



June 15, 2016

BY EMAIL: [eircomments@mtc.ca.gov](mailto:eircomments@mtc.ca.gov)

MTC Public Information  
375 Beale Street, Suite 800  
San Francisco, CA 94105

**Re: 6 Wins Comments on Notice of Preparation of Draft Environmental Impact Report for Plan Bay Area 2040**

To Whom It May Concern:

Public Advocates offers these comments on the Notice of Preparation for the Draft Environmental Impact Report (DEIR) for Plan Bay Area 2040 on behalf of the **6 Wins for Social Equity Network**.<sup>1</sup> The 6 Wins is a coalition of more than 20 grassroots, faith, public health, environmental, labor and policy organizations across the Bay Area that work to improve the lives of low-income people of color through affordable housing, reliable and affordable local transit service, investment without displacement, healthy and safe communities, quality jobs and economic opportunity, and community power.

In order to fulfill the legal requirements of the California Environmental Quality Act (CEQA), the EIR should, among other things, (a) identify a reasonable range of alternatives that includes an Equity, Environment and Jobs (EEJ) alternative; (b) analyze the environmental impacts caused by economic displacement and lack of jobs-housing fit; and (c) include measures to mitigate economic displacement and improve jobs-housing fit, as described below.

**A. Include an Equity, Environment and Jobs Alternative in the Alternatives Analysis**

An EIR must analyze a “reasonable range of alternatives to the project,” with an emphasis on alternatives which “offer substantial environmental advantages over the project proposal.”<sup>2</sup> The purpose of analyzing alternatives is to assess options for attaining the basic objectives of the project while avoiding or substantially lessening environmental impacts and to evaluate the

---

<sup>1</sup> The 6 Wins Network includes the following member organizations: Alliance of Californians for Community Empowerment (ACCE), Asian Pacific Environmental Network (APEN), Breakthrough Communities, California WALKS, Causa Justa :: Just Cause, Center for Sustainable Neighborhoods, Community Legal Services in East Palo Alto, SF Council of Community Housing Organizations (CCHO), Ditching Dirty Diesel Collaborative, East Bay Alliance for a Sustainable Economy (EBASE), East Bay Housing Organizations (EBHO), Faith in Action Bay Area, Genesis, Housing Leadership Council of San Mateo County, North Bay Organizing Project (NBOP), Public Advocates, Regional Asthma Management and Prevention (RAMP), Rose Foundation and New Voices Are Rising, San Mateo County Union Community Alliance, Sunflower Alliance, TransForm, Urban Habitat, and Working Partnerships USA.

<sup>2</sup> *Citizens of Goleta Valley v. Board of Supervisors*, 52 Cal. 3d 553, 566 (1990); *California Native Plant Society v. City of Santa Cruz*, 177 Cal. App. 4th 957, 982-83 (2009).

comparative merits of each alternative.<sup>3</sup> Specifically, “[t]he range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects” in order to “permit a reasoned choice”<sup>4</sup> and “foster informed decisionmaking and public participation.”<sup>5</sup>

To accomplish these requirements, the EIR must include an updated version of the “environmentally superior alternative”<sup>6</sup> identified in the CEQA process for the first Plan Bay Area: the Equity, Environment and Jobs Alternative. The three scenarios for Plan Bay Area currently being considered are inadequate to meet CEQA requirements. They all have substantial environmental impacts likely to be reduced by an updated EEJ scenario. We highlight this fact because the Metropolitan Transportation Commission (MTC) has made it clear that only the three scenarios they have developed for Plan Bay Area “will be the basis for the initial CEQA alternatives,”<sup>7</sup> even though MTC acknowledges that all fall short on a number of important metrics.

Specifically, the preliminary evaluation by MTC and the Association of Bay Area Governments (ABAG) concluded that the scenarios perform poorly on a number of targets, including reducing adverse health impacts, not increasing the share of households at risk of displacement (which has foreseeable environmental impacts), and increasing non-auto mode share.<sup>8</sup> Because an updated EEJ alternative is likely to improve performance on environmental metrics and meet the overall project objectives of Plan Bay Area, it must be included in the EIR.

For example, compared to the preferred alternative adopted in the last round, the EEJ alternative would have resulted in:

- 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 CO emissions per year; and
- Daily energy savings of 68 billion BTUs, the equivalent of burning 600,000 fewer gallons of gasoline each day.<sup>9</sup>

Despite these strong results, MTC and ABAG have refused to include the EEJ among the scenarios they evaluate against the performance targets or among the alternatives studied in the EIR. A “reasonable range of alternatives” should include the environmentally superior

---

<sup>3</sup> 14 CCR § 15126.6

<sup>4</sup> 14 CCR § 15126.6(c), (f).

<sup>5</sup> 14 CCR § 15126.6(a). *See also Laurel Heights Improvement Assn. v. Regents of University of California*, 47 Cal. 3d 376, 406-07 (1988).

<sup>6</sup> MTC and ABAG, Plan Bay Area Final Environmental Impact Report – Final Certification (July 5, 2013), p.A-128.

<sup>7</sup> MTC, Plan Bay Area 2040: Scenario Evaluation, Planning Committee Agenda Item 4a (May 6, 2016), p.3.

<sup>8</sup> *Id.* at Attachment 5, pp.23-25 (slides 8-10).

<sup>9</sup> Sustainable Systems Research, LLC, Summary Comparison of Plan Bay Area Performance Metrics for EEJ and Proposed Plan Scenarios (April 29, 2013), available at

[http://www.publicadvocates.org/sites/default/files/library/uc\\_davis\\_comparison\\_of\\_draft\\_pba\\_with\\_eej\\_alternative\\_summary.pdf](http://www.publicadvocates.org/sites/default/files/library/uc_davis_comparison_of_draft_pba_with_eej_alternative_summary.pdf).

alternative – as well as the one that performed best on a range of benefits. To this end, the EEJ should be updated and analyzed in this round’s EIR.

As detailed in our comments on the DEIR last round (attached), MTC and ABAG should update the EEJ alternative so that it matches more closely the scenario that was proposed by the community. Changes from the EEJ studied in the last EIR process should include:

- forcing housing into the desired infill zones in the EEJ alternative (as was done in the preferred alternative),<sup>10</sup>
- assuming there would be CEQA streamlining under the EEJ alternative (as was done in the preferred alternative),<sup>11</sup> and
- capturing in the model the benefits the EEJ alternative would achieve through deed-restricted affordable housing and anti-displacement protections.

Building upon the EEJ in these ways would likely yield even stronger environmental benefits.<sup>12</sup>

Moreover, the EIR alternatives will also become the basis for MTC’s federally-required equity analysis of Plan Bay Area. Last time, the EEJ was not only environmentally superior, but also provided the greatest benefits to low-income and minority residents, including the lowest H+T cost burden and the lowest risk of displacement. Failing to include an EEJ Alternative in the EIR will therefore also remove from consideration the alternative most likely to provide a full and fair share of the benefits of the regional plan to low-income and minority populations.

## **B. Analyze the Environmental Effects of Economic Displacement and Improper Jobs-Housing Fit**

CEQA requires an analysis of direct and indirect impacts,<sup>13</sup> including impacts resulting from social and economic consequences of the project.<sup>14</sup> In addition, an EIR is required where “[t]he environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.”<sup>15</sup> To fulfill its fundamental purpose, an EIR must “identify and focus on

---

<sup>10</sup> Sustainable Systems Research, LLC, Technical Memorandum: Review of the Draft Environmental Impact Report for Plan Bay Area (May 15, 2013) pp. 2-6, 13-14, available at

[http://www.publicadvocates.org/sites/default/files/library/ssr\\_technical\\_memorandum\\_5\\_16\\_13.pdf](http://www.publicadvocates.org/sites/default/files/library/ssr_technical_memorandum_5_16_13.pdf). In any event, the EIR alternatives must be modeled in a consistent manner. That was not the case in PBA 2013, when the UrbanSim land-use model was used to forecast the housing distribution for several EIR alternatives, but not for the preferred alternative. In the preferred alternative, instead of allowing UrbanSim to forecast how much of the housing distribution would fall within “Priority Development Areas” (PDAs) and “transit priority project zones,” MTC and ABAG manually assigned a significant share of the housing growth to these areas; UrbanSim was only used to model the distribution of those units within each PDA. Had the preferred alternative been modeled properly (and consistently with the alternatives), the resulting housing distribution would have been far less compact, raising serious questions about whether the region’s greenhouse gas (GHG) targets would be met.

<sup>11</sup> *Id.* at 14.

<sup>12</sup> *Id.*

<sup>13</sup> 14 CCR § 15358(a).

<sup>14</sup> 14 CCR § 15064(e); see *El Dorado Union High Sch. Dist. V. City of Placerville* (1983) 144 Cal. App. 3d 123, 132 (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* (2004) 124 Cal. App. 4th 1184, 1215 (EIR improperly dismissed the possibility that a large shopping center could drive other retailers out of business as an economic effect when urban decay and other blightlike conditions could result).

<sup>15</sup> 14 CCR § 15065(a)(4).

the significant environmental effects of the proposed project,” including “changes induced in population distribution, population concentration, [and] the human use of the land (including commercial and residential development). . . .”<sup>16</sup> Furthermore, “[a]n 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.”<sup>17</sup>

Low-income households living in areas of focused growth and investment, such as Plan Bay Area’s Priority Development Areas and Transit Priority Areas, are likely to experience increased displacement resulting from increased property values<sup>18</sup> and subsequent rent hikes and evictions. As noted above, MTC and ABAG’s own evaluation of the scenarios indicates that the risk of displacement is likely to increase significantly in all three scenarios.

When low-income people in the Bay Area are displaced, they tend to move far from their jobs and to places with poor public transit,<sup>19</sup> robbing the transit system of its highest propensity riders and adding high-polluting vehicles to the roads. As a result, displacement has significant adverse effects, including harming human health,<sup>20</sup> decreasing public transit utilization, increasing congestion and VMT, causing poorer air quality, increasing greenhouse gas emissions, and causing other environmental impacts.<sup>21</sup> Similarly, an increase in road and highway usage may result in a significant environmental impact as roads and highways fall into disrepair and traffic congestion increases.<sup>22</sup>

The DEIR must therefore evaluate the environmental and health consequences associated with economic displacement. Among other steps, the DEIR should model displacement and identify likely trends in displacement, including:

- areas likely to face displacement pressure,
- the number of households affected,
- the communities expected to absorb these households,
- the number of households with increased commutes resulting from displacement,

---

<sup>16</sup> 14 CCR § 15126.2(a); *see also* Pub. Res. Code § 21002.1(a).

<sup>17</sup> 14 CCR § 15151.

<sup>18</sup> University of California, Berkeley and Los Angeles, *Gentrification, Displacement and the Role of Public Investment: A Literature Review* (Mar. 3, 2015), pp.17-20, available at [http://iurd.berkeley.edu/uploads/Displacement\\_Lit\\_Review\\_Final.pdf](http://iurd.berkeley.edu/uploads/Displacement_Lit_Review_Final.pdf).

<sup>19</sup> *See* Federal Reserve Bank of San Francisco, *Suburbanization of Poverty in the Bay Area* (Jan 2012), available at <http://www.frbsf.org/community-development/files/Suburbanization-of-Poverty-in-the-Bay-Area2.pdf>; *see also* Brookings Institution, *The Growing Distance Between People and Jobs in Metropolitan America* (Mar. 2015), available at [http://www.brookings.edu/~media/research/files/reports/2015/03/24-job-proximity/srvy\\_jobsproximity.pdf](http://www.brookings.edu/~media/research/files/reports/2015/03/24-job-proximity/srvy_jobsproximity.pdf).

<sup>20</sup> Bay Area Regional Health Inequities Initiative, *Displacement Brief* (Feb. 2016), available at <http://barhii.org/wp-content/uploads/2016/02/BARHII-displacement-brief.pdf>.

<sup>21</sup> TransForm and California Housing Partnership Corporation, *Why Creating and Preserving Affordable Homes Near Transit Is a Highly Effective Climate Protection Strategy* (May 2014), available at <http://www.transformca.org/sites/default/files/CHPC%20TF%20Affordable%20TOD%20Climate%20Strategy%20BOOKLET%20FORMAT.pdf>. *See* 14 CCR § 15064.4(b).

<sup>22</sup> *See, e.g., Save our Peninsula Comm. V. Monterey Cty. Bd. Of Supervisors*, 87 Cal. App. 4th 99, 118, 139 (2001) (discussing traffic impact as a significant environmental effect).

- the impact on access to middle-wage jobs<sup>23</sup> for low-income households, and
- the location and quantity of resulting demand for additional housing construction.

In addition, academic research has found that many parts of the Bay Area have a poor match between housing costs and local wages – a poor “jobs-housing fit,” causing new workers, particularly low-wage workers, to travel further distances than those in existing jobs.<sup>24</sup> The DEIR must evaluate the environmental and health effects resulting from this mismatch.

### C. Describe Measures to Mitigate the Effects of Economic Displacement and Improve Jobs-Housing Fit

Public agencies are also required to describe and discuss mitigation measures that could minimize *each* significant environmental effect identified in an EIR.<sup>25</sup> 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.”<sup>26</sup> Such measures must be at least “roughly proportional” to the impacts of the project, and must not be remote or speculative.<sup>27</sup> They must be “fully enforceable through permit conditions, agreements, or other legally binding instruments.”<sup>28</sup>

Indeed, a project should not be approved “as proposed if there are feasible mitigation measures available which would substantially lessen the significant environmental effects of the project.”<sup>29</sup> Measures or alternatives that mitigate the risk of displacement and therefore reduce the identified environmental impacts of displacement are feasible and should be incorporated into the EIR.<sup>30</sup> Such measures include:

- leveraging the One Bay Area Grant (OBAG) program to encourage local anti-displacement protections and affordable housing production,<sup>31</sup> as proposed by the 6 Wins,<sup>32</sup>

<sup>23</sup> “Middle-wage” jobs are defined as those that pay \$18 to \$30 per hour. SPUR, CCSCE, SMCUCA, Working Partnerships USA, Economic Prosperity Strategy: Improving Economic Opportunity for the Bay Area’s low- and moderate-wage workers (Oct. 2014), p. 8, available at [http://www.spur.org/sites/default/files/publications\\_pdfs/Economic\\_Prosperty\\_Strategy.pdf](http://www.spur.org/sites/default/files/publications_pdfs/Economic_Prosperty_Strategy.pdf).

<sup>24</sup> Alex Karner and Chris Benner, Job Growth, Housing Affordability, and Commuting in the Bay Area (May 29, 2015), pp. 40-41, available at [http://planbayarea.org/pdf/prosperity/research/Jobs-Housing\\_Report.pdf](http://planbayarea.org/pdf/prosperity/research/Jobs-Housing_Report.pdf); see also Chris Benner with Alex Karner, Why is Housing So Expensive? Beyond Balance to Jobs Housing *Fit*, presentation available at <http://calbudgetcenter.org/wp-content/uploads/Policy-Insights-2016-Benner.pdf>.

<sup>25</sup> See Pub. Res. Code §§ 21002.1(a)-b and 21081.6(b); see also 14 CCR § 15126.4.

<sup>26</sup> *Environmental Council of Sacramento v. City of Sacramento* (2006) 142 Cal. App. 4th 1018, 1039.

<sup>27</sup> 14 CCR § 15126.4(a)(2)(B) (citing *Dolan v. City of Tigard*, 512 U.S. 374 (1994)); see also *Fed’n of Hillside & Canyon Ass’ns v. City of Los Angeles* (2000) 83 Cal. App. 4th 1252, 1261.

<sup>28</sup> 14 CCR § 15126.4(a)(2).

<sup>29</sup> Cal. Pub. Res. Code § 21002; see also 14 CCR § 15002(a)(3) (an agency must prevent avoidable damage “when [it] finds [mitigation measures] to be feasible”).

<sup>30</sup> See 14 CCR § 15131(c) (“Economic, social and particularly housing factors shall be considered by public agencies ... in deciding whether changes in a project are feasible to reduce or avoid the significant effects on the environment identified in the EIR”).

<sup>31</sup> Such local policies have been adopted throughout the Bay Area and have a proven track record of reducing displacement. See UC Berkeley, Urban Displacement Project, Policy Tools, available at <http://www.urbandisplacement.org/policy-tools-2>.

<sup>32</sup> 6 Wins Network, Recommended Modifications to the One Bay Area Grant Program to Advance Investment Without Displacement, Affordable Housing, and Economic Opportunity (Sept. 30, 2015), available at <https://drive.google.com/file/d/0B9IjCmacmnhWYWRYQXBtNDFJR0/view?pref=2&pli=1>.

- funding for the development and preservation of affordable housing,
- more equitable distribution of development throughout both affluent and low-income neighborhoods, and
- reducing transit costs to low-income households to reduce the pressure of rising housing costs.

Policies to improve jobs-housing fit should also be considered as mitigation measures, including:

- increasing affordable housing near entry-level jobs,
- supporting investment and development patterns that prioritize the growth and retention of living-wage and middle-wage jobs near housing, and
- raising wages for low-income workers so that they are better able to afford housing.

To ensure a robust environmental analysis, a transparent process, and a Plan Bay Area that results in the greatest number of benefits and the least number of harms to the region's residents, it is critical that the DEIR include an EEJ Alternative, analyze the environmental effects of displacement and lack of jobs-housing fit, and explore measures to mitigate displacement and its effects and to improve jobs-housing fit.

Sincerely,



David Zisser  
Staff Attorney

Copy: Steve Heminger, Executive Director, MTC ([sheminger@mtc.ca.gov](mailto:sheminger@mtc.ca.gov))  
Ezra Rapport, Executive Director, ABAG ([ezrar@abag.ca.gov](mailto:ezrar@abag.ca.gov))  
Ken Kirkey, Director, Planning, MTC ([kkirkey@mtc.ca.gov](mailto:kkirkey@mtc.ca.gov))  
Miriam Chion, Director of Planning and Research, ABAG  
([miriamc@abag.ca.gov](mailto:miriamc@abag.ca.gov))  
Commissioners, MTC  
Members, Administrative Committee, ABAG

Attachment: Comments on the draft Environmental Impact Report for Plan Bay Area (May 16, 2013)

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.

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

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.

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

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.

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

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.

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.

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.

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.

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.”

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.

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.

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.

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:**

- **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.

- **SCS and RHNA housing distribution:** Shift 25,000 RHNA units from PDAs to “PDA-like places.” with a corresponding shift in the SCS.
- **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**