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January 15, 2014

BY EMAIL: kkirkey@mtc.ca.gov

Ken Kirkey, Planning Director
Metropolitan Transportation Commission

Re: MTC Guidelines for CMA Countywide Plans

Dear Mr. Kirkey:

Section 66531 (c) of the Government Code requires MTC to “develop guidelines to be used in the preparation of county transportation plans.” MTC’s failure to provide us with a copy of its guidelines under that provision (despite several formal and informal requests described below) leads us to conclude that those guidelines do not exist.

On behalf of Urban Habitat and other of our 6 Wins partners, I write now to request that MTC (1) meet to discuss a schedule, an inclusive and transparent public process, and the scoping for developing these guidelines, and (2) commit to adopting them promptly.

A. The Important Role of County Transportation Plans in Regional Planning and Investment.

The importance of long-range county transportation plans, and their regional oversight and coordination by MTC, cannot be understated. Section 66531 (a) tasks the countywide Congestion Management Agencies (CMAs) with submitting a county transportation plan to MTC, and indicates that those plans should be regularly updated.

Section 66531 goes on to specify that those plans:

- “shall include recommended transportation improvements for the succeeding 10- and 20-year periods.” (Subd. (e))
- shall “be consistent with, and provide a long-range vision for, the congestion management programs [CMPs] in the San Francisco Bay area” as required by Gov. Code § 65089. (Subd. (b))
- “shall consider the most recent regional transportation plan adopted by” MTC (Subd. (f)); and
- “shall be the primary basis for [MTC’s] regional transportation plan and shall be considered in the preparation of the regional

transportation improvement program.” (Id.)

Finally, in order to provide a basis for county transportation plans that are consistent with MTC’s adopted RTP, MTC’s guidelines “shall be consistent with [MTC’s] preparation of the regional transportation plan.” (Subd. (c).)

B. The Need for Prompt Action to Develop and Adopt Guidelines.

These statutory provisions make it clear that MTC’s *next* RTP must be based on county transportation plans that are, in turn, consistent with its *current* RTP, Plan Bay Area. The lack of regional guidelines raises serious questions over whether the new regional transportation plan and sustainable communities strategy (RTP/SCS) that MTC is slated to adopt in 2017 will be based on county transportation plans that are *not* consistent with Plan Bay Area.¹

The need to develop guidelines promptly is underscored by the fact that several of the Bay Area county transportation plans we have found online were adopted *before* SB 375 came into law in 2008. In addition, those that have been adopted or updated since 2009 may need to be updated before the regional planning process progresses too far. For example, the most recent update in the Bay Area region, by the Alameda County Transportation Commission in June 2012, took more than 18 months to complete.² If regional guidelines are not in place by April 1 of this year, the likelihood is low that all of the CMAs will have completed their county transportation plan updates in time to feed into the regional planning process that will be well advanced by mid-2016.

C. The Scope of the Guidelines and the Process for Their Development.

The guidelines MTC adopts must, of course, address the range of issues and requirements laid out in Section 66531. But the guidelines should not stop there.

As a preliminary matter, since the RTP/SCS is required to be based on county transportation plans, MTC’s guidelines must also ensure that those plans are consistent with state law requirements governing the RTP/SCS, are consistent with the current Plan Bay Area, and provide a platform on which a legally-compliant RTP/SCS may be adopted in 2017.

In addition, those guidelines must ensure that other RTP/SCS requirements are addressed appropriately in the county transportation plans. Among those are requirements dictated by state and federal civil rights and environmental justice (EJ) laws. In particular, with respect to low-income communities and communities of color, MTC’s guidelines should ensure an inclusive and transparent process at the CMA level, and substantive fairness in the outcomes of CMAs plans and priorities.

¹ In addition, the lack of regional guidelines leaves open the possibility that MTC’s recent adoption of the regional transportation improvement program (RTIP) might be inconsistent with Plan Bay Area. See subs. (b) & (f).

² ACTC reports that it began the process with the adoption of a vision and goals in January 2011, and adopted its new plan in June 2012. See http://www.alamedactc.org/app_pages/view/795 and ALAMEDA COUNTYWIDE TRANSPORTATION PLAN, p. 1-5.

Ken Kirkey
January 15, 2014

Page 3 of 3

Finally, the importance of these civil rights and EJ requirements also warrants a commitment that MTC will engage in an inclusive and transparent process to develop and adopt these guidelines.

If I have mistakenly concluded that current guidelines under Section 66531 do not exist,³ please advise me right away and provide me with a copy of those guidelines. Otherwise, please let me know whether MTC intends to launch a process for developing and adopting guidelines, intends to adopt those guidelines no later than April 1, and is willing to meet to discuss the process and the scope of the guidelines.

Yours truly,

A handwritten signature in black ink, appearing to read 'R. Marcantonio', followed by a period.

Richard A. Marcantonio
Managing Attorney

³ To summarize the basis for that conclusion: In a request under the Public Records Act, dated June 13, 2013, and resubmitted on July 15, we asked for “All Records that set forth any guidance or requirements for CMAs with respect to ... Countywide Transportation Plans....” The documents MTC provided in response on July 11 and 26 included no such guidance, current or otherwise. In addition, I emailed you on December 6 to ask specifically whether there was a current version of the guidelines document, as referred to in Section 66531, subdivision (c), and received no response to my email or a subsequent voicemail message.