, and, in addition, innovative transportation solutions must be found. Mitigation measures, along with funding mechanisms to implement mitigation for both of these problems, need to be included in Plan Bay Area for Mountain View, as well as other comparable areas. Mitigation measures for sea level rise could include more funding for wetlands restoration, important in our area as elsewhere in the Bay Area.

**B39-2** We are also concerned that neither Mountain View nor Los Altos will be able to produce a significant number of housing units for lower-income households unless more robust incentives for affordable housing are offered through Plan Bay Area. Perhaps more funding for these purposes can be provided in the One Bay Area Grant Program or through Plan Bay Area itself.

**B39-3** We urge MTC and ABAG to incorporate the best elements from the Environment, Equity, and Jobs (“EEJ”) Alternative, in order to help prevent displacement of lower-income households as high-end residential units are built in the identified PDAs. We see this happening in Mountain View already, where developers of luxury apartments have purchased most of the sites identified in the Housing Element as potential sites for affordable housing.

**B39-4** The EEJ alternative also emphasizes more funding for public transit, rather than spending to build new highway express lanes. We believe that transportation costs and accessibility to public transit for everyone, but especially low-income households, need more attention. We are pleased to see that the reduction in Greenhouse Gas emissions is expected to meet the State-mandated target by 2035, but we want to be sure that sufficient transit services are offered for the entire diverse Bay Area population while, at the same time, incentives are offered to drivers to leave their cars at home. We would also like to see more attention to providing complete streets.

**B39-5** Although we understand that the emphasis in Plan Bay Area is on coordinating transportation and land use planning in an effort to locate housing near jobs and transit, we believe that other important infrastructure, such as providing for new schools in areas of increased growth and ensuring that other services are available to residents in high-growth areas, should be given more consideration in the Plan. For example, these issues need to be taken into account before housing in North Bayshore in Mountain View is feasible. Otherwise, Greenhouse Gas emissions could actually become worse with dense residential development in certain areas.

**B39-6** Generally, we are pleased that Plan Bay Area has made a strong effort to prevent sprawl, protect our environment, conserve agricultural lands, and reduce vehicle miles traveled and Greenhouse Gas emissions by planning for housing in jobs-rich and transit accessible areas. However, we hope that some of the best ideas of the EEJ Alternative will be evaluated more fully in order to accomplish some of the goals we have mentioned.

Thank you for considering our input.

Sincerely yours,  
Sue Graham  
President  
LWV of the Los Altos-Mountain View Area

Cc: Steve Heminger, MTC  
Ezra Rapport, ABAG  
Jon Maginot, City Clerk, Los Altos  
City Clerk, Mountain View



April 17, 2013

Honorable Amy Worth, Chair, Metropolitan Transportation Commission  
Honorable Mark Luce, President, ABAG Executive Board  
and Commissioners and Members



Dear Chair Worth, President Luce and Commissioners and Members:



Our organizations are members of the Bay Area Business Coalition. We appreciate all of the effort that has gone into the SCS process to date. Recently, your agencies released three important planning documents: the *PDA Development Feasibility & Readiness Assessment*, *Draft Plan Bay Area*, and the Draft EIR for *Draft Plan Bay Area*. Joined by Non-Profit Housing of No. California, we offer some initial comments that, as you will see, each relate to our fundamental view that **the Bay Area can, and should, generate more jobs and more housing than proposed in Draft Plan Bay Area.**



We remain strongly committed to policies that will maximize the region's economic and job growth potential. The work your agencies commissioned as part of the SCS process, as well as independent economic analyses, all conclude that the greatest constraint to job creation and affordability to own and rent in the region is a lack of adequate housing production. We therefore support planning for a higher housing number than proposed by *Draft Plan Bay Area* because the region's future job and economic health demand more housing.



A clear trend in the SCS process has been the steady reduction in the amount of planned housing—and therefore future Bay Area job growth, which limits economic activity and the ability to hire the best and brightest employees. The Initial Vision Scenario (IVS) planned for fully accommodating the regional housing need, then identified at 902,000 new housing units through 2040, resulting in more than 1.4 million new jobs.



However, as described in the *SCS Alternative Land Use Scenarios* analysis (Aug. 2011), some local governments objected that this housing figure and the resulting job growth were too high, based on historic trends. Three additional scenarios were developed, each with a significantly lower regional housing figure of 770,000 units through 2040. The *SCS Alternative Land Use Scenarios* analysis described the IVS housing figure as the "need" and the new lower 770,000 as the "expected housing production" based on "reasonable assumptions on market trends, local and regional policies, and infrastructure." The resulting job growth dropped to 1.2 million new jobs through 2040.



B40-1

The just released *Draft Plan Bay Area* calls for further reducing the region's planned housing production to 660,000, along with a corresponding drop in job creation to 1.12 million new jobs and regional economy activity due to the constraining effect of insufficient housing. We think these results are inconsistent with the letter and spirit of SB 375<sup>1</sup> and insufficiently ambitious with respect to providing employment and housing opportunities for future generations. SB 375 requires that each region build sufficient housing for its projected workforce. If we continue to build less housing than we need, we are only perpetuating the outsourcing of jobs and the in-commuting of workers from outside the region.

Adopting a final SCS that expands housing and job opportunities beyond those set forth in *Draft Plan Bay Area* is also critical in light of the results of the just released *PDA Development Feasibility & Readiness Assessment*. We highlighted the importance of this study in our May 16, 2012 letter to the MTC and ABAG leadership:

B40-2

[U]ndertaking a thorough assessment of each PDA is essential to ensuring that the final SCS is not only ambitious, but also achievable.... Relatedly, it is important that the scope of the alternatives studied in the draft EIR for the RTP/SCS be such that the results of the PDA assessment play a meaningful role in shaping the adopted SCS.

We greatly appreciate MTC commissioning this study. It is an excellent work product that represents a rigorous assessment of a representative sample of PDAs. Importantly, the study confirms our concerns about overestimates of the feasibility—even through 2040—of a significant number of PDA housing units.

The study's results suggest that a substantial amount of the specific planned housing in *Draft Plan Bay Area* is not feasible: between 105,000 and 200,000 of the 528,000 PDA units. Even assuming a healthy margin of error, and recognizing the study's cautioning that all types of residential development in the Bay Area are challenging, we believe these results mandate planning for correspondingly higher number of overall units in the final SCS to account for the feasibility gap.

Additionally, our organizations would like to emphasize our support for some of the key state level reforms identified in the *PDA Development Feasibility & Readiness Assessment* and in the regional agencies' advocacy agenda. These are necessary to realize the Bay Area's job and housing potential in the growth pattern this plan demands. In particular, significant CEQA modernization and the creation of an effective replacement for redevelopment are imperative to the success of this plan.

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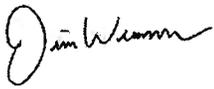
<sup>1</sup> As you know, at the request of members of the Bay Area Business Coalition and the Non-Profit Housing Association, one of the alternatives studied in the DEIR includes higher housing and resulting jobs figures. We note that in discussing Alternative 4, the DEIR appears to agree with our view of SB 375's requirements: "Compared to the Proposed Plan, it [Alternative 4] includes four percent more households and one percent more jobs. This higher growth total reflects the Senate Bill 375 requirement to house the region's entire population (i.e., provide a house for every household employed in the region)." (DEIR, p. 3.1-10)

Finally, we want to make clear that our call for additional jobs and housing is not necessarily tied to the land use and transportation assumptions in DEIR Alternative 4. The recently released reports contain important results about the development patterns associated with the alternatives—relating to geographic equity, fair share principles, market demand, and feasibility. It is certainly permissible to “mix and match” from aspects of the different development patterns from the alternatives.

B40-3

We look forward to continue working with you and the regional agency staff on this process. Thank you for considering our input.

Sincerely yours,



Jim Wunderman  
Bay Area Council



John Coleman  
Bay Planning Coalition



Paul Campos  
BIA Bay Area



Linda Best  
Contra Costa Council



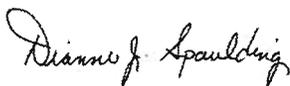
Karen Engel  
East Bay EDA



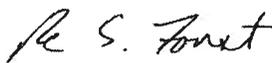
Gregory McConnell  
Jobs & Housing Coalition



Cynthia Murray  
North Bay Leadership Council



Dianne J. Spaulding  
Non-Profit Housing  
of No. California



Rosanne Foust  
SAMCEDA



Sandy Person  
Solano EDC



Los Ranchitos Improvement Association  
P.O. Box 4146  
San Rafael CA 94113

May 16, 2013

The Los Ranchitos Improvement Association encompasses 166 homes in unincorporated Marin County in the 94903 area. We are zoned light agriculture, a rarity in eastern Marin. Our large lots support a variety of trees, wildlife, farm animals, and people.

**B41-1** We respectfully request that you grant a longer extension on the comment period. A document that has this far-reaching an effect should not be rushed and should have ample time for the public to understand and comment on.

**B41-2** Regardless, we ask that you adopt the “No Project” alternative for Plan Bay Area as the least detrimental proposal offered. All the other alternatives should be rejected for the following reasons:

**B41-3** • Unrealistic job and housing numbers for Marin County, creating a burden on current local communities that will not reap any benefits but will be forced to shoulder the long term costs. Continued growth is unsustainable and unwanted by the community. Our environment is fragile and resources, such as water, fire, and police, are limited.

**B41-4** • Inadequate evidence that high density housing near transit reduces green house gases (GHG). In fact, careful analysis shows the opposite. Reducing the amount of undeveloped land available to sequester carbon by increasing housing density (urbanization of our rural community) will increase GHG; add to the urban heat island effect; as well as increase water runoff causing additional downstream flooding (already an issue in our area).

**B41-5** • Known, documented health impacts of living near freeways and transportation corridors. By placing low income residents in these high traffic areas, they will bear the burden of decreased personal health, and the community will bear the burden of increased health care costs.

**B41-6** • Evidence that this plan increases costs for housing and transportation among low-income households by locating housing in commuting corridors without supplying needed services nearby or additional transportation to get to them.

**B41-7** • Inadequate information regarding water supply, sea level rise, and support for infrastructure. Marin is reliant upon its own reservoir system and a small import from the Russian River, a source which will inevitably decline with growth in Sonoma county and the effects of climate change on weather patterns. Several of the proposed PDAs are in areas that will be affected by sea level rise.

**B41-8** • Significant and irreversible environmental changes and significant unavoidable impacts of the plan need to be addressed, not dismissed by findings of “overriding consideration.”

**B41-9** We urge you to reject this plan. In our opinion, it is based on unproven assumptions, wrong assumptions, and a “one size fits all” approach that lacks consideration of actual conditions on the ground. This report fails to satisfy the requirements of SB375 and the technical requirements of the DEIR under CEQA because it fails to prove that any of the Alternatives will actually achieve the goal of reducing per capita or overall GHG emission from the use of autos and light trucks.

Sincerely,



Leyla Hill  
2013 LRIA Board President  
leyla.hill@gmail.com

May 14, 2013

Amy Worth, Chair  
Metropolitan Transportation Commission

Mark Luce, President  
Association of Bay Area Governments

101 Eighth Street  
Oakland, CA 94607

Re: Plan Bay Area

Dear Chair Worth and President Luce:

The League of Women Voters of the Bay Area, representing 3,000 members in 20 local Leagues within the region, has followed and has strongly supported the progress of regional planning in the San Francisco Bay Area for more than 50 years. This draft Plan Bay Area is the first consolidated regional plan that coordinates land use planning and transportation planning, with a plan to meet regional housing needs, as well as preserving open spaces and considering the impact of the Bay level rise and specific air pollution impacts.

This draft Plan is a good example of successful collaboration among the Bay Area's regional agencies, primarily Metropolitan Transportation Commission and the Association of Bay Area Governments, together with local cities and counties who initiated the Priority Development Areas within their jurisdictions, and regional open space organizations who proposed the Priority Conservation Areas.

The draft Environmental Impact Report for the Plan concludes that the plan will result in 100% of the Bay Area's population growth being housed in urban areas, with no new sprawl development, during the 18-year period covered by the Plan. Overall, over 2/3 of all regional growth by 2040 is allocated within PDAs, which are expected to accommodate 79% of new housing and 63% of new jobs.

The League places a high priority on reducing carbon and other emissions from cars and light trucks that worsen air quality and the impacts of climate change. We are pleased that the draft Plan slightly exceeds the threshold of a 15% per capita reduction in greenhouse gases (GhG) within the Bay Area by 2035 that is required by the

California Air Resources Board, pursuant to SB 375. The reduction in emissions is expected to be achieved as a result of the Plan's encouragement for more compact development in areas with good transit service, in order to reduce the need to drive. The growing use of hybrid and electric vehicles in the Bay Area will also play a role in the reductions.

### Specific Comments

**B42-1** 1. Add Elements of the Equity, Environment, and Jobs Alternative

The Equity, Environment, and Jobs (EEJ) alternative is judged the “environmentally preferred alternative. We strongly urge that the elements of the alternatives that offer superior benefits to the environment, provide robust incentives for affordable housing, and enhance the services of the transit systems be included in the draft Plan . Specifically these measures call for encouraging more low-income housing development through zoning changes , more funds for transit services, and the elimination of all road expansions. The Transit Priority Focus (TPF), calls for upzoning high quality transit areas, more funding for transit and less for the express lane network, which are variations on the same theme, which we would support. We do not believe that the tax on vehicle miles travelled, or development fee in areas with high vehicle miles of travel are viable at this time.

**B42-2** 2. Funding Issues related Affordable Housing and Housing Displacement

During the time period required to prepare the draft Plan, a major source of funding for implementation of affordable housing was removed from local cities and counties – namely Redevelopment Housing Set-Aside Funds. While the Plan includes the Transit Oriented Affordable Housing grant program, this is a drop in the bucket. We applaud San Francisco for their new voter-approved funding, and San Mateo County for using the residual funds from RDA for affordable housing purposes. We fear that in the process of implementing PDAs that housing will be built, but that it will not be affordable to those most in need, and that existing affordable housing may be displaced.

**B42-3** 3. Transportation Priorities and Transit Operations Funding

The draft Plan places primary emphasis on maintaining the existing transportation system. However, the funds allocated to transit operations in the draft Plan do not

appear to be adequate to restore the service cuts made during the past few years or to meet the needs of the Bay Area’s growing population. Moreover, the Plan specifies that transit agencies are to be given funds as rewards for increasing ridership and improving productivity – goals that do not take into account the diverse needs of many residents for affordable transit. But transit services are also needed in off-peak hours and to multiple kinds of destinations to serve the needs of a diverse population. The focus on a narrow mission for transit – that of cutting operating costs – threatens the public service goal of meeting the needs of all residents. We urge that consideration be given to shifting draft Plan funding to transit operations and transit system maintenance.

**B42-4** 4. Impact of Sea Level Rise

We commend the regional agencies for their collaborative work to study the rise in sea and Bay water levels that will increase at an accelerating rate over the Plan’s duration. We are concerned, however, that areas most vulnerable to flooding and sea level rise contain some of the Bay Area’s most significant transportation infrastructure, and the draft Plan includes projects to expand and improve many of these facilities. Recommended mitigations range from risk assessments to new designs for infrastructure, levees, seawalls, and setbacks. Before new infrastructure and facilities are built in flood-prone areas, risk assessments need to be performed and mitigation measures, together with funding mechanisms to implement them, need to be designed.

5. Implementation Issues

**B42-5** We are concerned that a recent study of the Priority Development Areas indicated only a 62% readiness capability. Because of the long process in certifying PDAs, downswings in the economy and loss of funding sources such as redevelopment a percentage of PDAs may not be viable in the future. There will need to be a process of designating new replacement areas, and/or refinement of the overall Plan. We support the process of local application, with adopted plan status, and local funding match with regional certification within the overall Plan.

**B42-6** We also understand the intent of the One Bay Area Grant program to be implemented by the county Congestion Management Agencies. We have already heard complaints from those who fear “loss of funding for areas outside PDAs”, which is not exactly

true because this is a transfer of regional grant funding for allocation within each County. On the other hand, it is important that a regional oversight over the process during this initial phase needs to be maintained, to assure that this transfer complies with the intent of the OBAG grants.

In conclusion, the LWVBA supports the process that has been used to develop the Plan Bay Area, and agrees in general that the draft Plan, with the revisions we have mentioned, reflects an important vision for the future of the San Francisco Bay Area,

Sincerely,

Marion Taylor, President

Cc: Steve Heminger, MTC  
Ezra Rapport, ABAG

To: Amy Worth, Chair, MTC  
Mark Luce, President, ABAG

May 7, 2013

B43-1

The League of Women Voters of Fremont, Newark and Union City strongly supports the process of regional planning that successfully coordinates land use and transportation planning.

The draft Plan does not allocate sufficient funds for transit operations to continue to meet the needs of many residents who depend on affordable transit, especially AC Transit. Service cuts need to be restored. Cutting operating costs threatens the public service goal of meeting the needs of all residents. We support shifting draft Plan funding from high-cost, low cost effective projects to transit operations and systems maintenance. Alameda County voter rejection of Measure B extension places more pressure than ever on funds for maintenance.

Transit services are also needed in off-peak hours and to many different destinations to serve the needs of a diverse population. Transportation costs for low-income households will rise steeply when combined with housing costs under the Plan. A vision for transit limited to cost-cutting is too narrow to ensure that the Bay Area will have a top notch transit system that will act as an incentive to drivers to leave their cars at home.

B43-2

Regional agencies have studied the rise in sea and Bay water levels that will increase at rapid rate over the Plan's duration. However, many draft Plan investments will be located in areas projected to be in flood zones as sea levels rise. All proposed projects in vulnerable areas need to be evaluated for their designs and their needs for mitigation before new infrastructure and facilities are built in flood-prone areas. We are especially mindful of that as our three cities are located in these flood prone areas.

B43-3

We strongly support alternatives, specifically the "Equity, Environment, and Jobs (EEJ)" alternative and the "Transit Priority Focus (TPF)" alternative that offer superior benefits to the environment, provide robust incentives for affordable housing, and enhance the services of the transit systems.

B43-4

We also support an extended time line to allow for more public input.

Thank you,

Miriam Keller  
President, LWVFNUC



## League of Women Voters of Marin County

### RESPONSE TO PLAN BAY AREA

April 29, 2013

**B44-1** I. **Importance of regional outlook and long range planning:** Since the 1960s the League of Women Voters has supported the idea of communities around the Bay Area examining together the need for clean air and water, environmental and agricultural protection, transit infrastructure, and a range of housing appropriate for all segments of the community. All of these issues impact everyone in the Bay Area. There are no boundaries, so a plan to approach these issues in a collective way is imperative. Plan Bay Area presents an opportunity to fulfill this need.

Plan Bay Area does not introduce concepts that are foreign to planning in Marin County. In 2007 the Marin County General Plan focused on sustainability, including many of the same issues and future visioning as Plan Bay Area. It needs to be remembered that Plan Bay Area provides a general context for local planning. Land use planning, including housing and commercial uses, continues to be the responsibility of each jurisdiction. The Plan does not take away that mandated local decision making, but places it in the context of the future of our interconnected counties.

The draft Plan is a good example of successful collaboration among the Bay Area's regional agencies, primarily MTC and ABAG with input from other regional agencies. The draft Environmental Impact Report for the plan concludes that the plan will result in 100% of the Bay Area's population growth being housed in urban areas, with no new sprawl development, during the 18-year period covered by the Plan. Overall, over two thirds of all regional growth by 2040 is allocated within Priority Development Areas, which are expected to accommodate 79% of new housing and 63% of new jobs. No Marin jurisdiction is listed in the top 15 Bay Area cities for jobs or for housing.

**B44-2** II. **Climate change response requires transportation and land use dimensions:** All possible tools to address climate change need to be part of planning. Any attempt to combat climate change requires the inclusion of land use, transportation and housing as part of the planning. The preferred alternative would keep 100% of new development within the current built environment and 12% or approximately 30,000 fewer residents living in homes at risk of flooding from expected sea-level rise. It lowers polluting emissions encouraging a strong shift from cars to transit, walking, biking and other alternative transportation modes. The greatest need is to reduce the number of vehicle miles travelled per household.

**B44-3** III. **Open space and agriculture preservation:** The League supports the inclusion of careful preservation of open space and agriculture around the Bay Area. Marin County has been a leader in this regard and can offer assistance to other counties in combined planning for best use of built areas while protecting green areas. A regional agricultural and farmland protection plan will be needed to further this goal. Preventing sprawl in these areas is a key to preservation.

**B44-4** IV. **Equity/access is a priority for any future visioning.** Marin County has not been as successful in planning for adequate housing and transportation that includes a large number of its service economy. The Equity, Environment and Jobs Scenario is the environmentally superior alternative according to MTC and ABAG. This preferred alternative proposes creating more housing opportunities, including affordable homes, in all of the region’s job centers, which include all job-rich, transit-connected, high-opportunity communities. It proposes investing an additional \$8 billion in increased transit services tailored to fit the equitable housing plan and adds incentives for affordable housing. This alternative provides for the lowest combined housing and transportation costs for low-income households, a key to the health and stability of working families.

**B44-5** V. **High need for rental housing:** When planning for housing in Marin County, the highest priority is for a range of rental housing. Our less than 1% vacancy rate promotes very high rents and a hardship on many families and seniors. We have within our midst outstanding examples of attractive, affordable infill rental housing complexes built by non-profits as permanently affordable and accessible to transit. Plan Bay Area offers a context for Marin communities to prioritize this kind of development. Marin has been growing, but only in large single- family homes that do not address the housing needs of our workforce. These increase single occupancy vehicle travel and add to Marin’s large ecological foot print. We need affordable homes to support our public transit investments. Affordable homes for our workforce at all income levels are essential to a vibrant local and regional economy. The shortfall of affordable homes near jobs is causing traffic congestion and air pollution.

#### **AREAS OF THE PLAN THAT NEED IMPROVEMENT:**

**B44-6** I. **Analysis of sea rise is minimal and yet crucial with so many areas of the Bay impacted.** We commend the regional agencies for their collaborative work to study the rise in sea and bay water levels that will increase at an accelerating rate over the Plan’s duration. We are concerned, however, that many draft Plan investments will be located in areas projected to be in flood zones as the sea levels rise. The draft Environmental Impact report for the draft Plan states that all nine Bay Area Counties are vulnerable to the rising seas. Sea levels are predicted to increase 6”, plus or minus 2”, by the year 2030, and by 11”, plus or minus 3.6”, by 2050. In addition, intermittent high tides can be as much as 12” higher than median sea levels. Unfortunately, areas most vulnerable to the rise contain some of the Bay Area’s most significant transportation infrastructure, and the draft Plan includes projects to expand and improve many of these facilities. Recommended mitigations range from risk assessments to new designs for infrastructure, levees, seawalls and setbacks (for more information on recommended mitigations, see the table beginning on page 2.5-42 of the draft EIR.) All proposed projects in vulnerable areas need to be evaluated for their designs and their needs for mitigation.

**B44-7** II. **‘Fiscalization’ of land use is just mentioned, yet it has been a promoter of retail/big box retail to support the economics of California jurisdictions.** Proposals to reverse it need to be considered.

III. **CEQA streamlining is not required to achieve goals proposed in Plan Bay Area.** It is important to look at ways CEQA is misused, not to minimize its importance or effectiveness.

- IV. To intensify growth in the urban centers will require more than investment in housing and transit.** Growth areas in the Plan are centered in Oakland, San Francisco and San Jose. There will be needed investment in safety, school and other livability requirements. We know from other locations that it is possible for families to thrive in cities. It is something we have to work on in the Bay Area.
- V. The funds allocated to transit operations in the draft Plan do not appear to be adequate to restore the service cuts made during the past few years or to meet the needs of the Bay Area’s growing population.** Moreover, the Plan specifies that transit agencies are to be given funds as rewards for increasing ridership and improving productivity – goals that do not take into account the diverse needs of many residents for affordable transit.
- VI. The focus on a narrow mission for transit – that of cutting operating costs – threatens the public-service goal of meeting the needs of all residents.** We urge that consideration be given to shifting draft Plan funding from high-cost, low-cost/effective projects to transit operations and transit system maintenance. Additional transit services are needed to multiple destinations and at off-peak hours to serve a diverse population. Reliable connections are needed in order to meet the service requirements of such groups as the elderly, service workers and families. Services that provide reliable connections to multiple modes such as ferry and bus services should be considered.

An assessment of the draft Plan’s impact on transportation costs for low-income households shows that these costs, combined with housing costs under the Plan, will rise steeply - a 69% increase over current conditions. A vision for transit limited to cost-cutting is too narrow to ensure that the Bay Area will have a world-class transit system that will act as an incentive to drivers to leave their cars at home.

**B44-8**

*The “Equity, Environment, and Jobs (EEJ)” alternative in the Draft Plan is judged the “environmentally preferred alternative,” and the “Transit Priority Focus (TPF)” alternative is judged superior for transportation. We strongly urge that the elements of the alternatives that offer superior benefits to the environment, provide robust incentives for affordable housing, and enhance the services of the transit systems be included in the draft Plan.*

**For more information please contact:**

**League of Women Voters of Marin County  
4340 Redwood Hwy. F-108, San Rafael, CA 94903  
Phone: 415-507-0824  
Email: lwvmc@marinlwv.org**

THE LEAGUE  
OF WOMEN VOTERS  
75 Years in PALO ALTO



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May 14, 2013

Dear Chair Worth and President Luce,

The League of Women Voters of Palo Alto strongly supports the concept of Regional Planning for future growth and infrastructure development in the Bay Area. The League strongly supports the process of regional planning that coordinates land use and transportation planning. Plan Bay Area is such a plan. In the proposed Palo Alto Housing Element future Palo Alto growth will be zoned primarily along its transportation corridors and in the PDA at California Ave. This will be in keeping with the Plan.

The League places a high priority on reducing carbon and other emissions from cars and light trucks that worsen air quality. We note that by keeping development compact the draft plan exceeds the 15% per capita reduction in greenhouse gases by 2035.

**B45-1** The Draft plan places primary emphasis on maintaining the existing transportation system. However two major expenditures are for the BART extension and a regional HOT lane system that will require 120 mile of new freeway lanes. The expenses for these projects do not place money on the most effective systems or the most cost-effective systems in meeting the goals of the plan. Note the table on page 133 of the Plan.

The funds allocated for transit do not restore the service cuts made in the past few years. Frequent service and good connection times are necessary for people desire using transit. The goal of providing transit options for those who cannot drive is not necessarily met by rewarding transit agencies for improving ridership and cutting operation cost. All members of the public should be able to access transit services. Please consider more funding for low/cost effective transit options and transit system maintenance.

**B45-2** An important piece of the Plan is the collaborative work to study the rise in sea level over the Plan's duration. Many draft Plan investments, however, are expected to be built in areas that will be flooded as the sea level rises. Risk assessments should be completed and mitigations performed before new infrastructure is built. We strongly urge that the Elements of the

**B45-3** alternatives that offer superior benefits to the environment, provide robust incentives for affordable housing, and enhance the services of the transit systems be included in the final Bay Area Plan.

Sincerely,

A handwritten signature in cursive script that reads "Mary Alice Thornton".

Mary Alice Thornton,  
President, LWV of Palo Alto



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May 16, 2013

Amy Worth, Chair  
Metropolitan Transportation Commission  
Mark Luce, President  
Association of Bay Area Governments  
101 8<sup>th</sup> Street  
Oakland, CA 94604  
[info@onebayarea.org](mailto:info@onebayarea.org)

RE: Comments on Plan Bay Area Draft EIR

Dear Chairperson Worth and President Luce:

Chinatown Community Development Center is a nonprofit housing development and neighborhood planning organization with historic roots in the San Francisco Chinatown area – a neighborhood designated as a “community of concern” within Plan Bay Area. There are over 20,000 residents in the core Chinatown area, a majority of whom are very low income immigrants. Like many residents of the urban core in San Francisco and Oakland, the communities we serve primarily relies on transit and walking to get to work, school, and services. The population in this urban core supports a vibrant small business sector and provides a significant part of the low wage service sector workforce in the downtown area. In many ways, the existing urban core fits the ideal of the ‘complete walkable community’ with very low reliance upon cars for transportation.

We write because we are deeply concerned that Plan Bay Area and the Draft EIR fails to adequately analyze or address the foreseeable adverse impacts of the extraordinary growth the MTC and ABAG’s plan would impose on San Francisco’s and Oakland’s urban core. By separate letter we outline our concerns about the plan itself. In this letter we focus on the flaws of the draft EIR.

1. THE PUBLIC COMMENT PROCESS WAS RUSHED AND INADEQUATE.

**B46-1** Given the complexity of the plan and the challenges of how the plan has been presented, we believe there has not been sufficient time for local communities to adequately respond to either the plan or the draft EIR. It is unfortunate that MTC and ABAG rejected a request for an extension of time to comment. We also question the rationale for cutting off comment regarding the plan months prior to the vote on the plan.

The shortness of time to review, interpret, and respond to the documents poses a great burden on communities that are fully fluent in English. It is an even greater challenge for those who do not. The challenge to respond was even greater given that much of the communications regarding the plan has been more promotional than informational. For example, the public presentations did not fairly or adequately inform the public about the adverse impacts particularly to minority and low income communities, i.e., the ‘communities of concern.’ There has been no accessible means to share critical or objective evaluations of the information regarding adverse impacts. As a consequence, despite efforts by community based organizations such as us to inform the public, there has not been sufficient time to inform those who may be most impacted by the adverse impacts of the proposal.

## 2. THE ANALYSIS OF DISPLACEMENT IMPACTS IS DEEPLY FLAWED.

**B46-2** One of the greatest concerns of our community is the threat of displacement. The loss of affordable housing and of the families and seniors who live in that housing will be fatal to Chinatown and other neighborhoods in the region. Yet the DEIR’s analysis of displacement is deeply flawed. It makes reckless and unfounded assumptions about the threat of displacement and it grossly misinterprets the meaning of its own findings, both to the likely detriment to our communities and also (incidentally) to the validity of its conclusions about housing production and GHG reduction.

### A. THE DEIR GROSSLY UNDERSTATES THE FORESEEABLE THREAT OF DISPLACEMENT.

Plan Bay Area proposes to direct a majority of the region’s growth into three cities. In San Francisco, that growth will be centered on the eastern half of the city, proximate to Chinatown, the Tenderloin, and the Mission Districts and directly into the South of Market and the Bayview. The majority of the existing residents in those neighborhoods are renters, and given their incomes and market rents, cannot afford to find alternative housing in their neighborhoods if forced move. Not surprisingly then, the DEIR finds that there is an elevated risk of “local” displacement in these PDA areas.

After acknowledging the risk of localized displacement, the DEIR (and the draft Plan Bay Area) then glosses over the risk of merely “local” displacement by proposing that “regional” affordable housing production will address the needs of those displaced. But the DEIR offers no explanation for how this balance will be achieved. Despite intricate discussions about where cars and traffic will go and how roads and bridges will be paid for, the DEIR offers no explicit analysis about where displaced people will go or how the housing that they need will be paid for.

**B46-3** The lack of an explicit accounting of how affordable housing will be produced makes it impossible to assess the validity of the claim that displacement on a regional level will be “less significant.” For example, the public cannot determine whether the calculation of housing production also takes into account the need for housing by displaced households. For example, if a low income household is evicted from a rent controlled apartment in San Francisco, will there be sufficient production of affordable rental housing in the region to address their needs? Or does the projection for affordable housing merely address the need resulting from growth in population?

More fundamentally, the DEIR fails to provide any analysis for how affordable housing, whether for displaced residents or for new growth, will be funded or preserved. While the plan references the One Bay Area Grant program, there is no quantified projection as to how much housing such a program will produce. Nor is there analysis of the impact on costs of the plan's shifting most housing production into urbanized areas where land costs are highest. In the absence of transparent and explicit analysis to the contrary, we can only assume that affordable housing production in the region will continue to fall short on per historic trends, i.e., leaving tens of thousands units of "planned" affordable units never produced with tens of thousands of displaced families and seniors left to scramble for shelter.

B46-4

**B. THE SHORTFALL IN AFFORDABLE HOUSING AND RESULTING REGIONAL DISPLACEMENT WILL RESULT IN SIGNIFICANT SOCIAL AND ENVIRONMENTAL IMPACTS.**

The social impacts of the displacement of families and seniors, priced out of local markets, are obviously significant – even if unmeasured by the narrow field of vision of the DEIR. But what of the impacts that are the concern of the DEIR?

The plan's overarching claim of reaching Green House Gas reduction targets is premised upon its plan of locating housing near jobs. But if the assumptions of housing production are unfounded and unjustified, the estimates of GHG reduction must also be re-evaluated. While market rate housing will certainly be produced by the thousands in San Francisco's PDAs, housing for service sector workers will not be. And given that Plan Bay Area will not assure that affordable housing will be built near transit elsewhere in the region, service sector workers who cannot live in San Francisco will need to drive to work (or drive to transit) from other areas in the region. The displacement of San Francisco's working class has been ongoing for some decades and generally has resulted in displaced households being put in less transit accessible neighborhoods (as documented in the 2008 study, *Development Without Displacement*). That trend will continue and accelerate under the new plan. But the DEIR does not appear to measure the resulting impact on GHG production.

B46-5

**3. THE PROPOSED MITIGATION MEASURES TO ADDRESS DISPLACEMENT ARE INADEQUATE AND ANALYTICALLY FLAWED.**

Plan Bay Area and the DEIR both propose that displacement pressures and impacts can be adequately mitigated through local regulations (e.g., rent control) and the One Bay Area Grant program. But the brief mention of such programs and policies is not accompanied by any analysis of the adequacy of that proposed mitigation. There is no analysis of the historical performance of such regulations or programs – an analysis that would yield data that would suggest that existing policies are not adequate to prevent displacement even where such policies exist. Nor is there an assessment of whether such policies can address the scale and magnitude of the changes created by the plan. Given the lack of such analysis, the DEIR does not provide the public or policy makers adequate information to assess the adequacy of the proposed mitigation.

Sincerely,

Gen Fujioka  
Public Policy Manager  
gfujioka@chinatowncdc.org

B47

June 13, 2013

James P. Sperring, Chairman  
 Mark Luce, Chairman  
 Members of the MTC Planning Committee and  
 ABAG Administrative Committee

Re: June 14, 2013 Joint MTC Planning/ABAG Administrative Committee  
Agenda Item 3b.

Dear Chairmen and Committee Members:

The Building Industry Association (BIA)'s concerns with Draft Plan Bay Area (Plan) are well documented. A principal one is that the Plan's land use pattern—which places 80% of the region's future new housing in Priority Development Areas (PDAs) with a weighted average density of 80 units/acre—is neither realistic nor feasible. The response of MTC and ABAG has been twofold: first, to disagree; second, to suggest that even if the development pattern is or proves to be unrealistic, the fact that SB 375 does not require local land use plans to conform to the region's Sustainable Communities Strategy (SCS) means there are no adverse consequences of “getting it wrong.”

BIA believes there are potentially significant adverse consequences of adopting an unrealistic SCS that relies extensively on “hard line” mapped areas (PDAs) to represent the regional development pattern—risks for local governments, future project proponents, and the regional agencies themselves. MTC's costly litigation experience in federal court over its adoption of a target to increase transit ridership 15% over 1982-1983 levels is instructive. In that litigation, MTC argued that it never intended to commit itself to achieve a specified ridership increase, and that it had intended only to adopt an aggressive target. Nonetheless, in 2001 a federal District Court concluded otherwise, finding MTC's arguments “disingenuous” and in 2002 it issued a permanent injunction requiring MTC and the region's six major transit operators to achieve a 15% increase in ridership by November 9, 2006.<sup>1</sup> Fortunately for MTC and the region's transit operators, two years later, a 3-judge panel of the Ninth Circuit Court of Appeals reversed the District Court. However, the decision was 2-1 and might well have had a different outcome had a different panel heard the case.

BIA recounts this example to highlight the importance of MTC and ABAG articulating clearly what it intends, and what it does not intend, when it adopts the Plan. It is essential that the Plan itself include the necessary “intent” language. A useful example is the approach taken by BCDC when it adopted the recent amendments to its Bay Plan dealing with sea level rise. Stakeholders expressed significant concerns regarding the effect of BCDC's inundation zone maps, expansion of BCDC jurisdiction, additional CEQA and federal Coastal Zone Management Act regulatory burdens for future project proponents, and the creation of “litigation hooks” for project opponents to use to attack future development. While BCDC, similar to MTC and ABAG here, largely disagreed with the scope and magnitude of the potential risks identified, the agency nonetheless took care to identify and address each concern. Importantly, BCDC included the statement of concerns and intent not only in the final staff report<sup>2</sup>, but also in the Resolution adopting the Bay Plan amendments and the amendments themselves so that future readers would clearly see the important explanatory text<sup>3</sup>.

<sup>1</sup> *Bayview Hunters Point v. Metropolitan Transportation Commission*, 177 F.Supp.2d 1011 (N.D. Cal. 2001), *rev'd*, *Bayview Hunters Point Community Advocates v. Metropolitan Transportation Commission*, 366 F.3d 692 (2004).

<sup>2</sup> [http://www.bcdc.ca.gov/proposed\\_bay\\_plan/10-01Recom.pdf](http://www.bcdc.ca.gov/proposed_bay_plan/10-01Recom.pdf) (pp. 4-5, 18, 20-21)

<sup>3</sup> [http://www.bcdc.ca.gov/proposed\\_bay\\_plan/10-01Resolution.pdf](http://www.bcdc.ca.gov/proposed_bay_plan/10-01Resolution.pdf) (pp. 4--8, 15-16)

MTC Planning/ABAG Administrative Committees  
June 13, 2013  
Page Two

BIA hereby requests that MTC and ABAG commit to prepare a statement of concerns and assurances regarding the agencies' as described in Attachment A for inclusion in the final Plan and direct staff to work with interested stakeholders to develop language that will be brought back to the MTC Planning Committee and ABAG Administrative Committee at the joint meeting scheduled for July 14. BIA recognizes that agency staff have prepared a "Frequently Asked Questions" that is included in the meeting materials. That document does not diminish the need for the statement of concerns and intent BIA requests, since it mostly represents "he said/she said" arguments and rebuttals about the merits of the Plan. BIA's request assumes that the Plan will be adopted in its current form, and seeks clear declarations from the elected officials of MTC and ABAG themselves about their *intent* in adopting the Plan. Again, it was the lack of a clearly expressed intent in the plan itself that ultimately led the District Court to imply a mandatory obligation to increase transit ridership based on the mere adoption of a target in the costly litigation discussed above.

Yours very truly,



Paul Campos  
Sr. V.P. & General Counsel  
pcampos@biabayarea.org



Attachment: Issues for Statement of Concerns & Intent

Mr. Ezra Rapport, Executive Director  
Association of Bay Area Governments  
101 Eighth Street  
Oakland CA 94607



May 16, 2013

**SUBJECT: Comments on Plan Bay Area Draft EIR and Draft Plan**

Dear Mr. Rapport:

The Marin Conservation League has been involved in land use and conservation planning throughout Marin County since our founding in 1934. MCL's efforts have contributed substantially to creating and preserving the abundance of public parks, open space lands and productive agricultural resources which attracts visitors to the County from all over the world. Marin's remarkable abundance of natural beauty and parklands is all the more significant to the region because it lies near the heart of one of the world's great metropolitan areas.

MCL has been tracking the evolution of the Sustainable Communities Strategy (Plan Bay Area, or "Plan") from the outset of the SB 375 process and has commented on previous scenarios and the scope of the DEIR. We understand that the basic mandate of SB 375 is to influence future land use development patterns, housing, jobs, and transportation investments so as to accommodate anticipated regional population and job growth in a manner that will reduce per capita greenhouse gas emissions.

We appreciate the opportunity to present, first, our general comments on the Draft Plan and planning process, followed by more detailed comments on the Draft EIR.

**General Comments on Plan and Plan Process**

1. MCL Applauds Plan Bay Area's Recognition That Marin Should Be a Low Growth Area. A fundamental premise of Plan Bay Area is that growth should be focused in the existing employment centers, namely, San Francisco, the South Bay (Silicon Valley) and the East Bay. This approach is supported by the fact that each of these employment centers is presently served by extensive and robust public transit systems. MCL supports the goal of focusing growth: (1) as compact infill in or near existing job centers to minimize urban

sprawl, and/or (2) near major public transit systems such as BART or CalTrain. The conclusion that Marin should be a low growth area follows from this basic approach. Marin is not a major employment center and does not have a public transit network that is anywhere as robust as the other areas. In addition, we note that because of its geography and water supply, Marin has limited growth potential. An important goal of SB375 is to preserve open space and parklands and this, too, supports the recognition that Marin should be a low growth area.

MCL fully recognizes that Marin County is part of a large metropolitan area and, as such, enjoys both the benefits and responsibilities of being a part of that region. MCL is particularly interested, however, in how Plan Bay Area might impact Marin County. In view of Marin's distinctive geography and the long-established resource lands that make up almost 85 percent of the County, future growth in the County is highly constrained by limited available land. Even without urban growth boundaries (Novato is the only community with an UGB), Marin's communities have little space to grow. Therefore, it is appropriate that the Plan has assigned Marin the lowest growth in jobs and households of any county in the regional planning area. This assignment recognizes that Marin is unique in that its public park and open space lands and agricultural resources benefit the

**B48-1** entire Bay Area in environmental, economic, and equity terms. Even at that low growth rate, the employment projections for Marin exceed historic growth rates and are overly ambitious. Marin has other limits to growth: water supply is finite except where conservation and efficiency can free up in lieu supply, and extensive developed and undeveloped portions of the eastern county are susceptible to current flooding and future sea level rise.

**B48-2** 2. Sea Level Rise. MCL is disappointed that Plan Bay Area fails to adequately address sea level rise. Despite California's leadership in attempting to address climate change, it is now clear that the sea level will rise over the next few decades and that we face storms of greater frequency and intensity. It is essential that we begin planning for this eventuality rather than defer planning to an unspecified future time. We believe it would be tragic to channel any substantial development into areas that are subject to flooding now, and are vulnerable to future flooding. This is a very critical flaw in the Plan.

**B48-3** 3. Feasibility and Certainty of Plan Strategy. The intent of employing land use as a means to reduce dependence on cars and light trucks, and thereby reduce GHG emissions, is an admirable goal. MCL questions, however, both the feasibility and the certainty of the Plan in realizing this intent. The process for projecting growth, employment, housing

and related elements based on modeling is too complex to yield meaningful results. Moreover, the modeling employed to achieve the Plan integrates assumptions having a high degree of uncertainty, particularly since they rely on actions that are beyond the control of local, regional, and State government. For example, as noted below, it appears that the population and employment growth numbers for the Bay Area are excessive and completely out of line with historical data. The consequence of using these higher numbers causes the Plan to overstate the need for housing. This, in turn, causes the Plan to open up more areas to development than will be necessary, thereby putting developers in the driver's seat when it comes to deciding where development will occur.

The DEIR addresses this somewhat, but what it says is not encouraging. First, as the DEIR points out (Page ES-11), MTC and AGAB cannot assure future development patterns since they cannot regulate local land use policy or zoning. This lack of authority is also the primary reason given for finding most of the 39 potentially significant impacts in the DEIR unavoidable, in that the regional agencies cannot require local jurisdictions to impose mitigation measures. Second, even if compact development patterns do successfully bring housing, jobs, and retail in close proximity, served by transit, no one can predict with certainty the extent to which residents will occupy nearby jobs, or choose to use public transit if jobs are distant. In spite of these uncertainties and the Plan's reliance on a host of other assumptions about future conditions, the Plan is confident that the goals and targets will be met (or, in the case of several voluntary goals, not met).

The DEIR states that with Plan implementation and growth estimates, there will be a per capita decrease in Btu consumption of about 1%. While this is certainly better than an increase, we question whether the effort was worth it, given the extraordinary planning effort and funds expended by the Plan to achieve such a minor reduction.

- B48-4 4. Need For Better Coordination Between Land Use and Transportation Elements. Plan Bay Area does not adequately integrate its land use planning mandates with a transportation investment strategy. These should go hand-in-hand. For example, PDA's should not be designated based on uncertain future transportation investments. Moreover, the Plan does not appear to recognize or reconcile the process for evaluating investments in transportation projects with the process for making housing investments. The Plan often treats all public transit systems as being equal. Access to an infrequent local bus service with one route is quite different than access to BART.

B48-5

5. Affordable Housing. A goal of the Plan (and requirement of SB 375) is to provide housing within the region that is affordable to all economic levels, and to better align jobs with housing supply. MCL recognizes the need for diverse and affordable housing and supports such housing if it is developed in appropriate locations, i.e., as infill, accessible to transit and services, and without impacts on sensitive resources and public facilities. We understand that RHNA numbers have an independent origin and that SB 375 simply brings them together with transportation investments and a land use strategy that attempts to incentivize the development of affordable housing in a compact pattern, primarily within PDAs.

Ultimately, however, locating affordable housing will depend on the availability of sites, local planning decisions, cost considerations and funding, willing developers, and receptive neighbors – a complex set of variables. In one way or another, affordable housing is typically subsidized in one manner or another – whether in the form of direct payments to the developer, tax incentives, or accepting burdens on public facilities that would otherwise not be allowed. The Plan should evaluate the availability of money to pay for these subsidies. So we question the feasibility of promising to “house 100 percent of the region’s projected growth (from a 2010 baseline year) by income level.” (Plan, Page 19.) We also question the advisability of trying to force that goal. Housing prices will continue to be high in the Bay Area, and many commuting job holders will continue to opt for more affordable housing outside the region. Moreover, many people may opt for a larger home further from work than a small unit nearby.

The Plan should expand its definition of “housing units” to be counted, given the growing population of seniors and the limited supply of senior housing. To achieve equity goals, senior, assisted, 2nd and converted units should be included in those counted by the Plan in order to provide 100% housing for this population and to allow Plan incentives to encourage their construction in addition to brand new construction of multiple unit structures.

B48-6

6. Four-year Plan Review. The Plan states that it is a work in progress that will be updated every four years (Page 121), but provides no further details as to how this might occur. For example, will interim targets be set so that progress (in four years) can be measured? And if targets are not being met, will they be adjusted and require shifting commitments of funds or land use decisions? Would such adjustments require further CEQA review if new impacts are identified or known impacts made more severe? How will local jurisdictions with limited resources be expected to adjust decisions every four years, a cycle that is unique to Regional Transportation Plan process but does not

correspond to RHNA or other planning cycles? The adopted Plan should outline this process more clearly.

**B48-7** 7. The Plan as a “Platform for Advocacy” to Modernize CEQA. MTC and ABAG purport to be strong supporters of the original goals of the California Environmental Quality Act (CEQA), and yet the Plan sponsors propose to wade into current legislative debate over active CEQA bills as “advocates,” with incomplete evidence and an obvious bias. (Plan, Page 129-130.) It is enough that SB 375 has outlined mechanisms and conditions for streamlining CEQA as an incentive to promote new housing and commercial buildings. It is highly inappropriate for the Plan, whose life span is 25 to 30 years into the future, to become a “bully pulpit” for advocacy where differing legislative views are still in play. MCL believes that, rather than weakening CEQA, current legislative efforts should focus on strengthening a number of sections of the Act. A recent analysis of California’s economy since CEQA was enacted confirms that CEQA has had a positive rather than a negative effect on the economy of the State.

**B48-8** 8. Public Outreach. Throughout the planning process, MCL has been frustrated by the apparent inability of ABAG and MTC to communicate effectively with the general public. The Plan claims to be the product of a highly collaborative process of surveys, stakeholder sessions, public workshops and meetings, and “countless other means” of communication. It is possible that the majority of these meetings involved local planning professionals and elected representatives, leaving much of the task of public outreach in the hands of local governments. Unfortunately, the opportunities for ABAG and MTC staff to hear *directly* from the general public have been limited to a few large, highly programmed public meetings and workshops, where *listening* has not been matched by *responsiveness* to public concerns. As a consequence, to ordinary citizens and non-profit organizations like MCL, the outcome has seemed pre-ordained from the beginning. The short time allowed to digest and to respond to the Draft Plan and a huge Draft EIR has done nothing to dispel that perception.

### General Comments and Questions on Draft EIR

1. Areas of Known Controversy, and Issues to be Resolved (DEIR page ES-11 and 12)  
As required by the CEQA Guidelines, the Executive Summary section of the Draft EIR provides a list of known controversial issues raised by the public and agencies, and a list of issues to be resolved. MCL agrees with the listed issues, but wishes to add several other controversial issues that have been raised by many individuals and public agencies, and/or are in need of resolution, as follows:

**B48-9** - The jobs, population, household, and housing numbers forecast for the Bay Area as a whole and for specific communities are considered by many to be too high. MCL continues to believe that the Plan overstates growth for the Bay Area as a whole, as well as for Marin. Inflated population growth could lead to excessive development outside PDAs and to unintended sprawl. Given the critical role that population and job growth numbers play in forecasting housing needs, it is vital that the discrepancies between ABAG forecasts, Department of Finance forecasts and historical trends be resolved before major funding or planning commitments are made, such as rezoning.

**B48-10** - Loss of local control over general plan policies, zoning, and community character is the most-often-cited area of controversy. This point is raised in the second bullet, Page ES-11, which acknowledges public concerns about possible conflict with existing plans and local regulations, but nowhere in the Plan is it made clear that the Plan can only recommend and offer incentives in the form of grants and CEQA streamlining, but is otherwise has no authority over local land use decisions. The relationship between regional authority and local control needs to be more explicitly stated.

**B48-11** - Local traffic congestion is attributed to regional growth and not to transportation improvements, and is therefore considered by the DEIR to be less than significant (DEIR, Page 2.14-14). Yet this issue has been raised by the public frequently as an inherent and pervasive consequence of the Plan (i.e., as a “paradox of densification”). Notwithstanding the goal of the Plan, which is to *reduce* vehicle miles overall, more concentrated housing and commercial development in PDAs promoted by the Plan will increase local congestion on collectors and arterials. These local facilities are not included in regional traffic models or are unlikely to be improved through transportation investments. This will be a continuing area of controversy.

**B48-12** 2. Use of EIR as first tier program document. Page 1.1-11 states that the EIR can be used as a first tier document for environmental review of specific development or transportation projects. Unlike typical program EIRs, such as on local general plans or on comparable projects within a region, this EIR analyzes conditions at a high level of generality and therefore misses many local and subregional contextual elements necessary for analyzing development projects in or out of a PDA. The Plan EIR provides broad cumulative analysis (it is a cumulative EIR by definition), but does not provide an

adequate program coverage of most CEQA issues. Given the generality of the EIR, it should not be used as a first tier document.

3. Mitigation: The DEIR provides an abundance of mitigation measures under every topical area and admits that many are advisory, for consideration by project sponsors of individual projects – that is, MTC and ABAG cannot require local implementing agencies to adopt them. At the same time, the DEIR, Page 1.1-3, Para. 1 under Mitigation, states that in those cases where MTC and ABAG do not have regulatory or approval authority (the majority of potentially significant impacts) that Project sponsors *shall* (emphasis added) commit to mitigation measures at the time of certification of their project environmental review documents . . . and that these commitments *obligate* project sponsors to implement measures that would minimize or eliminate significant impacts pursuant to CEQA.” Para. 2 further notes that projects taking advantage of CEQA Streamlining provisions *must* apply the mitigation measures to address site-specific conditions” if impacts are to be reduced to levels of insignificance. Since MTC/ABAG *cannot require* local implementing agencies to adopt mitigation measures, the DEIR finds these impacts significant and unavoidable.

**B48-13** The last sentence of paragraph 1 states that “*MTC shall be provided with status reports of compliance with mitigation measures.*” How will MTC possibly track implementation of projects throughout the Bay Area to ensure that “status reports” are submitted? Will this requirement apply only to projects that take advantage of CEQA streamlining provisions, or does it apply to myriad other projects and jurisdictions over the life of the plan? Will this be a transparent public process, and if so how will MTC report on compliance? These two paragraphs raise a multitude of questions about whether potentially significant impacts, all of which are cumulative in nature, will be mitigated and by whom. The DEIR takes a conservative approach and identifies 39 significant unavoidable impacts, either because the regional agencies lack authority, or because the effectiveness of mitigations cannot be assured. Therefore, there is no guarantee that significant cumulative impacts will ever be mitigated.

4. Alternatives. The small differences across alternatives for many of the targets should be interpreted carefully, in that they rely on a host of assumptions about prevailing economic, political and technological conditions expected in 2040. When these assumptions are combined, the resulting lack of certainty prevents identifying clear-cut differences across the range of alternatives. DEIR ES-9 states that “Variation in impacts among alternatives are minor.” Given that outcome differences are so minor, we must ask if the Alternatives offered are really alternatives, or just very minor variations on the

basic Plan Bay Area theme. The FEIR should provide alternatives that are distinctly different from the Plan. MCL previously submitted comments on alternatives that it believes the DEIR should have considered, but all of the alternatives identified by MCL were ignored. Indeed, it appears that ABAG never even considered MCL's comments.

### Detailed Comments on the DEIR

1. Climate Change and Sea-level Rise. The ramifications of climate change and consequent sea level rise are of central importance to the feasibility of the Plan. The Plan defers solutions to an unspecified future time. The subject receives considerable attention in the DEIR, and for that reason MCL focuses its comments on that topic.

**B48-15** (Page 2.5-22, *et seq.*) A number of existing laws and regulations are aimed at reducing GHGs, but it is not clear which of these are incorporated into the estimates for GHG reductions to be achieved by the Plan? When the reductions required by existing laws are accounted for, what is the actual reduction due to the Plan? If the Plan just acts to support enacted legislation, the FEIR should estimate the GHG reductions without that support and evaluate whether the reduction due to the Plan alone justifies the complex, expensive and ongoing implementation of the Plan.

**B48-16** (Page 2.5-41)The DEIR takes the position that under the 2011 Appeals Court decision in the *Ballona* case, CEQA does not require analyzing the effects of the environment on the project in an EIR. We believe that this is a narrow decision and is distinguishable because placing development in an area subject to sea level rise will inexorably have an environmental impact. Specifically, once sea level rises, either measures will be taken to protect the development, which measures will have environmental impacts, or the development will be abandoned, requiring the need for replacement housing, which likewise will have impacts. We anticipate that *Ballona* will not stand, and that the California Supreme Court or the State Legislature will have the last say on this important issue.

Nonetheless, the DEIR does analyze these impacts comprehensively "for informational purposes." It would be irresponsible not to do so, in that the low-lying areas around the Bay contain significant transportation corridors and infrastructure and are home to Bay Area residents and businesses. More than a few PDAs coincide with these areas.

**B48-17** Planned enhancements, expansions and improvements under the proposed Plan (DEIR 2.5-49) will require some form of flood protection – whether engineered structures like a levee or flood wall, managed retreat, or other strategy. These related projects should be evaluated on a regional basis and their impacts comprehensively assessed across all CEQA topics, including cumulative impacts. The impact of repairing facilities in the

event of flooding from sea level rise should also be anticipated in the EIR.

**B48-18** (Page 2.5-67) Recognizing the importance of this issue to the Plan, the DEIR recommends mitigations for proposed transportation projects (and land use development) subject to regular inundation by midcentury sea level rise, but these appear to be “plans to make a plan.” That is, the DEIR recommends continued collaboration with BCDC and provides a long list of adaptation strategies that might be considered in the future. In effect, it defers mitigation to project-level and/or local planning. The FEIR should provide more rigorous regional and subregional approaches that avoid or aggressively reduce project areas and transportation improvements in areas susceptible to sea level rise.

**B48-19** (Page 2.5-76) Further, given the likelihood of continuing sea level rise past midcentury and projected greater impacts over time, the FEIR should give a reasonable time frame in which to address sea level rise beyond mid-century, allowing sufficient time to assess and implement, the best adaptation strategy. (Page 2.5-67) The discussion of mitigations should also to assess the economic feasibility of such strategies. Otherwise, impacts from sea level rise would make significant portions of the Plan impractical.

**B48-20**

**B48-21** (Page 2.5-62) Table 2.5-11 shows the percentage of proposed transportation projects that will be inundated by midcentury sea level rise. Whether it is 5% or 100% may be unrelated to the GHG emissions associated with solving the problem, including the need to reroute to avoid the area completely and/or to replace/repair affected projects. The FEIR should estimate the regional increase in GHG emissions associated with solving sea level rise inundation issues for the Plan’s proposed projects.

**B48-22** (Page 2.8-34) Impact 2.8-7 deals with the 100-year flood hazard zones as mapped by FEMA. Do such areas account for projected sea level rise? If not, using these zones to assess impacts for a Plan that extends to 2040 is inadequate and misleading. The FEIR should describe how these zones will be changed when sea level rise is factored in and

**B48-23** reassess the magnitude of impact for the region. Tables 2.5-16-21 show different areas affected by midcentury sea level rise inundation zone. Does the “inundation zone” account for storm surge as well as mean high tide levels? If not, the tables should be expanded to show storm surge impacts.

**B48-24** 2. Land Use and Physical Development.

Chapter 2.3. The Tables below are provided showing the Plan’s impact on different kinds of acreage. The FEIR must provide mapping that shows where these impacted acres are located so that the public can ascertain whether they are correct. Our initial impression is that the numbers are wrong. If these numbers are found to be inaccurate, significant questions are raised about the accuracy of the numbers in the whole document, which should then be double checked. In particular, we request sources of

data and mapping to support the numbers provided for Marin in the following tables:

- B48-25** - Table 2.3-10 – *PDA & BCDC Priority Use area acres of overlap*. 110 acres could be so affected in Marin.
- Table 2.3-13 - *Protected Open Space acres potentially affected by Proposed Development, by County*. 135 such acres could be affected in Marin.
- Table 2.3-15. *Farmland acres potentially affected by proposed transportation project, by County*. 88 acres in Marin could be so affected.
- Table 2.3-16 – *Williamson Act acres potentially affected by proposed Transportation Projects, by County*. 47 acres could be so affected in Marin.
- Table 2.3-17. *Protected Open Space acres potentially affected by proposed transportation projects, by County*. 31 such acres could be affected in Marin.
- Table 2.3-18: *Forest & Timberland acres potentially affected by proposed development, by County*. For Marin, 255 acres (19% of County forest & timberland) could be affected.

**B48-26** ES-23 & 2.3-51, Impact 2.3-4 discusses the conversion of substantial acres of important farm land, land under Williamson Act, and Open Space. Why not take these areas out of the Plan and eliminate these impacts? What percentage of the whole Plan acreage is involved here? What percentage of housing units and GHG emissions reductions are accounted for in the proposed use of these areas that are so vital to the continuation of local agriculture?

**B48-27** Page 2.3-53. Where there is forest removal, the FEIR should provide figures showing the impact on CO<sub>2</sub> reduction due to loss of this resource, compared to lower GHG emissions achieved by developing these areas as PDAs.

### 3. Biological Resources.

**B48-28** (Page 2.9-71, *et seq.*) In this section, a minimum 1:1 ratio is proposed for restoration and preservation of impacted resources, with the caveat that local policy shall prevail. Given the general rate of success of such efforts, the 1:1 ratio is inadequate. While the Plan cannot mandate local mitigations, it should recommend realistic mitigation by proposing a higher ratio.

**B48-29** (Page 2.9-72 & 79) Success standards are stated for some mitigations, *e.g.*, special status communities, but not for others, *e.g.*, trees (Page 2.9-79). The Plan should consistently state success standards for all proposed biological resource mitigations to ensure their application and subsequent monitoring that is meaningful.

4. Public Utilities and Facilities.

(Page 2.12-48) The DEIR states that, on a regional basis, the major water agencies (with the exception of Solano County Water Agency) have adequate water supplies to serve expected growth under the proposed Plan. The ability to meet demand in a single dry year varies across the region, however, with some agencies anticipating a shortage in future years that will have to be made up either through conservation or developing new supplies. MCL has a particular interest in Marin Municipal Water District, whose

**B48-30** supply sources are limited. The availability of water in Marin limits its growth potential. The District has consistently claimed a deficit by the year 2025. The DEIR, in contrast, states that land development through 2040 served by MMWD should have adequate water supplies in both regular and single drought years. The same measures are applied to all of the major water agencies. Climate change does not enter into this discussion nor does the possibility of two or more sequential drought years. For the region, about two-thirds of water supplies originate in the Sierra Nevada and Northern California and are either diverted from, pass through, or bypass completely, the Delta. In all these cases, projected decreases in the depth and location of the snowpack will influence the timing of runoff and ultimate quantity of stored water. In Marin, the possibility of sequential drought years poses a bigger threat to future water supplies. The DEIR should add analysis in this section that anticipates the consequences of climate change on precipitation patterns, including snow fall as well as sequential drought years, and their impact on regional and local water supplies.

**B48-31** 5. Public Services and Recreation.

(Page 2.14-14) The DEIR asserts that “congestion is not a result of the transportation improvement investment strategy, but rather of regional growth” ...so “impacts on public services as a result of transportation improvements...are considered less than significant...no mitigation required.” By incentivizing more and denser housing and commercial space than currently allowed, the Plan is indeed responsible for some percentage of the increase in congestion across the region. The FEIR should offer mitigation. (See also Issues of Known Controversy, above).

Thank you for the opportunity to comment.

Very truly yours,

David Schnapf, President

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