

3.5 Organization Responses

Letter B1 **Myesha Williams, New Voices Are Rising (4/17/2013)**

- B1-1: The comment in support of Alternative 5, the Environment, Equity and Jobs Alternative, is noted and will be forwarded to MTC and ABAG for their consideration. Regarding the comment that the Draft EIR does not adequately analyze the VMT and GHG reductions that this alternative would offer, the VMT and GHG impacts were analyzed in a consistent manner across all alternatives. Quantified information on the alternatives is presented where available and all alternatives were compared against the Plan's objectives. Detailed tables comparing traffic impacts of the alternatives are included in Chapter 3.1 of the Draft EIR (pages 3.1-24 to 31) and GHG emissions due to transportation and land use are quantified for all alternatives in Chapter 3.1, beginning on page 3.1-57; Section 2 of this EIR also contains updates to these sections. See also response B13-2.
- B1-2: Commenter's support for Alternative 5 will be forwarded to MTC and ABAG for their consideration. Reductions in VMT can be provided in a variety of ways. The most productive way to reduce VMT is to co-locate housing and activity locations (including employment) closer together to reduce average trip lengths. As demonstrated by the analysis of Alternative 5, which included substantially more transit service than the proposed Plan but similar VMT results, significant additional investments in bus service above what is included in the proposed Plan does not result in significant additional reductions in VMT. See Master Response D.2 regarding GHG reductions. Furthermore, the funding may not be available to support the commenter's proposed additional investments. Furthermore, the funding may not be available to support the commenter's proposed additional investments. Overall, the implementation of the proposed Plan would require a subsidy of roughly \$800 million per year, compared to a subsidy of roughly \$2.4 billion per year needed to implement Alternative 5.
- The commenter's request to increase local transit service funding by \$70 million per year will be considered by decision-makers as part of the EIR certification process and action on the proposed Plan.
- B1-3: The comment supports the public transportation investments made in Alternative 5, including a regional free youth bus pass. Alternative 5 does include the most robust investment in public transit of all the alternatives evaluated in the Draft EIR. MTC and ABAG respectfully disagree with the assertion that Alternative 5 is the best option for reducing VMT; the Draft EIR in Chapter 3.1 found that the proposed Plan has the greatest per capita decline in VMT of the alternatives by a very slight margin, while Alternative 5 performed the best in terms of total VMT. Decision-makers will weigh the advantages and disadvantages of each alternative in determining which option to adopt. See response B29-29 for more information.

The comment also expresses support for a youth transit bus pass. The Draft Plan Bay Area directs \$500 million to the Transit Performance Initiative (TPI), a regional program to achieve performance improvements in major transit corridors where current and future land use supports high quality transit. The first rounds of TPI funding from 2012 and 2013 generally supported improvements on existing bus and light rail lines serving major corridors, as well as other programs designated by the transit agencies including some youth and low income pass programs. Since fare policy is set by local transit agency boards, applying TPI or other eligible funds to fare reductions would be a local decision.

B1-4: See Master Response F on displacement.

Letter B2 Greenbelt Alliance (5/2/2013)

B2-1: MTC and ABAG acknowledge the map of critical habitat in the North Bay (Figure 2.9-5) was omitted from the Draft EIR in error, and instead repeats Figure 2.9-1 in its place. The correct Figure 2.9-5 is provided in Section 2 of this Final EIR. The figure is a visual aid only and does not alter the impact analysis presented in the Draft EIR. (*Defend the Bay v. City of Irvine* (2004) 119 Cal. App.4th 1261, 1265 [CEQA requires an EIR to reflect a good faith effort at full disclosure; *it does not mandate perfection...*].)

B2-2: The comment is correct that Table 2.14-2 had incorrect acreage figures, as it included the open space categories open, restricted, and no access. The table has been updated to remove the “no access” category and to show data from the 2012 update of the Bay Area Protected Areas Database. The table has also been renamed “Bay Area Publicly Accessible Parks and Open Space.” The changes to this table also affected Table 2.14-3, Parks and Open Space Acreage per 1,000 Residents and text on p.2.14-15 and p.2.3-51 of the Draft EIR. See Section 2 of this Final EIR for the updated tables and text. These changes do not alter the impact analysis conclusions presented in the Draft EIR.

These insignificant revisions do not alter the conclusions of the Draft EIR and do not constitute “substantial” new information as defined under Section 15088.5 of the CEQA Guidelines because these minor revisions do not deprive the public of a meaningful opportunity to comment upon a substantial adverse environmental effect or a feasible mitigation or avoidance measure.

B2-3: The commenter requests a map showing information regarding Bay Area migratory corridors and linkages developed by the Conservation Lands Network (CLN). The information related to the detailed efforts to identify and map large landscape blocks and critical linkages for wildlife between them in the Bay Area, including the availability of GIS datasets containing this information, is appreciated. While the CLN data is somewhat finer resolution than the Essential Connectivity Areas (ECA) analysis and, unlike the ECAs, is based on the requirements of local species, the CLN data is also presented on a regional scale and would not change the conclusions of the Draft EIR, which found that potential impacts on wildlife migratory corridors are significant and unavoidable. Nor does the CLN data present substantial new information that requires changes to the mitigation measures proposed under Mitigation Measure 2.9(e), which require site-specific analysis of regional as well as local migratory corridors and, where appropriate, several other measures including

construction of wildlife friendly overpasses and culverts, use of wildlife friendly fencing, and fencing of major transportation corridors in the vicinity of identified wildlife corridors. Nonetheless, the identified Bay Area critical linkages and large landscape blocks have been added to Figure 2.9-9 because, although there is a large degree of overlap between these two mapping efforts, the areas identified by the CLN expand on those identified as ECAs. See Section 2 of this Final EIR for the updated figure.

B2-4: The commenter requests the addition of language describing the CLN to the Draft EIR. Accordingly, the text on pp. 2.9-35 to 2.9-36 of the Draft EIR is revised as shown in Section 2 of this Final EIR. These revisions do not change the conclusions of the Draft EIR regarding significant and unavoidable impacts on migratory wildlife corridors.

B2-5: Commenter provides multiple comments requesting a finer level of analysis regarding both the biological resources setting and impacts analysis. As stated in the Draft EIR Executive Summary (pp. ES-3 and ES-4), this document, “is a program EIR, as defined by Section 15168 of the CEQA Guidelines.” As such, it presents a general assessment of the environmental impacts of implementing the proposed Plan on a region-wide scale. Individual projects are not addressed in detail, although mention of some possible, or funded projects, are discussed as appropriate. As noted throughout the Draft EIR, all impacts of individual projects would be evaluated in the future, by the appropriate implementing agency as required under CEQA prior to each project being approved. As a program-level EIR, this document, includes mitigation measures to offset potentially significant impacts and sets the basis for subsequent tiering for project-specific or site-specific environmental review. Specific analysis of localized impacts in the vicinity of individual projects is not included in this program level EIR. See Master Response A.3 for more information regarding the program nature of the EIR.

The Biological Resources analysis is appropriate for a program EIR. The program-level analysis identifies the biological resources at risk, the possible impacts on them that could result from implementation of projects under the proposed Plan, specifically from development that would occur both inside and outside PDAs and proposed transportation projects. The Draft EIR outlines mitigation measures that are typically used to avoid and minimize impacts on biological resources. The impacts set forth in the Draft EIR are based on the range of impacts known to occur as a result of projects similar to those proposed under the proposed Plan. The mitigation measures proposed are based in large part on measures recommended by permitting agencies (e.g., CDFW, USFWS, RWQCB) and are generally recognized by those agencies as being sufficient to mitigate impacts on a project-level basis. Figures 2.9-1 through 2.9-9 illustrate general special-status species locations, critical habitat, and essential connectivity areas and critical linkages in relation to the major transportation corridors within the planning area. Tables H-1A through H-1D (special-status species), H-2A through H-2C (critical habitat), H-3A through H-3B (salmonid critical habitat), H-4A through H-4D (wetlands), and H-5A through H 5B (other waters) in Appendix H to the Draft EIR present the results of a GIS-based analysis that compared the locations of proposed PDAs and transportation projects with locations of sensitive biological resources, thereby indicating which biological resources could be affected by each project and determining, on a very coarse scale since project details are generally unknown at this time, the acreage and/or linear feet of the resource potentially affected.

The commenter requests the addition of a map of the Bay Area’s wetlands and suggests two sources of finer scale GIS data depicting Bay Area wetland locations—the Bay Area Aquatic Resource Inventory (BAARI) and a CDFW vernal pool habitat dataset. Due to the broad scope of the proposed Plan and the program-level EIR analysis, MTC and ABAG decided not to include vegetation or wetland maps in the Draft EIR. Presentation of this information is challenging due to the regional scale of the plan and the number of individual projects across the nine Bay Area counties. Further, presenting such fine-scale data on a small scale map covering a large area would not provide meaningful analysis with respect to individual projects and their potential impacts on biological resources, given the lack of project-specific detail available at the time of the analysis. The EIR analysis did use the National Wetlands Inventory wetland GIS dataset to determine potential coarse scale impacts on wetlands by the various PDA and transportation projects proposed under the Plan. The results of this analysis are presented in Table H-4A (PDAs) and Table H-4B (transportation projects) of Appendix H to the Draft EIR.

The BAARI and the CDFW vernal pool habitat datasets, suggested for presentation in the Draft EIR by the commenter are indeed finer scale, and more recent, mapping efforts than the NWI dataset. However, these types of data are more appropriately used in the subsequent project-level analyses that will tier from this program EIR and, for the reasons given above, are not included in this Final EIR.

B2-6: The map requested by commenter would not substantially add to or change the analysis or conclusions in the EIR. Such a map would be a visual aid only and would directly relate to any of the criteria of significance on the proposed Plan’s impact on water quality or water supply. Given the tangential nature of such material to the regional impacts evaluated under this program EIR, MTC and ABAG decline to include such a map. See also Master Response G on water supply and A.3 on specificity of a program EIR.

B2-7: As described in the Supplemental Report *Summary of Predicted Land Use Responses* (page 24), a set of “Urban Boundary Lines” were established for each jurisdiction and used in the UrbanSim land use modeling (see map, Figure 10, *Summary of Predicted Land Use Responses*, page 25). The Urban Boundary Lines functioned similar to urban growth boundaries, beyond which no development would occur in the model except where allowed by current zoning laws. The Urban Boundary Lines were established hierarchically. Wherever possible, actual adopted urban growth boundaries, as defined Public Resources Code section 21071, subdivision (b)(1)(B) were used as the Urban Boundary Lines. In the absence of these adopted boundaries, LAFCO-determined urban service areas were used as the Urban Boundary Line. If urban service areas were not available, LAFCO-determined city spheres of influence (SOI) were used. SOIs were used instead of city limits because SB 375 requires MTC to consider SOIs that have been adopted by the LAFCOs within the region (Gov. Code, § 65080(b)(2)(G)) and SOIs represent a more realistic and likely limit on urban development than city limits. In general, the SOI extends beyond the current city limits, but in some cases, the city limits and SOI are the same. In addition, for some unincorporated areas, LAFCO- or county-determined service areas were also used as part of the Urban Boundary Line.

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Below is a summary sets of boundaries used for the Urban Boundary Lines in the proposed Plan.

Alameda County	Urban Growth Boundary	Fremont Dublin Castro Valley Fremont Livermore Pleasanton
	Urban Limit Line	Hayward
	LAFCO-defined Sphere of Influence	Remainder of Cities
	Community Boundary, unincorporated areas	San Lorenzo Cherryland Hayward Acres
Contra Costa County	Urban Limit Line	Entire County
Marin County	Urban Growth Boundary	Novato
	LAFCO-defined Sphere of Influence	Remainder of Cities
	County Service Areas, unincorporated areas	Larkspur-Kentfield Indian Valley Country Club and Domingo Upper Lucas Valley
	County Planning Area, unincorporated areas	Richardson Bay Planning Area
Napa County	Urban Limit Line	American Canyon St. Helena
	Rural Urban Limit	
	LAFCO-defined County Service Area	Calistoga Yountville
	County-defined Community Service Area, unincorporated	County Service Area 3
	County-defined Community Service District, unincorporated	Silverado Community Service District
San Francisco Count	City Limit	
San Mateo County	Urban Rural Boundary	Entire County
Santa Clara County	Urban Growth Boundary	Cupertino Milpitas Palo Alto San Jose
	Urban Growth Boundary/Urban Limit Line	Morgan Hill

	LAFCO-defined Urban Service Area	Remainder of Cities
Solano County	Urban Growth Boundary	Benicia Rio Vista Vacaville
	Urban Limit Line	Fairfield
	LAFCO-defined Sphere of Influence	Remainder of Cities
Sonoma County	Urban Growth Boundary	All Cities
	LAFCO-defined Urban Service Areas for unincorporated areas	Monte Rio Forestville Occidental Geyserville Airport Larkfield Graton Bodega Bay Guerneville Sea Ranch Penngrove Sonoma Valley

Letter B3 San Mateo County Building & Construction Trades Council (5/7/2013)

B3-1: MTC and ABAG acknowledge your support for Plan Bay Area.

B3-2: The Draft EIR for Plan Bay Area is meant to evaluate the environmental impacts and does not evaluate whether wage and labor standards are included in the Plan. CEQA only requires analysis and mitigation of potentially adverse changes in the physical environment. MTC and ABAG will consider your policy request prior to taking action on adoption of Plan Bay Area. The commenter’s broad assertion that wage and labor standards could potentially reduce VMT or have beneficial health impacts is too speculative to analyze at this time. The commenter suggests “adding labor standards as mitigations to the negative impacts of the Plan.” There is no substantial evidence that such policy measures would reduce any of the Plan’s potentially significant impacts.

Letter B4 ACCE Riders for Transit Justice, et. al (5/16/2013)

B4-1: Please see responses letter B25.

Letter B5 American Lung Association in California (5/16/2013)

B5-1: Your support for Alternative 5 is acknowledged. While Alternative 5 performs better than the proposed Plan on some environmental issues, the Plan performs better on others. See response B25-8 and B25-10 for more information regarding the air quality and health

impacts analysis in the Draft EIR. Your requests for Plan Bay Area to substantially increase funding for transit operations, new transportation choices, and more active transportation and complete streets programs are also noted and will be considered by MTC and ABAG prior to taking action on adoption of Plan Bay Area.

Letter B6 Cargill (5/16/2013)

B6-1: A definition of “protected open space” has been added to Chapter 2.3 of the Draft EIR. It defines “protected open space” as “Publicly owned parkland and undeveloped land, including regional parks and other land in public ownership, as well as such lands subject to permanent restrictions on use to which owners have voluntarily agreed, as defined by a land use authority.” See Section 2 of this Final EIR for this change. The Bay Area Protected Areas Data Base, Farmland Mapping and Monitoring Program, Department of Conservation, State of California, 2008-2010, California State Park Boundaries, were used to prepare Table 2.3-6, Bay Area Parks and Open Space, and Figure 2.3-4 Regional Parks and Open Space. Consistent with the above definition of “protected open space”, this figure includes only publicly owned land and land that is protected with an enforceable conservation easement or other restriction voluntarily agreed to by a property owner.

SB 375 prohibits an SCS from “regulat[ing] the use of land.” (Gov. Code, § 65080, subd. (b)(2)(K).) Table 2.3-6 and Figure 2.3-4 are only meant to convey the locations and amount of protected open space at a regional level—they in no way represent a definitive or binding statement of policy. The continued protection of areas designated as protected open space is dependent on future decisions by cities, counties, the State, or other governmental bodies with land use authority over protected open space. Similarly, protected open space as described in Mitigation Measure 2.3(h) would be defined at the project-specific level by the actions or policies of relevant cities, counties, the State, or other governmental bodies with applicable land use authority.

Moreover, the EIR demonstrates that the designation of land as protected open space by the proposed Plan does not prevent such land from being developed. Specifically, the EIR estimates that under the proposed Plan approximately 2,022 acres of protected open space land (excluding agricultural land, forest land, or timberland) may be converted by combined land use and transportation projects. (Draft EIR, p. 2.3-51.) Therefore, the proposed Plan and EIR do not suggest that any land uses are actually barred or restricted by the protected open space designation. Because MTC and ABAG do not have local land use authority the proposed Plan does not purport to limit the existing land use authority of other agencies or municipalities with respect to lands identified as permanently protected in other plans nor does the proposed Plan attempt to expand the limits of permanently protected open space beyond the areas identified in those plans. See Master Response A.1 regarding local land use control.

Cargill’s lands in Redwood City and Newark are not classified as “protected open space” for purposes of the EIR analysis in Chapter 2.3, and there is no assumption made in the EIR that the proposed Plan would affect local land use authority over Cargill’s land ownership or cause a change of use or zoning to be required. Section 2 of this Final EIR updates page 2.3-34 of the Draft EIR to change “permanent” to “protected” to reduce confusion.

- B6-2: As discussed further in response B6-1, MTC and ABAG considered the Bay Area Protected Areas Database, Bay Area Open Space Council, 2012, Farmland Mapping and Monitoring Program, Department of Conservation, State of California, 2008-2010, California State Park Boundaries, to identify protected open space within the San Francisco Bay Area. The figure depicting “Regional Parks and Open Space” in the Draft EIR does not include Cargill’s lands in Redwood City and Newark, nor do the tabulations of “protected open space ” associated with it include Cargill’s land. Regarding the maps in the Draft Plan, revised maps are included in the Final Plan to depict the location of protected open space consistent with maps included the Draft EIR. See also response B6-6 regarding revisions to the maps in the Draft Plan.
- B6-3: The EIR’s analysis of open space resources is factually correct as it does exclude Cargill’s land. No misleading statements are made, nor does the EIR mislead readers about the geographic extent of “protected open space”. See response B6-1 for more information on the data source and intention of the maps and tables in the Draft EIR.
- As stated in response B6-1, a definition of “protected open space” has been added to Chapter 2.3 of the Draft EIR. It defines “protected open space” as “Publicly owned parkland and undeveloped land, including regional parks and other land in public ownership, as well as such lands subject to permanent restrictions on use to which owners have voluntarily agreed, as defined by a land use authority.” See Section 2 of this Final EIR for this change.
- B6-4: The Draft EIR explains that no change in local land use authority is envisioned by the proposed Plan. Mitigation Measure 2.3(g) states that mitigation measures shall be considered by implementing agencies and/or project sponsors where feasible based on project-and site-specific considerations to mitigate impacts to agricultural and open space lands including potential acquisition of “conservation easements on land at least equal in quality and size as partial compensation for the direct loss of agricultural land...” Acquisition of conservation easements on suitable lands would be undertaken by the implementing agencies and/or project sponsors based on project-and site-specific considerations. The proposed Plan does not limit in any way the manner in which an implementing agency may exercise its discretion in implementing this measure. See Master Response A.1 for additional information on local control of land use.
- B6-5: See responses B6-1 through B6-4.
- B6-6: The maps in the Draft EIR are correct; the errors in the Draft Plan maps will be addressed when the Final Plan is adopted. These corrections do not change the analysis or conclusions of the EIR.
- B6-7: As stated in response B6-6, there were errors in the maps in the Draft Plan document. Those errors will be addressed when the Final Plan is adopted. The Jobs Housing Connection Strategy report maps, which do not show the Cargill lands as protected open space, are accurate.

B6-8: See responses B6-1 through B6-4 and B6-7. The proposed Plan does not regulate land use. Land use authority will remain with the relevant local jurisdictions and permitting agencies (such as BCDC) and the proposed Plan will only be implemented insofar as local jurisdictions adopt its policies and recommendations. See also Master Response A.1 regarding local land use control.

B6-9: Pursuant to statute, an urban growth boundary “means a provision of a locally adopted general plan that allows urban uses on one side of the boundary and prohibits urban uses on the other side.” (Pub. Resources Code, § 21071, subd. (b)(1)(B).) The EIR does not state that there is a single “urban growth boundary” but rather that some cities have adopted urban growth boundaries. Table 2.3-14 identifies counties and cities that have adopted a geographic boundary to limit urban growth, and specific names for each boundary type are used for informational purposes. This table constitutes urban growth boundaries within the region as defined by Public Resources Code section 21071, subdivision (b)(1)(B). The factual basis for the information presented are local General Plans and summaries of jurisdictional policies on future growth expansion compiled by MTC and ABAG, which are cited in the EIR.

The discussion of urban growth boundaries as used in the EIR only includes existing boundaries as defined pursuant to Public Resources Code section 21071, subdivision (b)(1)(B). The proposed Plan, however, described a slightly more expansive area as within urban growth boundaries. The use of the term “urban growth boundary” in the description of alternatives is replaced with the term urban boundary line, as described in Section 2 of the Final EIR, to ensure consistency with Table 2.3-14 and the Public Resource Code section noted above. (See response B6-10 for discussion of how the Draft Plan will be revised to distinguish between urban growth boundaries as defined by Public Resources Code section 21071, subdivision (b)(1)(B) and the slightly more expansive growth boundaries considered in the proposed Plan.)

As discussed further in response B6-10, SB 375 requires that MTC and ABAG not only consider urban growth boundaries as defined by Public Resources Code section 21071, subdivision (b)(1)(B), but also requires consideration of spheres of influence (SOIs) that have been adopted by the local area formation commissions (LAFCOs) within the region. (Gov. Code, § 65080, subd. (b)(2)(G).) Therefore, in addition to urban growth boundaries included in Table 2.3-14, some lands within existing SOIs are incorporated within the definition of urban growth boundaries for the purposes of the proposed Plan. The full extent of the term urban growth boundaries as used in the proposed Plan is being clarified in the errata sheet that will be included in the Final Plan as explained in responses B6-10 and B6-11 below.

B6-10: The basis for the materials that summarize what local governments have done is not buried in an appendix of the proposed Plan. The Draft EIR includes a table that lists every city and county within the region that has adopted urban growth boundaries and county-wide land use measures (see Draft EIR, Table 2.3-14 on p. 2-3-48, with a description on page 2.3-47).

The proposed Plan includes a series of maps that illustrate both the urbanized areas and urban growth boundaries included within the region. (Draft Plan, p. 52 (Map 4), App. 2, pp.

140-154 (Maps 1-15).) These maps are being clarified in the Final Plan. For these maps, the term “urban boundary lines” will replace “urban growth boundaries”. The term “urban boundary line” is being used to reiterate that land within “urban growth boundaries” as defined in Public Resources Code section 21071, subdivision (b)(1)(B) and the urban boundaries used in the proposed Plan (now called “urban boundary lines”) are overlapping but distinct. As discussed in more detail below, because SB 375 requires MTC and ABAG to consider SOIs adopted by LAFCOs within the region (Gov. Code, § 65080(b)(2)(G)), “urban boundary lines” considered in the proposed Plan encompasses a slightly larger area than land within “urban growth boundaries” as defined by Public Resources Code section 21071, subdivision (b)(1)(B). See also response B6-9.

B6-11: As described in the Supplemental Report *Summary of Predicted Land Use Patterns Responses* (page 24), a set of “Urban Boundary Lines” were established for each jurisdiction and used in the UrbanSim land use modeling (see Figure 10, *Summary of Predicted Land Use Responses*, page 25) as a policy lever to develop alternatives. The Urban Boundary Lines functioned as urban growth boundaries in the model, beyond which no development would occur in the model except where allowed by current zoning laws. The Urban Boundary Lines were established hierarchically. Wherever possible, actual adopted urban growth boundaries as defined Public Resources Code section 21071, subdivision (b)(1)(B) were used as the Urban Boundary Lines. In the absence of these adopted boundaries, LAFCO-determined urban service areas were used as the Urban Boundary Line. If urban service areas were not available, LAFCO-determined city spheres of influence (SOI) were used. SOIs were used instead of city limits because SB 375 requires MTC to consider SOIs that have been adopted by the LAFCOs within the region (Gov. Code, § 65080(b)(2)(G)) and SOIs represent a more realistic and likely limit on urban development than city limits. In general, the SOI extends beyond the current city limits, but in some cases, the city limits and SOI are the same. In addition, for some unincorporated areas, LAFCO- or county-determined service areas were also used as part of the Urban Boundary Line. As stated above, the urban boundary lines include designations that are less formal than the traditional definition of “urban growth boundary” used for the EIR analysis and discussed in response B6-9. See response B6-10 above.

B6-12: As discussed in response B6-9 and consistent with the definition pursuant to Public Resources Code section 21071, subdivision (b)(1)(B), the Draft EIR uses the term urban growth boundary to refer to a variety of specific local measures that have been adopted for urban planning and implementation purposes, as the text on pg. 2.3-47 makes clear. Local city and county plans and implementing ordinances cited by reference in Table 2.3-14 were used to determine existing urban growth boundaries within the region. In no instance is any information presented in this EIR intended to substantially impair Cargill’s rights in a manner not authorized by local, State or federal law.

As discussed in the CEQA Guidelines, “[d]rafting an EIR or preparing a Negative Declaration necessarily involves some degree of forecasting. While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can.” (CEQA Guidelines, § 15144.) The commenter is correct that SB 375 does not authorize an SCS to “regulate[] the use of land.” (Gov. Code, § 65080, subd. (b)(2)(K).) However, an SCS, including its associated CEQA streamlining benefits, is intended to “encourage[] developers to submit applications and local governments to make

land use decisions that will help the state achieve its climate goals under AB 32, assist in the achievement of state and federal air quality standards, and increase petroleum conservation.” (SB 375, Stats. 2008, ch. 728, § 1(f) [uncodified legislative findings].) SB 375, therefore, envisions that development of an SCS will lead to “changed land use patterns...” (*Id.*, § 1(c).) In preparing the proposed Plan, MTC and ABAG reasonably forecast that local jurisdictions, as part of their concerted efforts to achieve climate goals under AB 32, will not expand current urban boundary lines, as they are defined in response B6-10 and B6-11. The proposed Plan, however, does not compel local jurisdictions to conform to this forecast. See also Master Response A.1 regarding local land use control.

- B6-13: “Protected open space” and “urban growth boundaries” are potentially overlapping but distinct terms. These designations only relate, as noted in the EIR, in the sense that local governments use urban growth boundaries as an implementation tool, along with urban service areas, environmental corridors, slope/density restrictions, stream conservation areas and riparian buffers to limit urban sprawl. Land may be both protected open space and within an urban growth boundary; the proposed Plan does not assume that all land within urban growth boundaries or even within Priority Development Areas will be developed. See responses B6-1 through B6-3, and B6-9 through B6-10 for a discussion of the terms “protected open space” and “urban growth boundaries” and an explanation of how actual land use designations, such as protected open space and urban growth boundaries, are made by local jurisdictions. See also Master Response A.1 regarding local land use control.
- B6-14: PCAs are a Plan concept and specific mapping will occur during Plan implementation. No more geographic detail is available currently, so this EIR used a programmatic approach and did not undertake any overlay analysis to determine how PCAs related to protected open space and urbanized areas. The 100 areas noted in the proposed Plan are part of the Project Description, so no revision is warranted, as no additional information is available on the location and extent of each PCA. A map has been added to the Draft EIR, Figure 1.2-2B, which shows general proposed PCA locations; see Section 2 of this Final EIR for the map.
- B6-15: MTC and ABAG disagree with the commenter that the Draft EIR failed to provide sufficient information relating to the meaning of “protected open space” and “urban growth boundaries.” See also responses B6-1 through B6-3, and B6-9 through B6-13 for a discussion of the terms “protected open space” and “urban growth boundaries” and an explanation of how actual land use designations, such as protected open space and urban growth boundaries, are made by local jurisdictions. Because there is a valid factual basis for the analysis and no Cargill land is being designated as “protected open space” or subject to an “urban growth boundary” initiated by the proposed Plan, the EIR can and does perform its function under CEQA – to disclose the environmental consequences of the proposed action to decision-makers and the public. For this reason the EIR is adequate under CEQA for the purposes cited in the comment.
- B6-16: See responses B6-1 and B6-3. As discussed in the EIR, the proposed Plan was developed with input from local jurisdictions for both land use and transportation projects. Land use authority will remain with the relevant local jurisdictions and permitting agencies (such as BCDC) and the proposed Plan will only be implemented insofar as local jurisdictions adopt its policies and recommendations. Because ultimate implementation of the proposed Plan

resides with local jurisdictions, the proposed Plan by its very nature does not result in any enforceable conflicts with local land use plans. See also Master Response A.1.

B6-17: See responses B6-1 and B6-3. Land use authority will remain with the relevant local jurisdictions and permitting agencies (such as BCDC) and the proposed Plan will only be implemented insofar as local jurisdictions adopt its policies and recommendations. In determining whether a future project has the potential to impact protected open space, lead agencies will consider applicable local and regional plans. Mitigation measures included in the EIR to protect open space are only applicable to a future project to the extent the local jurisdiction or permitting agency (such as BCDC) serving as the lead agency concludes, based on substantial evidence, that the project has the potential to significantly impact open space. Even then, lead agencies for future land use development projects must only comply with the mitigation measures set forth in the EIR to the extent it seeks to take advantage of the CEQA streamlining provisions established by SB 375. See also Master Response A.1 and A.2 regarding local land use control and CEQA streamlining respectively.

Mitigation Measure 2.3(h) states that mitigation measures shall be considered by implementing agencies and/or project sponsors where feasible based on project-and site-specific considerations to mitigate impacts to agricultural and open space lands including “[r]equiring conservation easements on land at least equal in quality and size as partial compensation for the direct loss of protected open space.” The determination regarding the potential for a future project to impact protected open space shall be determined by the implementing agency in consideration of applicable land use plans. The proposed Plan does not limit an implementing agency’s discretion in considering whether a project has the potential to impact protected open space. Similarly, acquisition of conservation easements on suitable lands would be undertaken by the implements agencies and/or project sponsors based on project-and site-specific considerations. The proposed Plan does not limit in any way the manner in which an implementing agency may exercise its discretion in implementing this measure.

B6-18: The designation of protected open space presented in this EIR is a valid basis for the environmental analysis and does comply with CEQA and the requirements for environmental review; it is supported by substantial evidence, as explained in the above responses.

B6-19: The EIR does not identify Cargill’s property as protected open space.

B6-20: See responses B6-1 and B6-3. As Figure 2.3-4 is only a graphic tool to convey a concept, and does not in fact identify Cargill land as protected open space, there is no need to update the map.

B6-21: The proposal for a change in maps and policy language in the proposed Plan is acknowledged. The text on pg. 2.3-47 of the Draft EIR will be amended to add the following sentence at the end of the paragraph: “...Table 2.3-14. The urban growth boundary in the proposed Plan reflects locally designated urban growth boundaries.” See Section 2 of this Final EIR for this change as well. This change does not affect the analysis or conclusions in the EIR. See also responses B6-9 and B6-10.

- B6-22: Land use authority will remain with the relevant local jurisdictions and permitting agencies (such as BCDC) and the proposed Plan will only be implemented insofar as local jurisdictions adopt its policies and recommendations. Responses B6-1, B6-3, B6-9, B6-11, B6-12, and B6-13 clarify what the EIR analysis addresses and why it is an accurate reflection of existing conditions and potential impacts associated with the proposed Plan. See also Master Response A.1 on local control over land use.
- B6-23: See responses B6-1, B6-2, B6-3, B6-6, B6-9, B6-11, B6-12, B6-13, B6-20, and B6-21.

Letter B7 BIA (5/17/2013)

- B7-1: The comment introduces and summarizes the key points addressed in the remainder of the letter, comments B7-2 through B7-26. See responses B7-2 to B7-26.
- B7-2: The commenter asserts the No Project alternative omitted a substantial number of projects. As described in greater detail below, the No Project alternative omitted projects that were “uncommitted” and thus not likely to be constructed in the no project scenario.

The EIR must include a comparative analysis of the No Project alternative to compare the impacts of approving the project with the impacts of not approving the project. (CEQA Guidelines § 15126.6(e).) Future conditions under existing plans typically constitute the no project alternative; however, it is not legally adequate, nor does it allow for a meaningful comparison if a lead agency simply relies on currently planned projects without a more nuanced examination of those plans. (*Woodward Park Homeowners Ass’n v. City of Fresno* (2007) 150 Cal.App.4th 683, 715.) The Draft EIR relied on substantial evidence and properly defined the projects that are included in the no project alternative. (Draft EIR, p. 3.1-5.)

The commenter is only partly correct by stating the proposed project is a revision to the Bay Area’s existing Regional Transportation Plan (Transportation 2035). Importantly, as described in greater detail in response B7-3, the projects from Transportation 2035 that were omitted from the no project alternative are uncommitted projects that are uncertain to occur in the no project scenario. (Draft EIR, p. 3.1-5.) The proposed project is an update to the Bay Area Regional Transportation Plan (RTP), which MTC is required to adopt every four years. The proposed project is also the Bay Area’s first Sustainable Communities Strategy (SCS), as required by SB 375. The purpose of the SCS is to meet the Bay Area’s GHG reduction targets by integrating land use and transportation planning. Transportation 2035 was the last RTP approved by MTC that does not include the now mandatory SCS. As an SCS is now a mandatory requirement, implementation of projects in the previous RTP is not an accurate predictor of what would occur in the Bay Area in the no project scenario.

The commenter also asserts that the No Project alternative was constructed using a land use pattern that “differs substantially” from the pattern used in the adopted Regional Transportation Plan (RTP), in violation of CEQA. The land use pattern (Projections 2009) used for Transportation 2035, the region’s last adopted RTP, was a more focused growth pattern than has historically occurred in the region. However, the land use pattern in Projections 2009 has not fully come to fruition and therefore is not an accurate basis for the

No Project alternative. The No Project alternative land use pattern to represents current land use trends related to expansion of the urban boundaries continuing at historic rates. This is a reasonable comparison and an accurate representation of land use development patterns if current trends continue 28-years into the future.

Moreover, the fact that commenter disagrees with some of an EIR's methodologies and conclusions is not a basis for overturning an EIR that is supported by substantial evidence – such as the Plan's Draft EIR. Pursuant to CEQA, "substantial evidence" includes "fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact." (Pub. Resources Code, § 21080, subd. (e)(1); CEQA Guidelines, § 15834, subd. (b).) Substantial evidence is *not* conjecture, nor is it speculation or unsubstantiated opinion or narrative. (CEQA Guidelines § 15384(a).)

"Challenges to the scope of the analysis, the methodology for studying an impact, and the reliability or accuracy of the data present factual issues, so such challenges must be rejected if substantial evidence supports the agency's decision as to those matters and the EIR is not clearly inadequate or unsupported." (*Federation of Hillside & Canyon Assns. v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1252.) Here, substantial evidence supports the conclusions in the Draft EIR, including the description of the No Project alternative. Where substantial evidence supports the agency's findings, the agency's actions must be upheld. (*N. Coast Rivers Alliance v. Marin Municipal Water District Bd. of Dirs.* (2013) 216 Cal.App.4th 614; see also *El Morro Community Assn. v. Cal. Dept. of Parks and Recreation* (2004) 122 Cal.App.4th 1341, 1349 [court must uphold the EIR "if there is any substantial evidence in the record to support the agency's decision that the EIR is adequate and complies with CEQA"] (italics added).)

B7-3: The commenter asserts the No Project alternative should have included all projects listed in Transportation 2035 and that the omission of projects listed in Transportation 2035 results in understated impacts of the No Project alternative with respect to the construction and operation of transportation projects and overstated impacts of the proposed project. As discussed in response B7-2 and in the Draft EIR, the Draft EIR included projects that are identified as "committed" in MTC Resolution 4006, which does not include all projects listed in Transportation 2035. (Draft EIR, p. 3.1-5.) The committed projects provide a more realistic no project scenario than simply including all projects in Transportation 2035, and as such are the proper basis for the description of the no project alternative. The No Project alternative does not assume all projects included in Transportation 2035 are implemented. RTPs are updated every four years because circumstances – both for individual projects and more generally – change over the life of the plans. There have been a number of changes in project definitions and costs, available revenues, and project sponsor priorities since adoption of Transportation 2035 in April 2009. MTC and ABAG cannot reasonably assume that all projects in Transportation 2035 would be implemented if Plan Bay Area were not approved.

B7-4: See responses B7-2 and B7-3 regarding adequacy of the no project alternative and its comparison against the proposed project.

The commenter asserts that MTC violated CEQA's prohibition against project segmentation by making certain policy decisions in 2011 and 2012 regarding the definition of committed

projects. The commenter speculates that those policy changes may influence the performance of the no project alternative and the proposed project in the alternatives analysis, and therefore the proper time for environmental review was prior to adoption of the 2011 and 2012 resolutions.

The commenter's analysis is incorrect. MTC's 2011 and 2012 resolutions revised the definition of the term "committed projects." CEQA defines a project as an "activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." (Public Resources Code § 21065.) The 2011 and 2012 resolutions did not meet those criteria.¹

The commenter seems to suggest that any policy decision made by MTC, is subject to environmental review. The policy inputs that inform the Plan have been developed over time. To follow the commenter's logic every decision that has been made to provide a framework for the plan, since the current plan, Transportation 2035, was adopted would be subject to environmental review including the Plan's performance targets; the criteria for the One Bay Area Grant program; and, the criteria for Priority Development Areas and Priority Conservation Areas.

It would be an entirely unreasonable reading of CEQA to define the 2011 and 2012 resolutions as a "project" necessitating environmental review of an entire RTP/SCS. There is no basis for the commenter's position.

Commenter asserts the approval of the 2011 and 2012 resolutions constituted pre-approval action in violation of CEQA Guidelines § 15004(b)(2). CEQA Guidelines § 15004(b) states that "[c]hoosing the precise time for CEQA compliance involves a balancing of competing factors. EIRs ... should be prepared as early as feasible in the planning process to enable environmental considerations to influence project program and design and yet late enough to provide meaningful information for the environmental assessment." As the commenter points out, MTC and ABAG were still early in the public planning process that eventually defined the Plan when the 2011 and 2012 resolutions were adopted. MTC and ABAG had not yet adequately defined the RTP/SCS in a way that would allow for meaningful environmental review.

CEQA Guidelines § 15004(b)(2) states that agencies should not take actions "concerning the proposed public project that would have a significant adverse effect or limit the choice of alternatives or mitigation measures, before completion of CEQA compliance." In a related provision, CEQA defines a project "approval" as the "decision by a public agency which

¹ The Staff Memo regarding the committed projects policy can be found at:

http://apps.mtc.ca.gov/meeting_packet_documents/agenda_1629/04_0_Committed_Policy_PC_031111_Final.pdf

and the presentation at :

http://apps.mtc.ca.gov/meeting_packet_documents/agenda_1629/04_2_CommittedPolicy_PC_031111_final.pdf

commits the agency to a definite course of action in regard to a project" (CEQA Guidelines § 15352.) The adoption of the 2011 and 2012 resolutions does not meet those criteria. The revisions to the definition of "committed project" did not have the effect of limiting alternatives or mitigation measures in the RTP/SCS environmental review. It provided a clear framework by which projects could be assessed, including relative to the environmental review process. The 2011 and 2012 resolutions adopted by MTC did not constitute a commitment to the project that precedes environmental review. (*Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, 129-130.)

Furthermore, CEQA's longest statute of limitations (180-days) for a challenge to the adequacy of environmental review for the 2011 and 2012 resolutions has passed. (Public Res. Code § 21167.) MTC disagrees with the commenter's assertion that environmental review of the entire project should have occurred prior to the 2011/2012 policy decisions and, in any event, the time to raise that assertion has long since passed.

B7-5: The commenter assumes the No Project alternative has "an improper land use pattern." As discussed in response B7-3, the description of the no-project alternative is reasonable and supported by substantial evidence.

The No Project alternative projects a likely future growth pattern without the adoption of the Proposed Plan. For this exercise, existing policies must be interpreted into the future. The wide variety of urban growth boundaries and other "limit lines" currently existing in the Bay Area was documented by MTC and ABAG and an effort was undertaken to generalize about long-term policy implications of these limitations. No limit lines were described as permanent. Common situations involved lines that could be changed by a council or public vote (with numerous historical examples of expansions of this type), lines that required periodic new votes to remain in effect, and lines with no explicit rules regarding their longevity. This situation is not surprising given that the Portland Urban Growth Boundary (the most well-known planning limit line in the U.S.) was designed for periodic expansion and has been expanded more than once.

This situation rendered the assumption of all growth remaining within limit lines unlikely. Instead, MTC and ABAG took a different approach to get at likely overall regional expansion by calculating the increase in incorporated land (due to both city expansion and new city formation) over the past three decades. This analysis found that the increase in incorporated land was statistically related to population growth in the previous decade and hadn't slowed significantly in recent years. MTC and ABAG used this ratio and the projected population increases to calculate the amount of new land to be added to cities (and thus put within the limit lines). The construction of a three-decade spatial model to determine the location of this new land was not feasible within the time allowed. Instead, a scoring system assigned it to flat locations near highways since this general pattern seemed to hold over the past few decades. In its analysis, MTC and ABAG applied similar zoning to this land as found in nearby suburban areas and allowed it to develop within the market framework as modeled by UrbanSim.

B7-6: See responses B7-2 to B7-5.

B7-7: See responses B7-2 to B7-5.

B7-8: See responses B7-2 to B7-5.

Commenter Cites to *Planning and Conservation League v. Dept. of Water Resources* (2000) Cal.App.4th 892 (*PCL v. DWR*) to support the assertion that the No Project alternative improperly excludes uncommitted projects and that the growth pattern in the No Project alternative is inaccurate. *PCL v. DWR* does not support the commenter's position. In that case, the parties to a contract met to discuss amendments to certain provisions of the contract that both parties agreed needed to be revised. (*Id.* at p. 900.) The EIR, however, failed to disclose what would happen if the contract were not amended – in other words, the EIR failed to describe the no-project alternative. (*Id.* at pp. 917-920.) The court held the EIR was inadequate because it completely failed to analyze what was certain to happen if the parties did not amend the contract.

The Draft EIR for the Plan is not similar to the flawed EIR in *PCL v. DWR*. Here, as discussed in comments B7-2 through B7-7, the Draft EIR provided an accurate description of what is most likely to happen in the no project scenario, consistent with CEQA's requirements (Draft EIR, P.3.1-5).

B7-9: The commenter incorrectly characterizes the time period and the decision making process leading up to the adoption of the Jobs-Housing Connection Scenario. The housing control total for the Preferred Scenario adopted in Spring 2012 was informed by several key inputs in addition to local input. Inputs to the forecast that were not previously available included the 2010 US Census results indicating a lower level of growth between 2000-2010 than previously estimated by the US Census and the Department of Finance, the incorporation of inputs related to analysis by UC Berkeley, Strategic Economics, and the Center for the Study of the California Economy pertaining to impacts related to the 2008-2009 recession, the nation's deepest economic downturn since the Great Depression, and a consideration of how the Bay Area would likely emerge from recession and perform relative to the national and global economies in coming decades. The economic downturn had an enormous impact on the Bay Area's housing market including historically high vacancy and foreclosure rates in addition to a significant number of jobs lost in the region, which is taken into account in ABAG's jobs and population projections.

The Jobs-Housing Connection Scenario also took into account a detailed analysis related to shifting demographic changes including the rapid rise in the region's senior population projected through 2040, as well as the shifting employment and housing locational preferences of knowledge-based employers and their workers to more walkable, amenity rich, transit-served locations also informed the forecast changes. The control total for the Preferred Scenario that would become the Project and Draft Plan has been consistent and is based on recent trends in employment and demographics. See Master Response B.1 for more information on population projections.

The commenter misinterprets SB 375's requirement to provide adequate housing. The Plan complies with SB 375 by providing housing for "all the population." The Plan does so by planning for enough housing to accommodate the Bay Area's projected population through

2040, including no increase in the proportion of the population that commutes into the region from other counties.

There are an estimated 116,000 workers who currently commute into the Bay Area from outside the region. (Draft EIR, p. 2.1-17.) This amounts to approximately 3.4 percent of the Bay Area's workforce. The Plan and the Draft EIR assume that ratio of in-commuters will remain constant through 2040. This represents a marked change from recent decades in which the ratio has increased. The existing proportion of in-commuters is part of the existing conditions baseline and is not an environmental impact of the project. MTC's and ABAG's assumption that a certain proportion of the Bay Area workforce will continue to in-commute is reasonable.

The San Francisco Bay Area is not an isolated metropolitan area. In fact the nine county Bay Area is part of a larger metropolitan area recognized by the U.S Government. The United States Office of Management and Budget (OMB) has designated the 12-county San Jose-San Francisco-Oakland, CA Combined Statistical Area (CSA) for the greater San Francisco Bay Area. This designation is utilized by the US Census. The CSA comprises the following seven Metropolitan Statistical Areas (MSAs):

1. The San Francisco-Oakland-Hayward, CA Metropolitan Statistical Area comprising Alameda, Contra Costa, San Francisco, San Mateo, and Marin counties
2. The San Jose-Sunnyvale-Santa Clara, CA Metropolitan Statistical Area comprising Santa Clara and San Benito counties
3. The Stockton-Lodi, CA Metropolitan Statistical Area comprising San Joaquin County
4. The Santa Rosa, CA Metropolitan Statistical Area comprising Sonoma County
5. The Vallejo-Fairfield, CA Metropolitan Statistical Area comprising Solano County
6. The Santa Cruz-Watsonville, CA Metropolitan Statistical Area comprising Santa Cruz County
7. The Napa, CA Metropolitan Statistical Area comprising Napa County

The CSA ranks as the fifth most populous metropolitan area of the United States. The consolidated metropolitan area is based upon existing economic links including commute patterns between counties encompassing the nine Bay Area counties and the non-Bay Area counties of San Joaquin, Santa Cruz and San Benito² The consolidated 12 county metropolitan area directly abuts the adjacent Sacramento metropolitan area (the nation's 18th largest) and the Salinas metropolitan area.

It is unreasonable to assume that any action taken by MTC and ABAG will eliminate the daily commute of individuals across political boundaries. To give two examples: some number of Solano County residents will always travel to Sacramento County (approximately

² OMB Bulletin No. 13-01: Revised Delineations of Metropolitan Statistical Areas, Micropolitan Statistical Areas, and Combined Statistical Areas, and Guidance on Uses of the Delineations of These Areas". United States Office of Management and Budget. February 28, 2013. Retrieved April 17, 2013.

3,300 did in 1990³ and 4,500 in 2000⁴) to work and some number of Santa Cruz County residents will always travel to Santa Clara County to work (approximately 17,000 workers in 1990 and 21,000 in 2000). Commuting across regional lines is done for a multitude of reasons. Family, micro-climates, schools as well as preferences for certain lifestyles. If one wants to have a ranch, San Joaquin County might be more desirable than Alameda County. If one wants a beach town environment it's hard to beat Santa Cruz or Monterey. Yet people who seek those amenities may also commute to the Bay Area for work or have a partner that does so. It's unrealistic to assume that everyone who commutes across the line to Livermore or Gilroy is doing so because they have no other choice.

At the request of the commenter, the Draft EIR analyzes an alternative that eliminates in-commuters as part of the Draft EIR's reasonable range of alternatives (Alternative 4); MTC and ABAG are under no obligation to adopt that alternative, however. The commenter misinterprets the language in Alternative 4 regarding SB375's housing requirement. (Draft EIR, p. 3.1-10.) The language in the Draft EIR has been revised to eliminate any potential confusion. The revised language is included in Section 2 of this Final EIR.

MTC performed a sensitivity analysis that uniformly scaled up the Alternative 2 "proposed Plan control totals" (i.e., population and jobs) to match the Alternative 4 control totals. The result was a 17 percent reduction in per capita GHG emissions relative to 2005 (ignoring improvements in vehicle technology, i.e. the SB 375 metric). This reduction is slightly greater than the 16 percent reduction estimated for Alternative 2 using the proposed Plan control totals. Two factors contribute to this improved performance: (i) increasing the amount of housing and employment in the focused growth pattern of Alternative 2 provides travelers more opportunities to live and work in close proximity, slightly increasing the relative efficiency of travel in the Bay Area; and, (ii) the slight increase in population did not significantly increase congestion, which allowed travel speeds and effective miles per gallon to remain similar across the two scenarios.

B7-10: The language in the Draft EIR mistakenly implied that Alternative 4 was the only alternative that met the housing requirements in SB 375. The language has been revised and is included in Section 2 of this Final EIR.

B7-11: The commenter states that the Draft EIR's analysis of Alternative 4 departs from an unspecified "rule of the game" regarding the number of jobs that the alternative will support relative to the number of housing units. MTC and ABAG respectfully disagree. The job figure for Alternative 4 reflects the maximum number of jobs the region may reasonably assume in the forecast period based upon a variety of factors including national employment trends, the relationship of the region to national trends across various sectors, as well as housing availability. The housing control total for the project is based upon an assessment of

³ "Journey to Work in the San Francisco Bay Area – 1990 Census, Census Transportation Planning Package (Statewide Element)", Metropolitan Transportation Commission.

⁴ See Data Summary 5 here: http://www.mtc.ca.gov/maps_and_data/datamart/census/datasum.htm

how much housing is needed to support a strong, but reasonable level of job growth in the Bay Area. The level of job growth assumed in Alternative 4 reflects the maximum level of employment growth that the region can assume based upon the analysis of the employment forecast. Although housing capacity has a significant impact on employment growth, it is one of many factors that drive regional economic and employment growth.

In addition, analysis was done regarding the number of jobs that would be created by the larger population total. With new residents, household consumption stimulates additional economic activity because Bay Area businesses and public agencies will provide the goods and services that these household would have consumed in the neighboring regions. These additional jobs (approximately 45,000) were also included in the Alternative 4 jobs figures.

See Master Response B.1 for more information regarding the population projections.

B7-12: The comment asserts that the proposed Plan does not meet SB 375's housing requirement or the corresponding project objective. The comment also criticizes the Draft EIR's analysis of the in-commuting issue. Neither CEQA nor SB 375 requires an RTP/SCS to eliminate the existing ratio of in-commuters. The Plan and Draft EIR make the reasonable assumption that a certain portion of the Bay Area's workforce will continue to in-commute from surrounding areas into the nine county Bay Area region covered by the Plan. It is unreasonable to assert that workforce migration would simply stop at the boundaries of the Plan if a certain amount of residential units were constructed within the region. Regardless of the number of residential units in the area covered by the Plan, a certain portion of the population will still choose, for various reasons, to live in places such as Davis, Sacramento, Stockton, Tracy, Salinas, Santa Cruz, and Monterey.

The Plan complies with SB 375's requirement to house "all the population" by planning for enough residential units within the region for all new growth, which keeps the current proportion of in-commuters constant. As the Santa Clara VTA noted in comment A30-9, the Contra Costa Transportation Authority in comment A39-4, and the Solano Transportation Authority noted in comment A41-4, other metropolitan planning organizations share MTC's and ABAG's interpretation of SB 375's requirement to house all of the population. For instance, The Sacramento Area Council of Government's (SACOG) SCS acknowledges that "some people will always choose to commute to work," noting multiple factors that influence people's commuting decisions, such as housing cost, lifestyle, quality of schools, and two-person households.⁵ MTC's and ABAG's assumption regarding the continued reality of in-commuting is thus reasonable and consistent with other regional and local transportation agencies' practices.

B7-13: The comment asserts making a reasonable assumption that the proportion of in-commuters in the Bay Area will remain constant is an improper use of a "ratio theory" that is prohibited

⁵ Sacramento Area Council of Governments. Metropolitan Transportation Plan/Sustainable Communities Strategy, April 2012, available at <http://www.sacog.org/2035/files/MTP-SCS/MTPSCS%20WEB.pdf>.

by CEQA in the context of cumulative impacts analyses. The commenter cites no legal authority to support its assertion. Presumably, the commenter refers to the use of a ratio theory in analyzing cumulative impacts that was struck down by courts in *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 718 and *Los Angeles Unified School District v. City of Los Angeles* (1997) 58 Cal.App.4th 1019, 1025. The commenter's comparison of MTC and ABAG's reasonable assumption regarding in-commuters to the ratio theory invalidated in the *Hanford* and *LAUSD* cases is inapposite.

In the *Hanford* and *LAUSD* cases, the lead agencies used an approach to analyzing a project's cumulative impact by comparing the project's relative impacts to existing conditions that already exceeded thresholds of significance. The agencies in those cases found their projects' cumulative impacts would be less than significant because the impacts were small compared to existing cumulative conditions. The courts held the analysis was flawed because it did not adequately disclose and analyze a project's contributions to an already significant impact. Thus, it is improper to trivialize a project's cumulative impacts as small compared to a large, pre-existing significant impact condition. These cases, however, do not apply to MTC's and ABAG's reasonable assumption that a proportion of the Bay Area's workforce will continue to in-commute to the region.

The proportion of Bay Area in-commuters is part of the existing conditions baseline against which the Plan's impacts are measured. (Draft EIR, pp. 1.2-6, 1.2-33, 2.1-17.) As discussed in comment B7-12, nothing in CEQA or SB 375 mandates elimination of the existing ratio of in-commuters. The Draft EIR discusses in-commuters as a ratio or proportion of the Bay Area workforce, but it does not use the "ratio theory" for analyzing the project's contribution to cumulative impacts. The Draft EIR properly analyzes the project's impacts based on population projections that are supported by substantial evidence (See Master Response B.1), and reasonably assumes the proportion of the Bay Area workforce will remain constant. The Draft EIR does not attempt to trivialize the impacts of the plan as compared to a greater cumulative impacts scenario, as was the case in the *Hanford* and *LAUSD* cases.

The commenter is correct that the actual number of in-commuters will increase over the life of the Plan. In fact, the Draft EIR projects the number of in-commuters is expected to increase from 116,000 in 2010 to 155,000 in 2040. (Draft EIR, p. 1.2-33.) This is not a consequence of the Plan; rather, it is a reality that the Plan must address in its land use and transportation planning. By increasing housing opportunities in the Bay Area, the proposed Plan houses all of the region's population with no increase in the ratio of in-commuting, despite significant job growth.

B7-14: The commenter again asserts MTC and ABAG improperly changed a "rule of the game." Please refer to response B7-11 above. Furthermore, commenter asserts the Draft EIR failed to provide a "stable and finite project description" because ABAG's population, employment, and housing demand projections evolved over time in response to new input prior to the release of the Draft EIR. The commenter misunderstands CEQA's requirement that an EIR include a stable project description. EIR's must contain an accurate, stable, and finite project description. (*Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437, 1458.) The fact that ABAG refined its projections over time *prior to the release of the*

Draft EIR has no bearing on the stability of the project description in the Draft EIR. In fact, the project description has remained constant since release of the Draft Preferred scenario in May, 2012, approximately one year prior to release of the Draft EIR.

In *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3rd 185, 192, the court held an EIR is inadequate when the project description is unstable and shifts *within* the EIR. (See also, *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 655 [project description was misleading due to inconsistencies within the EIR].) Here, the Draft EIR clearly and consistently addresses the in-commuter issue in various places. (Draft EIR, pp. 1.2-6, 1.2-33, 2.1-17.) There are no inconsistencies in the Draft EIR's discussion of in-commuters, thus, there is no instability in the EIR's project description.

B7-15: The commenter contends that the jobs to housing unit ratio was a standard developed in creating the forecast and that the Draft Plan violates its own standard. ABAG and MTC did not create a standard for jobs to housing unit ratio. While the jobs to housing unit ratio is a useful measurement for assessing existing and future jobs and housing, it is a product of many other assumptions used in the forecast, including unemployment rates, housing vacancy rates, labor force participation rates, and demographic trends.

The commenter also contends that an increase in the jobs to housing unit ratio implies a larger increase of workers commuting from outside the region. We estimate that Bay Area jobs held by workers living outside the region will increase from approximately 116,000 in 2010 to 155,200 by 2040. However, we anticipate no increase in the ratio of in-commuters to all commuters, which is expected to remain at 3.4% throughout the 30-year forecast period.

The commenter's approach of citing an increase in the jobs to housing unit ratio over the 30-year period and then providing a jobs to housing unit ratio measurement of incremental jobs and housing is misleading. The jobs to housing unit ratio will change depending on housing vacancy rates and unemployment rates. As vacancy rates and unemployment rates increase, the jobs to housing unit ratio will decrease. Because the Bay Area was still recovering from the housing crisis and subsequent recession that began in 2008, both vacancy rates and unemployment rates were unusually high in 2010, contributing to an unusually low jobs to housing unit ratio. The Bay Area jobs to housing unit ratio in 2010 was 1.22, with an unemployment rate of 10.6% and an overall housing vacancy rate of 6.4%. The forecast assumes that unemployment rates will decline to 5.1% by 2020. This reduction in the unemployment rate assumes that roughly 200,000 workers who were unemployed in 2010 will become re-employed by 2020. The forecast also assumes that housing vacancy rates will decrease to 4% by 2020. Together, the decreases in the unemployment rate and the vacancy rate bring the jobs per housing unit ratio to 1.35. Then, as the Bay Area population ages, labor force participation rate (the proportion of working residents) will decline and the jobs per housing unit is expected to gradually decrease to 1.31 by 2040.

B7-16: The commenter re-asserts its prior comment B7-15 that the Plan is a return to "paper-planning." Please see response B7-15.

The commenter quotes portions of the proposed Plan referencing the Plan's commitment to house the region's increasing population. The Plan was able to house all new growth without

increasing the proportion of in-commuters and still achieve SB 375's GHG reduction targets which, as the quoted language suggests, is a significant achievement. The comment raises no environmental issues that require a response under CEQA.

B7-17: As discussed in Master Response B.1, ABAG's housing projections are reasonable and supported by substantial evidence. ABAG relied on those population projections to arrive at reasonable housing demand projections

The comment makes reference to three independent, but related, elements with respect to the regional forecast: (1) the validity of the regional housing forecast; (2) the rationale for modifications to the regional forecast; and (3) the proposed housing distribution in the Draft Plan.

With respect to the validity of the regional housing forecast, ABAG's housing projections are reasonable and supported by substantial evidence. During development of the Alternative Scenarios, released in September 2011, a preliminary housing growth estimate of 770,000 units was used as a placeholder, utilizing basic assumptions about employment and population growth, jobs per household ratios and pace of recovery of the housing market.

Following issuance of the Alternative Scenarios, ABAG and a team of consultants developed a rigorous and thorough methodology that creates internally-consistent job, population and household projections that are based on credible assumptions about key relationships including job shares, labor force participation rates, and household formation rates, among other critical factors. This regional forecast also reflects changing data regarding national, state, and regional demographic and economic conditions, most notably the recent sustained economic recession.

More specifically, the regional growth forecast starts with projected regional job growth, as in all major regional forecast modeling in California and around the nation including regional projections produced by SCAG, SANDAG, SACOG, AMBAG, and SBCAG, as well as in the regional population growth in the models used by the three major national forecasting firms – IHS Global Insight, Regional Economic Models, Inc., and Moody's.

Population growth is projected in terms of natural increases from births and deaths and migration into the region. The ABAG forecast uses California Department of Finance (DOF) fertility and mortality assumptions to determine the amount of natural increase in the population to develop a population profile. Migration, rather than being tied to recent trends, is forecasted as a function of job growth. From population growth, a forecast of households and housing units is developed.

The final housing forecast of 660,000 new units in the Draft Plan was calculated by incorporating detailed demographic information from the State Department of Finance (DOF) and the 2010 U.S. Census, including:

- Labor force participation rates by age and ethnicity
- Household formation rates by age and ethnicity
- Vacancy assumptions

- Unemployment rates
- In-migration assumptions
- Housing production constraints, including availability of funding to support affordable housing.

The regional housing forecast in the Draft Plan was developed through a reasoned, systematic approach to assessing growth, as noted above. This approach was presented to the ABAG Regional Planning Committee and the ABAG Executive Board in March of 2012. Furthermore, the housing forecast in the Draft Plan has undergone significant scrutiny and has been validated by the DOF and the California Department of Housing and Community Development (HCD).

The commenter inaccurately represents the rationale for the modifications to the housing forecast during development of the planning scenarios. As noted above, the regional forecast, including the housing forecast, in the Draft Plan was developed to create an internally-consistent job, population and household projections that are based on credible assumptions about key relationships and reflects changing data regarding national, state, and regional demographic and economic conditions. ABAG and MTC have never stated that the regional forecast was modified because of compulsion to do so by state or federal law. By our interpretation, however, the regional forecast *does* meet the standards and requirements set forth in both the state and federal statutes governing the Sustainable Communities Strategy.

With respect to the location of growth, many of the Priority Development Areas that collectively make up approximately 80% of projected housing growth are located outside of the urban core. In addition, the average density of development in Priority Development Areas (PDAs) is not projected to be 80 dwelling units/acre. Densities vary across the Priority Development Areas and the intensity of projected growth varies as well. The Place Types selected by jurisdictions for each PDA range from Transit Neighborhoods, with a potential range of 20-50 dwelling units/acre, to mixed use neighborhoods with a range of 25-60 dwelling units per acre, and Regional Centers with a range of 75-300 dwelling units/acre. The maximum density of four of the seven PDA place types is below 80 dwelling units/acre. (See, Jobs Housing Connection Strategy.) Most importantly, the Place Type densities are intended to provide guidance, but do not represent requirements. To be eligible to be a PDA, an area must have an average existing or planned density of 20 dwelling units/acre. By 2035, 35% of all housing units will be in PDAs.

While the Draft Plan acknowledges the challenges of infill development, ABAG and MTC tested the feasibility of the Plan with an assessment of a representative sample of PDAs from throughout the region by the renowned consultants at Economic and Planning Systems (EPS), deeply familiar with the market characteristics of each jurisdiction the Bay Area. Overall, the study concluded that the proposed development pattern contained in the preferred scenario, while ambitious, represents an achievable level of growth with sufficient policy changes, some of which are now underway or currently being advanced.

See Master Response B.2 regarding the Plan's feasibility.

B7-18: See Master Responses B.1 and B.2 regarding population projections and Plan feasibility.

It is unclear to which specific analyses of Chapple and Levy the commenter refers to regarding ranges of job and housing growth. This comment also inaccurately represents how the regional forecast of employment, population and housing was constructed. The regional forecast was not developed simply by pairing together various assessments of growth. Instead, the forecast incorporates the most recent data and trends and utilizes a sound and rational methodology. The work of Levy and Chapple do support the regional forecast, and were used as a starting point in developing the regional forecast. As noted in response B7-17, the final regional forecast was developed through a complex analysis that creates an appropriate alignment of employment, population and housing growth via a number of accepted forecasting factors, including labor force participation rates (by age and ethnicity), household formation rates (by age and ethnicity), in-migration and in-commuting rates, and vacancy and unemployment assumptions. This forecast analysis was then further constrained by optimistic assumptions for housing production. The rationale for this methodology and the factors and assumptions used are well documented in the Draft Forecast of Jobs, Population and Housing, a supplemental report to the Draft Plan (http://onebayarea.org/pdf/Draft_Plan_Bay_Area/Draft_PBA_Forecast_of_Jobs_Population_and_Housing.pdf).

B7-19: The comment makes conclusory, general assertions regarding the adequacy of the SCS and changes in MTC and ABAG policies that occurred during the development of the project. See responses B7-2 through B7-18 for detailed responses to the issues raised. For the reasons discussed in greater detail in responder's previous comments, MTC and ABAG disagree with the assertion that the Draft EIR fails as an informational document.

B7-20: See Master response B.2 regarding PDA feasibility and the PDA Development Feasibility and Readiness Assessment.

B7-21: The commenter references the "Burns Report" and asserts the Burns Report contradicts assumptions and conclusions in the Plan with respect to certain "macro regional issues."

The Burns Report disagrees with the analysis in the Plan, but it does not undermine the evidence relied on by MTC and ABAG. This is an important distinction. The fact that a purported expert disagrees with the Plan's assumptions and conclusions does not render the Plan's development pattern "arbitrary and capricious," as the commenter asserts. On the contrary, the approval of a project cannot be set aside under CEQA on the ground that an opposite conclusion could have been reached by relying on contradictory evidence. (*Greenebaum v. City of Los Angeles* (1984) 153 Cal.App.3d 391, 401.) Challenges to the scope of the analysis, the methodology for studying an impact, and the reliability or accuracy of the data present factual issues, so such challenges must be rejected if substantial evidence supports the agency's decision as to those matters and the EIR is not clearly inadequate or unsupported." (*Federation of Hillside & Canyon Assns. v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1252 (Federation).) Here, substantial evidence supports the conclusions in the Draft EIR. Where substantial evidence supports the agency's findings, the agency's actions must be upheld. (*N. Coast Rivers Alliance v. Marin Municipal Water District Bd. of Dir.* (2013) 216 Cal.App.4th 614; see also *El Morro Community Assn. v. Cal. Dept. of Parks and*

Recreation (2004) 122 Cal.App.4th 1341, 1349 [court must uphold the EIR “if there is any substantial evidence in the record to support the agency’s decision that the EIR is adequate and complies with CEQA”] (*italics added*.)

The Burns Report provides a very general critique of the development pattern in the Plan, however, it does not undermine any of the analysis or conclusions in the Draft EIR. In fact, the Burns Report doesn’t even reference the Draft EIR. Furthermore, the Burns Report constitutes an argument for last generation’s growth strategy – single family homes in sprawling suburban communities – based on analyses of last generation’s preferences. The Plan, on the other hand, represents a departure from past development patterns towards more compact and sustainable communities.

The Burns Report provides a critique, again at a very general level, of a report by Arthur Nelson for the Urban Land Institute titled “The New California Dream: How Demographic and Economic Housing Trends May Shape the Housing Market: A Land Use Scenario for 2020 and 2035.” The Nelson Report is a much more detailed academic analysis than the Burns Report. The Nelson Report is also a forward-looking projection of housing demand over a time period that is much more relevant to MTC and ABAG for the purposes of developing the Draft Plan than the general analysis of past housing trends supplied by the Burns Report. The Nelson Report disagrees with the conclusions in the Burns Report regarding the demand for new single family residential development. After considering the relevant evidence, MTC and ABAG reached their own conclusions regarding the appropriate development pattern in the Draft Plan. Nothing in the Burns Report undermines those conclusions.

B7-22: ABAG did not calculate the number of new units that are single-family or multi-family. However, there are estimates on the number of households living in single-family or multi-family units. ABAG estimates approximately 215,000 multi-family households and approximately 465,100 single-family households in the region. These represent approximately 31 percent and 69 percent, respectively, of the regional total of new households.

B7-23: The commenter requests detailed data that are not available at the regional planning level. At this time, MTC and ABAG cannot predict with certainty the information the commenter requests, nor is that information needed in order to conduct programmatic environmental review. “While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all it reasonably can. (CEQA Guidelines § 15144.) MTC and ABAG have met their information disclosure requirements for this project.

B7-24: See responses B7-23.

B7-25: See responses B7-23.

Letter B8 Sierra Club (5/16/2013)

- B8-1: Commenter's support of Alternative 5 and for locating "high opportunity" areas near transit within PDAs is acknowledged. Commenter's requests will be considered by MTC and ABAG prior to taking final action on Plan Bay Area.
- B8-2: The health issues raised in this comment are explicitly addressed in Chapter 2.2 of the Draft EIR and in particular in the dispersion modeling of pollutants near freeways (see Draft pgs. 2.2-39 to 2.2-41) and the analysis of local pollutant concentrations (Draft EIR pgs. 2.2-40 and 2.2-41). Mitigation measures are proposed to address these impacts. The EIR also notes that these mitigation measures may not be sufficient to reduce all impacts to less than significant levels, and that additional site specific analysis may be needed. Because local agencies cannot be required to adopt these mitigation measures, this impact remains significant and unavoidable. Individual transportation projects under Plan Bay Area, including highway development, will also require a project-level environmental review which must take into account the impacts of air pollution among other issues. See response B25-8 regarding health impacts associated with toxic air contaminants.
- B8-3: The issue of sea level rise is explicitly addressed in Draft EIR Chapter 2.5 and states sea level rise may result in a potentially significant impact and lists specific mitigation measures focused on creating an adaptation strategy for the Bay Area. Enforcement responsibility would rest with local governments and the land use authority they retain under the proposed Plan would not change, so responsibility for enforcing risk mitigation measures would devolve to these jurisdictions under the mitigation measures proposed for this criterion. State agencies' responsibilities for sea level rise planning and adaptation were set in place in Executive Order S-13-08, and the proposed Plan would not change that obligation. The proposed Plan would ask implementing agencies to require project sponsors to incorporate appropriate adaptation strategies into local transportation and land use projects. MTC and ABAG also will be formulating regional guidance to facilitate implementation of a regional sea level rise adaptation strategy. See Master Response E for additional information on sea level rise.
- B8-4: The Draft EIR fully addresses impacts that might affect wildlife and habitat in Chapter 2.9. Mitigation measures to minimize potentially significant conflicts with local habitat conservation initiatives and protect significant natural resources are identified. These include preparation of biological resources assessments (Measure 2.9(a)), consultation with responsible agencies and project redesigns (Measure 2.9(b)), preconstruction breeding bird surveys (Measure 2.9(c)), "no net loss" programs for wetlands and mitigation banking (Measure 2.9(d)), wildlife corridor protection and enhancement (Measure 2.9(e)), and maximum feasible consistency with adopted habitat conservation programs and conservation strategies (Measure 2.9(g)). However, because responsibility for some of these measures would devolve to local governments and MTC and ABAG cannot require compliance, the impacts under some criteria would remain significant. In other instances (e.g., for Measures 2.9(f), 2.9(g) and 2.9(h)) where the measures are tied to existing regulations that are law and binding on local agencies, the impact would be less than significant.

Letter B9 Chinatown Community Development Center (5/16/2013)

- B9-1: For a detailed description of the analysis of population displacement, please refer to Master Response F. Note that much of the displacement pressure in San Francisco will come from population growth anticipated through 2040 regardless of the proposed Plan (see Master Response B.1). As Table 3.1-3 in the Draft EIR shows, the number of households in San Francisco is expected to grow from 345,000 in 2010 to 447,000 under the proposed Plan (30 percent increase), but would grow to 436,000 under the No Project alternative (26 percent increase). The proposed Plan would add 11,000 households to San Francisco beyond the No Project alternative's 80,000 household increase. Furthermore, future development in San Francisco under the proposed Plan will still be subject to all local laws and regulations regarding affordable housing, rent control, and other anti-displacement measures. See Master Response A.1 regarding local control.
- B9-2: See response B9-1. The EIR did consider three alternative strategies for regional growth, in addition to the No Project alternative. Decision-makers will weigh the advantages and disadvantages of each alternative in determining which option to adopt.
- B9-3: The proposed Plan provides a blueprint for regional growth. The RHNA is a separate program which will take the growth distribution proposed in the final adopted Plan Bay Area into account along with other factors when assigning housing numbers and income targets. See Master Response F regarding displacement and initiatives included in the Plan to support affordable housing.
- B9-4: See response B9-1. MTC and ABAG do not control State legislation, but may advocate for such reform as part of Plan implementation. MTC and ABAG will work with local jurisdictions and community stakeholders in advocating for future legislation that will benefit the region as part of Plan implementation.
- B9-5: The Draft EIR examined impacts on character in Chapters 2.10, Visual Resources, and 2.11, Cultural Resources. Future land development in San Francisco under the proposed Plan will be subject to all discretionary review of the City of San Francisco, including zoning and design guidelines, even if it qualifies for CEQA streamlining; see Master Response A.1 for more information on local land use control and A.2 regarding CEQA streamlining. The commenter's opposition to congestion pricing is acknowledged; there will be many opportunities for public input in that individual project as it moves forward.
- B9-6: The comment is correct that the proposed Plan would increase VMT on already congested roadways compared to existing conditions. However, this analysis is at a region-wide level and does not speak to the impact on specific roadways within San Francisco, let alone Chinatown. Localized roadway impacts will be analyzed and mitigated, if required, by project-level environmental analysis. See Master Response A.3 regarding the specificity required of this program EIR. In addition, as discussed in the Draft EIR on page 3.1-20 (as corrected in Section 2 of this Final EIR), "the No Project alternative leads to per-capita congested VMT levels that are 150 percent higher than the proposed project during the AM peak, 74 percent higher during the PM peak, and 115 percent higher over the course of a typical weekday." That suggests that this impact is a consequence of regional population

growth and economic activity and that the proposed Plan will in fact provide a beneficial result on this issue compared to a No Project scenario. The proposed Plan includes multiple transportation programs designed to combat this issue, listed on p. 2.1-33, and would include Mitigation Measures 2.1(a), (b), and (c) as well.

Page 2.2-36 of the Draft EIR actually finds that the proposed Plan would reduce ROG, NO_x, CO, and PM_{2.5} from on-road mobile sources compared to existing conditions. Further, although the Draft EIR does find in Impact 2.2-6 smaller decreases of TACs and/or PM_{2.5} emissions in disproportionately impacted communities compared to the remainder of the Bay Area communities, Tables 2.2-11 and 12 show that these communities of concern (CARE community) within San Francisco would experience not only a net decrease in on-road mobile source exhaust emissions (both overall and PM emissions), but would experience a larger decrease in such emissions than the rest of the city. As described above, however, and in Master Response A.3, this regional, program EIR does not assess the impacts of the Plan on specific neighborhoods. Future projects or second tier plans with the potential to impact specific neighborhoods must comply with CEQA.

B9-7: Please see Master Response A.1 regarding local control over land use and see Master Response I regarding development of the PDAs.

Letter B10 Ditching Dirty Diesel Collaborative (5/16/2013)

B10-1: See Master Response C regarding the request to extend the public comment period.

B10-1.5: Commenter's support for Alternative 5 is acknowledged and will be forwarded to MTC and ABAG for consideration.

B10-2: The intent of the local pollutant analysis in the Draft EIR was to identify areas within the Bay Area that were above a concentration of toxic air contaminants/particulate matter that should be further analyzed when land use projects with sensitive receptors are proposed. The analysis assumed that sensitive receptors will be located in these areas without regard to the total number of sensitive receptors, whether it is one person or one million people is irrelevant at this level of analysis. Plan Bay Area does not change or alter any existing land use or zoning classifications within any local jurisdiction in the Bay Area. The air quality analysis in the Draft EIR assumed that sensitive land uses could be developed in areas that are already disproportionately impacted from diesel particulate matter, toxic air contaminants and particulate matter in general. See also response B25-8 regarding the health impacts associated with toxic air contaminants.

B10-3: The local impact analysis in the Draft EIR is based primarily on dispersion modeling of diesel particulate matter to determine the increased health risk for individuals living near major roadways and or stationary sources of air pollution. The Draft EIR did not conduct a much broader Health Impact Assessment which considers social, economic and other environmental influences, as that is beyond the scope of a regional program EIR for the SCS. The location of affordable housing, availability of nutritious food and safety from violent crime are in part dependent on land use decisions made by local jurisdictions. Plan Bay Area does not propose or change any existing land use or zoning designations that

would influence these other factors considered in a Health Impact Assessment and therefore this type of analysis would not be appropriate for the proposed project. See also response B25-8 regarding the health impacts associated with toxic air contaminants.

- B10-4: An equity analysis was provided in Plan Bay Area, please see http://onebayarea.org/pdf/Draft_Plan_Bay_Area/Draft_Equity_Analysis_Report.pdf. The demographics of potential future residents within the Bay Area is not considered an environmental issue requiring analysis in the Draft EIR. However, Chapter 2.2 of the Draft EIR, under Impact 2.2-5(c) analyzed whether the proposed Plan could result in noncompliance with an adopted Community Risk Reduction Plan and under Impact 2.2-6 whether the proposed Plan could result in a localized larger increase or smaller decrease of TACs and or PM_{2.5} emissions in disproportionately impacted communities compared to the remainder of the Bay Area communities. The Draft EIR found the impact of the former to be less than significant, but did find a significant and unavoidable impact on the latter in spite of Mitigation Measures 2.1(a), (b), (c) and 2.2(d), (e), and (f) since exact impact reductions from the mitigation measures are not known at this time. See also response B25-8 regarding the health impacts associated with toxic air contaminants.
- B10-5: MTC and ABAG cannot directly influence or “prevent” the future location of logistic services as they do not have any land use authority. The land use and travel models used by MTC take into consideration social and economic influences to predict regional traffic distribution, VMT and levels of congestion. The MTC travel model explicitly represents commercial vehicle movements and these movements are shaped by the distribution of employment in the region. As employment moves to suburban locations, commercial vehicles follow. As such, MTC’s estimates of congestion and emissions are informed by estimates of commercial vehicle movements. Therefore, the number of truck trips and their potential routes are estimated in these models, which is then used in the air quality analysis. See *Summary of Predicted Traveler Responses* Supplemental Report for more details on the travel model.
- B10-6: The land use and travel models used by MTC estimate the number of daily commuters entering the region from outside the Bay Area. These models take into consideration the cost of living in the Bay Area and those effects on low income workers who cannot afford to live in the Bay Area. The air quality analysis uses these estimates from the travel model to estimate emissions, including CO₂ and PM emissions. Therefore, daily commuters are accounted for in the emissions analysis..
- B10-7: The commenter is correct that reducing VMT would reduce PM₁₀ impacts. In the analysis of Impact 2.2-3(b), the Draft EIR also includes Mitigation Measures 2.1(a), (b), and (c), which will help reduce VMT/emissions, as well as 2.2(d) and (e) which include project design features to reduce the impacts of future land use development. Furthermore, the proposed Plan is fundamentally designed to reduce VMT through its transportation investment strategy and proposed land development pattern so further mitigation options are limited. While commenter notes generally that “additional measures to reduce VMT are called for to mitigate this impact”, commenter does not identify any additional measures for consideration. Commenter’s speculation that additional measures exist does not constitute

substantial evidence. (CEQA Guidelines, § 15384(a) [substantial evidence is *not* conjecture, nor is it speculation or unsubstantiated opinion or narrative].)

- B10-8: This comment is not related to the adequacy of the Draft EIR and is an issue for implementing agencies and/or project sponsors.
- B10-9: Please see Master Response F regarding displacement.
- B10-10: Please see Master Response F regarding displacement.
- B10-11: As discussed in Chapters 1.2 and 2.3 of the Draft EIR, the proposed Plan would accommodate projected population growth and even incorporates an assumed regionwide vacancy rate of four percent (Draft EIR, p.1.2-6). As a result, as pages 2.3-35 to 36 of the Draft EIR explain, “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.”
- B10-12: See response B10-11 and Master Response F regarding displacement. The Draft EIR acknowledges there will be projected growth outside of PDAs, as is shown in the Draft Plan. Page 1.2-25 of the Draft EIR states that, “PDAs would absorb about 77 percent of new housing and 63 percent of new jobs.”
- B10-13: Alternatives 3, 4, and 5 are all calibrated to meet the SB 375 requirement to accommodate the region’s projected growth, so response B10-11 applies to those alternatives as well. Also see response B10-6 regarding what the models take into consideration.
- B10-14: SB 375 directed CARB to assign GHG emissions reduction targets to be attained by 2020 and 2035 by each region as a result of its RTP/SCS. See Master Response D.1 for a description of what measures may be included in analysis for the SB 375 target. As cited and analyzed in Chapter 2.5 of the Draft EIR, CARB assigned the Bay Area GHG emissions reductions targets of 7 percent below 2005 levels by 2020 and 15 percent below 2005 levels by 2035. The analysis under Impact 2.5-1 concluded that the proposed Plan would reach those targets. As a result of this finding, an APS is not required.
- B10-15: The criterion of significance adopted for this EIR is simply that the proposed Plan does not impede attainment of the 2050 goals of Executive Orders S-3-05 and B-16-2012. Under CEQA, the lead agency has considerable discretion to decide which significance threshold to apply to an impact. If supported by substantial evidence, that threshold is adequate, regardless of whether a petitioner proposes an alternative threshold. (*Citizens for Responsible Equitable Environmental Development v. City of Chula Vista* (2011) 197 Cal.App.4th 327, 335-336 (CREED) [rejecting petitioner’s argument that the City erred by failing to apply a different significance threshold]; (*California Oak Foundation v. Regents of University of Cal.* (2010) 188 Cal.App.4th 227, 282 [rejecting argument that a lead agency used the incorrect significance threshold]; *National Parks & Conservation Assn. v. County of Riverside* (1999) 71 Cal.App.4th

1341, 1356-1357 [upholding the County's biological significance threshold as supported by substantial evidence].) Here, MTC operated within its discretion when it adopted the significance thresholds identified in the EIR. (See also *N. Coast Rivers Alliance v. Marin Municipal Water District Bd. of Dirs.* (2013) 216 Cal.App.4th 614 [upholding a GHG threshold based upon whether the project would interfere with the lead agency's goal of reducing GHG emissions to 15 percent below 1990 levels by 2020].)

As discussed in the analysis of Impact 2.5-3, the proposed Plan drives GHG emissions reductions in the correct direction and meets CARB's goals for the region. Reaching those goals will involve contributions from many plans, including those listed on p.2.5-60, as well as CARB's own acknowledgement of a need for new technologies and strategies to reach the goals, cited on the same page. Furthermore, CARB's scoping plan includes measures such as the Low Carbon Fuel Standard, Pavley regulations, and enhanced CAFE standards that MTC and ABAG are not allowed to consider in attaining the SB 375 targets. See Master Response D.1 for a description of what measures may be included in analysis for the SB 375 target.

In brief, the proposed Plan is one of many strategies placed in motion by the State to help reach the goals of the Executive Orders. The proposed Plan does not impede other programs and fulfills its own legal obligations.

B10-16: The proposed Plan is fundamentally designed to lower the greenhouse gas emissions of the Bay Area region, itself a climate change reduction strategy. Please refer to Chapter 2.5 of the Draft EIR and Master Response E on sea level rise.

The adaptation strategies cited may be recommended as a result of a regional sea level rise adaptation strategy required of Mitigation Measure 2.5(b) and shall be taken into consideration by MTC and ABAG for that effort.

B10-17: Chapter 2.13, Hazards, states the possible impacts of the Plan and mitigation measures related to the release of hazardous materials into the environment. Impact 2.13-2 states the possibility of hazardous materials being release into the environment as a result of the proposed Plan. Mitigation measure 2.13(b) provides adequate mitigation measures related to Impact 2.13-2.

B10-18: Chapter 2.13, Hazards, states the possible impacts on airport operations and mitigation measures related to the impacts of the Plan on public use airports in the region. Impact 2.13-5 states the possible impacts as a result of implementation of the proposed in relation to land development near airport flight corridors. This impact is considered to be less than significant after mitigation. Mitigation measure 2.13(e) provides measures that, when considered and implemented by implementing agencies and/or project sponsors, will make the impact less than significant. Please refer to Master Response A.1 on local control over land use.

B10-19: Chapter 2.14, Public Services, states the possible impacts of the Plan and mitigation measures related to parks and recreation facilities. Impact 2.14-1 states the possible impacts of environmental impacts related to parks and recreation facilities. Mitigation measure

2.14(a) provides adequate mitigation measure related to impact 2.14-1. In applying this mitigation measure, impacts would be less than significant.

B10-20: An EIR cannot guarantee mitigation when changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. (CEQA Guidelines, § 15091, subd. (a)(2).) See Master Response A.1 on local control over land use and Master Response A.3 on the level of specificity in the EIR.

B10-21: Please see response B25-8 related to public health impacts of exposure to toxic air contaminants.

B10-22: No attachment was received by MTC and ABAG.

Letter B11 East Bay Housing Organizations (5/16/2013)

B11-1: Your support of Alternative 5 is acknowledged and your request to include components of it in Plan Bay Area will be considered by MTC and ABAG prior to taking action on Plan Bay Area.

B11-2: The commenter requests that 25,000 RHNA units be shifted from PDAs to PDA-like places. The distribution of housing in the proposed Plan was adopted in July 2012 by the ABAG Executive Board and the Commission as the Preferred Alternative. This followed extensive consultation with local jurisdictions, stakeholders, and the general public. The proposed Plan's housing distribution identifies the locations that can accommodate future growth, including the scale and type of growth most appropriate for different types of locations. It provides a more focused growth pattern for the region than historic trends, identifies locations for future housing growth while recognizing the unique characteristics of the Bay Area's communities. Relative to the assertion that the proposed Plan's land-use pattern is not feasible, the Priority Development Area Readiness Assessment found that the proposed Plan's growth allocations represent an achievable, if not easy, outcome consistent with the scope and purpose of a comprehensive regional plan. The assessment also found that it is not at all certain that non-PDA areas are more "ready" for significantly more growth than has been allocated to them under the proposed Plan. See Master Response B.2 regarding PDA Feasibility.

Shifting low and moderate income housing to job and transit rich suburbs, would require a dramatic increase in housing subsidies for which no funding source has been identified. Redistributing housing to suburban locations also conflicts with SB 375's requirement to "utilize the most recent planning assumptions considering local general plans and other factors." (Government Code Section 65080(b)(2)(B).)

The request that the OneBayArea Grant program be modified to ensure that recipients adopt and implement strong anti-displacement protections and provide substantial regional funding for community stabilization measures will be considered as MTC and ABAG deliberate the final Plan recommendations.

- B11-3: The Draft EIR does not recommend or select which alternative should be selected by decision-makers. The Findings and Statement of Overriding Considerations which accompany action on the EIR and proposed Plan will include a thorough analysis of the environmental impacts, feasibility, and performance against project objectives of the proposed Plan and the alternatives.
- B11-4: See Master Response F regarding displacement. MTC and ABAG will consider additional support for affordable housing and additional funding for transit operations and capital, as well as local streets and roads maintenance, prior to taking action on Plan Bay Area.

Letter B12 Federated Indians of Graton Rancheria (5/16/2013)

- B12-1: As part of the CEQA process, evaluation of impacts on cultural resources is required. Please refer to Chapter 2.11 of the Draft EIR for the impact analysis of cultural resources in the region. Your request regarding Sonoma and Marin counties will be considered during the next RTP/SCS update, though note that PDAs are voluntary designations made by local jurisdictions and so the proposed Plan attempts to tie future growth to this local-level support of growth. See Chapter 1.2 of the Draft EIR for a list of new transportation projects in the proposed Plan, accompanied by general location maps, and Appendix J of the Draft EIR, added through Section 2 of this Final EIR, for a list of all PDAs.
- B12-2: UrbanSim explicitly represents future projects that meet specific criteria: 1) the project is a public-private partnership, 2) the project is very large in size (over 1 million square feet commercial or 500 units), and 3) the project is underway (under construction or significant amounts of money and time have been spent on acquiring permissions). These are projects that would be unlikely to occur in the land market without government intervention and large enough to have a regional impact on transportation patterns. All other projects (i.e. the great majority of growth predicted by UrbanSim) are modeled as an outcome of the UrbanSim real estate developer submodel. Neither the Graton Casino and Resort (under 600,000 square feet) nor the Sutter Hospital (under 175,000 square feet) meet this size criteria. Sonoma Mountain Village was not included because the project is almost totally private, with limited direct public subsidy. MTC and ABAG do not oppose these projects; we actively tried to capture them in our Proposed Plan. For instance the Sonoma Mountain Village is a Priority Development Area and the level of growth projected in the plan for the area is based in part in large part of local jurisdictional input, and the neighborhood plan for this area.
- B12-3: Reference to the Draft Tribal Transportation Plan has been added to the Regional and Local Statutes section of the Draft EIR, Chapter 2.1, page 2.1-22, as shown in Section 2 of this Final EIR.
- B12-4: MTC and ABAG commend the Tribe's efforts to implement the Tribal Electrical Vehicle Carshare and EV Charging Network Project for Sonoma and Marin counties. The project is one of the electric vehicle projects included in the MTC Climate Initiatives Program Innovative Grants, which funds innovative projects such as the advancement of electric vehicles. MTC will highlight the successes and lessons learned from this project so that other

agencies, tribal governments and organizations may learn from and replicate the project within their communities.

B12-5: The Sonoma-Marín Area Rail Transit (SMART) project is included in Plan Bay Area from Larkspur in Marin County to Windsor in Sonoma County, which includes the Initial Operating Segment and Phase II extensions to Larkspur and Windsor. SMART Phase 3, extending from Windsor to Cloverdale, is included in Plan Bay Area only for environmental studies as a result of its low benefit-cost ratio in the Plan Bay Area Project Performance Assessment. In particular, this northernmost segment of the SMART project lacks substantial ridership and was identified as a potentially cost-ineffective use of regional transportation funding. An overview of the Project Performance Assessment and the compelling case process for low-performing projects can be found in the response B25-5, as well as in the Plan Bay Area *Draft Performance Assessment Report*.

B12-6: The WeGo Rideshare project was not submitted as an individual project for funding as part of the Proposed Plan project selection. It therefore cannot be included as a stand-alone project in the Plan. However, funds are included in the proposed Plan for the continuation and expansion of the Climate Innovative Grants Program. WeGo Rideshare is currently funded by a climate grant, and it is anticipated the program will apply for future grant funds to continue the project. Should it be selected for future funding, it would continue as part of that regional program and does not need to be listed separately in the Plan.

Letter B13 Earth Justice (5/16/2013)

B13-1: The GHG emissions analysis in the Draft EIR is consistent with the requirement of measuring benefits related to SB 375 separately from technology and efficiency measures in the Scoping Plan. In response to Commenter's assertion that the Draft EIR's reductions are achieved by taking credit for reductions that will be achieved under separate statutory mechanisms, "a condition requiring compliance with environmental regulations is a common and reasonable mitigating measure." (*Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 236-37 [upholding mitigation measures that required compliance with regulatory permitting], quoting *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 308; see also *Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884 [upholding a seismic mitigation measure requiring compliance with all state and local building regulations].) After conducting a thorough analysis of the Plan's methodology, CARB staff concluded that the Plan's methodology is sound and, if implemented, the Plan would meet CARB's 2020 and 2035 GHG reduction targets.⁶ CARB's Technical Evaluation (p. 21) states:

⁶ Id. at p. 107, lines 15-16. See also, Draft Technical Evaluation of the Greenhouse Gas Emissions Reduction Quantification for the Association of Bay Area Governments' and Metropolitan Transportation Commission's SB 375 Sustainable Community Strategy ("Technical Evaluation"), June 2013, p. 5.

MTC and ABAG have appropriately not included GHG emissions reductions from the technology and fuel programs adopted by CARB, such as the Low Carbon Fuel Standard and the Advanced Clean Cars program. This is because the targets adopted by ARB in 2010 do not include reductions from these statewide technology and fuel programs, but rather focus on reductions from strategies implemented at the regional and local level.

See also Master Response D.1 for information on greenhouse gas emissions included in the analysis for the SB 375 target.

B13-2: MTC and ABAG conducted an extensive screening process to identify potential Plan alternatives and to ultimately identify a reasonable range of alternatives for full evaluation in the EIR. The range of alternatives studied in the EIR reflects a reasonable attempt to identify and evaluate various types of alternatives that would potentially be capable of reducing the environmental effects of the Plan Bay Area. The examination of this broad range of alternatives was an iterative effort with significant community involvement, which informed MTC and ABAG in their development and refinement of potential Plan Bay Area project alternatives. The five alternatives analyzed in the EIR (including the proposed Project) cover a comprehensive range of reasonable alternatives, in compliance with CEQA.

Moreover, each alternative was subject to the same quantitative analysis of GHG emissions as the proposed Plan; the same model runs were made, each with different input data reflecting the transportation network and land use assumptions for that alternative. The model output was then compared for each criterion, and the results presented in tables providing a systematic and logical comparison of differences. Chapter 3.1 of the Draft EIR, which evaluates alternatives to the proposed Plan, includes 56 tables comparing outcomes of the alternatives to the proposed Plan and to each another. Furthermore, per CEQA Guidelines section 15126.6(d), the impacts of the alternatives may be discussed “in less detail than the significant effects of the project proposed.” The Draft EIR found that Alternative 5 would have the largest reduction in annual total GHG emissions, although only marginally (see Table 3.1-29), and was identified as the environmentally superior alternative. The proposed Plan performs comparably in reducing per-capita GHG reductions. (See Table 3.1-28.) See also Master Response D.1 for information on greenhouse gas emissions included in the analysis for the SB 375 target.

B13-3: The Plan is required to attain *per capita* emissions reductions from cars and light trucks, to achieve a target assigned to the Bay Area region by CARB, per SB 375. This target can be attained through a combination of transportation investments and policy and a proposed land use development pattern that will reduce VMT. MTC and ABAG are restricted in the technologies and strategies they can consider in reaching this target; see Master Response D.1 for information on the analysis for the SB 375 target. As Table 2.5-7 of the Draft EIR shows, the proposed Plan reaches those targets.

As a result of the EIR scoping process, MTC and ABAG decided to also set a significance criterion regarding whether the proposed Plan could result in a net increase in direct and indirect GHG emissions in 2040 when compared to existing conditions. Under CEQA, the lead agency has considerable discretion to decide which significance threshold to apply to an

impact. If supported by substantial evidence, that threshold is adequate, regardless of whether a petitioner proposes an alternative threshold. (*Citizens for Responsible Equitable Environmental Development v. City of Chula Vista* (2011) 197 Cal.App.4th 327, 335-336 (CREED) [rejecting petitioner’s argument that the City erred by failing to apply a different significance threshold]; (*California Oak Foundation v. Regents of University of Cal.* (2010) 188 Cal.App.4th 227, 282 [rejecting argument that a lead agency used the incorrect significance threshold]; *National Parks & Conservation Assn. v. County of Riverside* (1999) 71 Cal.App.4th 1341, 1356-1357 [upholding the County’s biological significance threshold as supported by substantial evidence].) Here, MTC operated within its discretion when it adopted the GHG significance thresholds identified in the EIR.

Moreover, this analysis for Impact 2.5-2 is not required by SB 375 and was always intended to include Pavley, LCFS, and the effects of some State efforts from the Scoping Plan (Draft EIR, pgs. 2.5-43, 2.5-50, and 2.5-55) as shown in Table 2.5-9. Unlike the SB 375 mandated target, this criterion measures total emissions, rather than per capita emissions. The *total* vehicle GHG emissions increase shown in Table 2.5-9 is a result of regional growth that will occur with or without the proposed Plan; this is emphasized in the contrast with the *per capita* car and light truck GHG emissions decrease shown in Table 2.5-7. The analysis under Impact 2.5-2 properly concludes there is no adverse impact and no mitigation measures are required.

B13-4: See responses B13-1, 2, and 3, as well the following responses that address these comments in detail: responses B13-7 through 23.

B13-5: The statutory framework described has governed preparation of this EIR. The objective was to include statements about all significant effects on the environment of the proposed Plan and mitigation measures to minimize impacts, which are in Chapters 2.0 through 2.14, and to compare these effects with alternatives, which is done in Chapter 3.1. The CEQA-required conclusions, including statements about unavoidable and/or irreversible effects and growth-inducing impacts are in Chapter 3.2. The methodology and scope of analysis is intended to fully inform decision-makers of the environmental consequences of the proposed Plan, providing them with information, which will enable them to make a decision which intelligently takes account of these consequences.

B13-6: See responses B13-1, 2, and 3.

B13-7: The EIR properly explains its conclusions regarding impacts under Criterion 1. The quantification of future emissions clearly shows in Table 2.5-7 reductions in CO2 emissions per capita that are 7 percent and 15 percent below 2005 levels. The methodology is explained on pgs. 2.5-42 through 2.5-46. In sum, the approach was straightforward:

- Data were developed for on-road car and light duty truck emissions for the 2005 baseline and the two SB 375 target years, 2020 and 2035. This was done using CARB’s EMFAC 2011 model, as required by CARB, which is based on travel demand forecast model outputs and, therefore, accounts for the land use pattern as well as transportation improvements in the proposed Plan.

- Then, reduction factors were applied to the estimated emissions based on the modeled effectiveness of various climate initiatives proposed in the Plan. (This was done for each of the alternatives as well.)
- The last step involved dividing the estimated emissions by estimated modeled/simulated population in 2020 and 2035 and comparing these per capita amounts against the baseline and the SB 375 targets. A percentage reduction was calculated for both the per capita CO2 emissions reduction relative to 2005 and the difference between that figure and the SB 375 target to communicate the finding in specific numerical terms.
- All of the information is in one place and, in fact, in one table; it is not scattered around in the EIR, nor relegated to an appendix.
- Note these numbers do not incorporate Pavley or Low Carbon Fuel Standard per SB 375 requirements.

This methodology is clear and consistent with SB 375; it is a good faith reasoned analysis. See Master Response D.1 for additional information on GHG emissions included in the analysis per SB 375, and Master Response D.2 on the connection between high-density housing near transit and reduced GHG emissions. See also Response B13-3 regarding a lead agency's discretion to select the significance thresholds used in the EIR.

B13-8: While a comparison of 2010 and 2040 Plan conditions highlights growth in total vehicle miles traveled (VMT), the Draft Plan is expected to reduce per capita VMT – both by shortening auto trip distances and by shifting a substantial number of auto trips to alternative modes, such as public transit, walking, and bicycling. Similarly, the Draft Plan reduces per capita GHG greenhouse gas emissions, exceeding the SB 375 and CARB mandated reduction of 15 percent by year 2035. Refer to the response B13-3 with regards to the SB 375 emphasis on per-capita reductions, rather than overall reductions.

While GHG emissions per capita are expected to decrease as a result of the Draft Plan's land use and transportation investments, total GHG emissions are expected to increase as a result of regional population growth only if vehicle emissions regulations are assumed not to take place. As shown on page 2.5-55 of the Draft EIR, total GHG emissions in the Bay Area are expected to decrease by 19% over the life of the Plan under existing air quality regulations – even as total vehicle trips and total VMT increase under the Draft Plan, primarily due to population and employment growth.

This comment also discusses the Draft Plan's allocation of funding between expansion and operations and maintenance, as well as the allocation of funding between highways and public transit. The vast majority of proposed Plan funding is allocated towards operating and maintaining the existing road and transit systems. Not only does this reflect the Commission's adopted policy, but it is also a key element in the region's efforts to reduce GHG emissions. The funding in the proposed Plan improves the pavement quality of local roads, eliminating potholes that slow driving speeds and generate greater per-mile GHG emissions; additionally, maintenance funding supports repair of transit vehicles and operating costs for existing transit systems, as degradation of existing services could lead to greater automobile use and higher GHG emissions. Additionally, funding for expansion is prioritized for public transit expansion over freeway expansion; while roadway lane-miles

would only increase by 3 percent over the life of the proposed Plan, transit seat-miles would increase by 27 percent over the life of the proposed Plan.

- B13-9: The analysis supporting the greenhouse gas emissions estimates attributed to the Climate Initiatives Program is included in Chapter 5 of the Supplemental Report, *Draft Summary of Predicted Traveler Responses*, which is available for review on the project website: http://onebayarea.org/pdf/Draft_Plan_Bay_Area/Draft_PBA_Summary_of_Predicted_Traveler_Responses.pdf. See also responses B25-5 and B25-6 regarding CEQA's requirement to include technical detail in appendices and not in the body of the Draft EIR.
- B13-10: Please see Master Response D.2 on the connection between high-density housing near transit and reduced GHG emissions. To be eligible for a Priority Development Area, a place must meet several criteria adopted by the ABAG Executive Board, including being within ½ mile of a transit stop (rail station, ferry terminal or along a bus route) with peak hour headways of 20 minutes or less. The commenter is correct that there is no specific analysis in the Draft EIR regarding how OBAG interacts with other transit investments and contributes to reductions of transit GHGs. This has no effect on the GHG analysis in the EIR. The specific projects funded by OBAG are still to be determined; it is a grant program, administered by the county congestion management agencies. Because the exact projects that will receive OBAG funding is unknown at this time, an analysis of GHG reductions specifically attributable to OBAG is not possible. By requiring a portion of the funds be spent in PDAs, the program aims to support focused growth in areas served by high quality transit.
- B13-11: See Master Responses A.1 on local control over land use and A.2 on CEQA streamlining and further environmental review.
- B13-12: See response B13-7. Each step of the impact analysis is explained in Chapter 2.5 of the Draft EIR and tables summarize data on existing and forecasted emissions, with both numerical changes and percentage changes calculated in a consistent fashion.
- B13-13: See response B13-3. The quantification and analysis of GHG emissions does not mask total emissions as Table 2.5-9 shows total GHG emissions with and without Pavley and LCFS reductions. This table was created by following the steps below to describe accurately and completely the scope and effects of the proposed Plan on GHG emissions and is consistent with SB 375. For Criterion 2, the focus of the GHG emissions analysis was on an absolute basis (not per capita).
- First, data were collected for on-road transportation emissions. The effects of Climate initiatives were then incorporated, using data derived for Criterion 1, along with the Pavley Rules and the Low Carbon Fuel Standard to arrive at a final total for transportation emissions.
 - Land use emissions were based on estimated energy consumption per land use type (e.g. single-family residential, multi-family residential and commercial). ABAG provided information on households by housing type, and estimates of commercial space were derived from ABAG's projections of square footage based on an average growth of square feet per job type, per UrbanSim outputs. Energy emissions were then calculated

using standard coefficients that estimate CH₄, NO_x and CO₂ per kWh and then converted to MTCO_{2e}.

- In addition, landfill emissions were calculated based on tonnage increasing at the same rate as population growth, with emissions estimated by EPA's WARM model, assuming mixed waste.
- Land use emissions were then reduced using the measures recommended by the California Air Resources Board in their Scoping Plan. Only measures specific to the land use analysis were considered. The Draft EIR assumes 19 percent of possible statewide reductions, removing policies that may overlap with each other, consistent with the Bay Area's share of the State's population. (This is the same methodology used by SACOG in the EIR on its MTP/SCS.) It applies the reductions to "business as usual" use rates, which is appropriate because it is reasonable to expect land use energy efficiencies over the next 30 years (as opposed to efficiencies related to land use planning that are treated separately, as per SB 375). In no case are reductions assumed that exceed what is expected to occur, on a proportional basis, under the Scoping Plan.
- Land use emissions were then added to transportation emissions (with reductions).
- For Criterion 2, the data in the EIR do show that without the Scoping Plan reductions and application of Pavley and the Low Carbon Fuel Standard, there would be an overall increase in total emissions as a result of more population, jobs, and travel. However, with the reductions, which are mandated by law, there is a net reduction; hence, the determination presented in the EIR of a less-than-significant impact.

The findings and conclusions are not "vague or subjective characterizations" as they are clearly founded on an analytical methodology, which has been fully vetted with responsible agencies, local governments and the public.

B13-14: The comment appears to be confusing the GHG emissions target required of SB 375 (per capita decrease from cars and light trucks) with the total net emissions significance threshold adopted by MTC and ABAG as part of the environmental review. As discussed in Master Response D.1 and response B13-3, the Draft EIR followed SB 375 guidelines in calculating per capita GHG emissions from cars and light trucks, analyzed under Impact 2.5-1 of the Draft EIR. For the analysis under Impact 2.5-2, which is not part of SB 375 compliance, Pavley and LCFS reductions are included as they are mandated by law. See responses B13-3 and B13-13 for more detail. For all of these reasons, the requested revision will not be made.

B13-15: The comment states that the Draft EIR should not have included GHG emissions reductions from CARB Scoping Plan measures. The Draft EIR includes two different GHG emissions calculations. (1) Criterion 2.5-1 focuses on the SB 375 GHG emissions reduction target, which as the comment rightly documents, cannot factor in reductions from other programs under the CARB Scoping Plan to account for GHG reductions under the SCS. The SCS reductions measured for meeting the SB 375 emissions reduction target can only be met through land use and transportation investments. (2) Criterion 2.5-2 includes all GHG emissions in the region, and includes GHG emissions reductions from other relevant Scoping Plan items related to land use and transportation. This criterion was meant to provide a more complete picture of GHG emissions in the region in 2040. The Tables 2.5-8

and 2.5-9 in the Draft EIR (pages 2.5-53 through 2.5-55) clearly document those reductions that are the result of Scoping Plan measures, showing total emissions with and without the Scoping Plan measures. The analysis only includes those reductions identified in the Scoping Plan for the electricity and natural gas sectors, recycling and waste sector. MTC and ABAG believe including those Scoping Plan measures most closely related to transportation and land use is appropriate for the overall GHG emissions criterion, Criterion 2.5-2, while it is inappropriate, as the commenter notes, to include those reductions in the SB 375 criterion, Criterion 2.5-1. Commenter appears to be on a mission to find just the right combination of assumptions and conditions that can produce a GHG target MTC and ABAG will fail to meet. Moreover, “a condition requiring compliance with environmental regulations is a common and reasonable mitigating measure.” (*Clower Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 236-37 [upholding mitigation measures that required compliance with regulatory permitting], quoting *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 308; see also *Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884 [upholding a seismic mitigation measure requiring compliance with all state and local building regulations].)

B13-16: The comment states that the alternatives analysis, particularly as it relates to GHG emissions, is inadequate. The comment goes on to note the various metrics for which alternatives other than the proposed Plan perform the best.

See response B25-20 regarding the adequacy of the alternatives analysis.

The Draft EIR clearly documents that Alternative 5, the Environment, Equity and Jobs alternative performs the best overall, reducing total GHG marginally better than the proposed Plan, as documented in the Environmentally Superior Alternative Determination section of Chapter 3 (Draft EIR pages 3.1-146 through 3.1-148). The GHG alternatives analysis includes extensive charts documenting GHG emissions for all alternatives, and as the commenter points out, numerous other metrics are included in other sections of the 148-page alternatives chapter, such as vehicle miles traveled, that relate to GHG emissions.

Commenter’s assertion that the EIR is flawed because some alternatives may better achieve the GHG reductions goals of SB 375 is incorrect. Public Resources Code Section 21002 provides that “public agencies should not approve projects as proposed if there are feasible alternatives ... which would substantially lessen the significant environmental effects of such projects.” CEQA requires an EIR to consider a reasonable range of alternatives to a proposed project or to the location of the proposed project which would “feasibly attain most of the basic objectives of the project” (CEQA Guidelines, Section 15126.6(a)). Section 15126.6, subdivision (f) of the CEQA Guidelines limits the alternatives that must be considered in the EIR to those “that would avoid or substantially lessen any of the significant effects of the project.” The factors that may be considered by a lead agency in evaluating alternatives analyzed in an EIR include (1) the ability to avoid or substantially lessen potentially significant environmental impacts of the proposed project (Pub. Resources Code, § 21002), (2) the ability to achieve project objectives including the statutory objective to achieve the CO₂ emission targets established pursuant to SB 375, and (3) feasibility of the alternatives (CEQA Guidelines, §§ 15091, subd. (a)(3), 15364).

B13-17: With regard to airport-related ground transportation, the regional travel model demand forecasts vehicles traveling to/from airport facilities and their associated GHG emissions. Forecasted trips for each airport are based on MTC's 2006 Regional Airport Planning Study. Additional information on the ground transportation forecasts associated with the region's airports is on page 10 of the *Draft Summary of Predicted Traveler Responses*.

With regard to the GHG analysis for the airplanes themselves, Section 2 of this Final EIR includes additional analysis inserted into the Draft EIR on emissions from airplanes. BAAQMD has estimated daily tons of GHG emissions from airport operations the region's commercial airports through 2030, based on FAA estimates, which have been extrapolated in a linear trend to 2040. Airport emissions are estimated to increase from 1,634,000 metric tons of CO₂e per year in 2010 to 2,809,000 in 2040; these emissions will occur regardless of the proposed Plan as they are related to regional growth. Taking emissions from airplanes into account modestly reduces the decreases in transportation emissions shown under Impact 2.5-2, but the EIR's conclusion of no adverse impact still holds.

B13-18: See response B10-15 regarding Impact 2.5-3. The commenter fails to explain why Pavley and LCSF cannot be considered in analyzing whether implementation of the proposed Plan could substantially impede attainment of goals set forth in Executive Order S-3-05 and Executive Order B-16-2012—those are among the suite of programs, along with the SCS and the regional GHG emissions reductions targets, advanced by the State to reach the goals. These efforts are meant to work together in order to reach the goals, not be evaluated separately. There is no impact, as the Draft EIR found, so long as the proposed Plan does not block the implementation or effectiveness of the Scoping Plan efforts. The proposed Plan does not impede other programs and fulfills its own legal obligations to the State's GHG reduction efforts.

B13-19: See responses B10-15 and B13-18 regarding the meaning and approach of the EIR analysis for Impact 2.5-3. In addition, the commenter misinterprets the Executive Orders in writing, "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..." The Bay Area region is not a geographic scale of measurement for the Executive Orders, which are a) focused on statewide GHG emissions and b) do not place the onus for reaching the goals solely on regional transportation plans. The commenter incorrectly implies that the goals from the Executive Orders are thresholds of significance in the EIR. They are not. Reaching the goals of the Executive Orders will involve contributions from many plans, including those listed on p. 2.5-60, as well as CARB's own acknowledgement of a need for new technologies and strategies to reach the goals, cited on the same page. The significance criterion requires the proposed Plan to not impede other efforts working toward the Executive Orders' goals; it does not require the proposed Plan to reach these goals on its own. Furthermore, the Executive Orders are only binding on State Agencies, not regional planning agencies such as MTC and ABAG.

By attaining the GHG emissions reductions targets for the Bay Area set by ARB, and avoiding a net increase in emissions from transportation and land use, the proposed Plan is in fact making a significant contribution toward meeting the goals. ARB assigned GHG targets at levels appropriate to attain the larger statewide effort to hit the 2050 goals.

Regarding the comment about per capita reductions being misleading, the analysis under Impact 2.5-2 explicitly addresses net aggregate GHG emissions, and is used as the basis for the graphs under the Impact 2.5-3 analysis. The comment concludes by saying that “Due to flawed assumptions, the Draft EIR’s analysis of Criterion 3 makes the wrong conclusion. This should be a significance finding.” For all of the reasons cited in this response, the requested revision will not be made.

B13-20: Per response B13-1 and Master Response D.1, the proposed Plan follows the requirements of SB 375 and meets the GHG emissions reduction targets assigned by ARB. Local climate action plans would not be altered or interfered with by the proposed Plan; see Master Response A.1 regarding local land use control.

B13-21: The Draft EIR states that sea level rise may result in a potentially significant impact under Criterion 5 and lists specific mitigation measures focused on creating an adaptation strategy for the Bay Area. This clearly is evidence of taking responsibility for implementation. Enforcement responsibility that would rest with local governments and the land use authority they retain under the proposed Plan would not change, so responsibility for enforcing risk mitigation measures would belong to jurisdictions under the mitigation measures proposed for this criterion. State agencies’ responsibilities for sea level rise planning and adaptation were set in place in Executive Order S-13-08, and the proposed Plan would not change that obligation. The proposed Plan would ask implementing agencies to require project sponsors to incorporate appropriate adaptation strategies into local transportation and land use projects. MTC and ABAG, in coordination with BCDC, also will be formulating regional guidance to facilitate implementation of a regional sea level rise adaptation strategy. See Master Response E for more information on sea level rise.

In addition, as discussed in Chapter 3.1 of the Draft EIR, all of the alternatives—including the No Project alternative—will result in transportation projects within potential inundation areas and an increase in the number of residents within the future sea level rise inundation zone compared to year 2010 baseline conditions. Consequently, the proposed mitigation measures to develop adaptation strategies that are both regionally and locally appropriate is a sound strategy in light of the inevitability of development in these areas.

B13-22: The purpose of the Draft EIR is to analyze the environmental impacts of the proposed Plan at the project horizon (the year 2040 in this case) compared to existing conditions and to evaluate the impacts of a range of feasible alternatives against the same criteria. MTC and ABAG will prepare findings regarding the project, including a Statement of Overriding Considerations, which falls beyond the scope of the Draft EIR and this Final EIR.

With regard to the adequacy of considerations of the alternatives regarding sea level rise impacts, the Draft EIR includes in the alternatives analysis presented in Chapter 3.1 a specific assessment of how mid-century sea level rise may potentially affect transportation projects in counties affected by this condition. The sea level rise analysis also compares the number of people and the number of jobs within PDAs and TPPs that would be within potential inundation zones under each of the alternatives. This analysis covers pages 3.1-64 to 81, or 18 pages, and includes 22 tables of numbers and analysis, a level of analysis as complete as the one presented on the proposed Plan in Chapter 2.5.

Commenter's assertion that the EIR is required to explain the overriding considerations justifying the Plan or to state why the Plan is the most suitable alternative is incorrect. Commenter cites CEQA Guidelines section 15093, which sets forth the requirement that a lead agency adopt a statement of overriding considerations when the lead agency approves a project which will result in the occurrence of significant and unavoidable impacts. The statement of overriding considerations is a separate document prepared by the lead agency, and is not part of the EIR.

- B13-23: See Master Responses A.1 regarding local control over land use and A.2 regarding further environmental review for streamlined and other projects. Also, it is a standard finding for EIRs, per Section 15091(a)(2) of the CEQA Guidelines, that a public agency may approve or carry out a project in spite of significant environmental effects if it is found that mitigation measures, "are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency," also known as Finding 2.
- B13-24: For all of the reasons presented above in Responses B13-1 through B13-23, the analysis in the Draft EIR is adequate in its conclusions that implementation of the Plan would not have a potentially significant adverse effect for GHG emissions. Mitigation measures are included in the Draft EIR where an analysis for a specific criterion, such as sea level rise, led to a conclusion of a significant effect. Commenter's support of Alternative 5 is acknowledged and will be forwarded to MTC and ABAG for their consideration.

Letter B14 Housing Rights Committee of San Francisco and San Francisco Tenants Union (5/16/2013)

- B14-1: The comment raises general issues associated with economic displacement, but points to no specific environmental impacts. As stated in Chapter 2.0 of the Draft EIR, "as a program-level EIR individual project impacts are not addressed in detail; the focus of this analysis is to address the impacts which, individually or in the aggregate, may be regionally significant." As such, impacts on specific locations are more appropriately dealt with as part of detailed local analyses. See Master Response A.2 for more information on CEQA streamlining and Master Response A.3 regarding the level of specificity in the EIR. The Draft EIR analyzes displacement at a regional level in Chapter 2.3 and found that, "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." MTC and ABAG acknowledge that Draft EIR Chapter 2.3 did, however, also find that, "implementation of the proposed Plan could result in potentially significant permanent localized displacement and disruption." See Master Response F for additional information on displacement.
- B14-2: See response B14-1 and Master Response F regarding displacement.
- B14-3: This comment does not raise an environmental issue that requires a response under CEQA.

B14-4: None of the alternatives, including the proposed Plan, “cause” displacement, as the comment suggests. Displacement is a potential effect of the population increase that the Plan and the alternatives seek to accommodate. Decision-makers will weigh the advantages and disadvantages of each alternative in determining which option to adopt. MTC and ABAG will also consider the requested addition to the advocacy platform.

Letter B15 Lafayette Homeowners Council (5/14/2013)

B15-1: See Master Response C regarding the request to extend the public comment period.

Letter B16 League of Women Voters of Diablo Valley (5/14/2013)

B16-1: The comment requests funding be shifted to transit operations and maintenance. The proposed Project invests \$159 billion, or 55 percent of all revenues, to transit operations and maintenance. This is compared to \$21 billion, or 7 percent, dedicated to transit expansion, and \$15 billion, or 5 percent, to roadway expansion. The comment in support of additional investment in transit operations and maintenance is noted and will be considered as the Final Plan investment strategy is determined.

B16-2: Mitigation Measure 2.5(d) notes that Executive Order S-13-08 requires all state agencies, including Caltrans, to incorporate sea level rise into planning for all new construction and routine maintenance projects; however, no such requirement exists for local transportation assets and development projects. The measure goes on: “Implementing agencies shall require project sponsors to incorporate the appropriate adaptation strategy or strategies to reduce the impacts of sea level rise on specific transportation and land use development projects where feasible based on project- and site-specific considerations. Potential adaptation strategies are included in the Adaptation Strategy sub-section found at the end of this section.” However, as MTC and ABAG do not have local land use authority, they cannot require such measures at a local level. Please refer to Master Response E for additional information on sea level rise. See Master Response A.3 regarding the level of specificity in the EIR.

B16-3: Your request will be considered by decision-makers as part of the EIR certification process and action on the proposed Plan.

Letter B17 Marin Audubon Society (5/15/2013)

B17-1: Please refer to Chapter 2.9 of the Draft EIR for the regional-scale analysis of biological resources impacts in the region. As this is a regional plan, the scope of the Draft EIR does not include an individual assessment of each proposed PDA. As stated in Chapter 2.0 of the Draft EIR, “as a program-level EIR individual project impacts are not addressed in detail; the focus of this analysis is to address the impacts which, individually or in the aggregate, may be regionally significant.” See Master Response A.3 regarding the level of specificity of the EIR.

The locations of PDAs are shown in the Draft EIR, in Figure 1.2-2. Appendix H of the Draft EIR, as cited repeatedly in Chapter 2.9, also contains tables listing potential conflicts between PDAs and transportation projects and biological resources:

- See Table H-1 in Appendix H for a complete list of special-status species with potential to occur in the planning area.
- Tables H-1a through H-1d list the PDAs and 350 transportation projects that have the potential to impact special-status plant or wildlife species, listing the potentially impacted species and the amount of acreage or linear distance involved.
- Tables H-2a, b, and c list PDAs and transportation projects that lie within, or are adjacent to, areas that are designated by the USFWS as critical habitat for federally listed species.
- Tables H-3a and b list PDAs and transportation projects that may impact salmonid critical habitat.
- Tables H-4a and H-5a summarize the potential impacts PDA development could have on jurisdictional waters, including wetlands, “other waters” (streams, rivers, lakes, San Francisco Bay, etc.), and riparian habitat. Tables H4-B, C, and D and H-5B list the same information for transportation projects.

B17-2:

The comment is concerned that the Draft EIR does not recognize the importance of San Francisco Bay and associated wetland and upland habitats or that of freshwater streams for wildlife. As stated on page 1-1.4 of the Draft EIR, this is a program level EIR and as such, the analysis is programmatic in nature and the environmental setting is, as a result, coarse-grained. See Master Response A.3 regarding the nature of a program EIR and the level of analysis required in such a document.

There are many areas that are not called out specifically as supporting or not supporting sensitive resources. However, Figures 2.9-1 through 2.9-9 illustrate special-status species locations, critical habitat, and essential connectivity areas in relation to the major transportation corridors within the planning area and the tables presented in Appendix H of the Draft EIR list the results of a GIS-based analysis that compared the locations of the proposed PDAs and transportation projects with locations of sensitive biological resources, thereby outline which biological resources could be impacted by each project.

The comment further notes that the location of development near a transportation corridor or urban area would not mean that it would have no or minimal impacts. While the comment is correct that impacts on biological resources could take place in developed areas, it is also true that, in general, habitat in developed areas is already degraded through a number of mechanisms, including fragmentation and isolation, proximity to human uses, lighting, etc., and impacts would likely be correspondingly less severe than were development to occur in previously undeveloped or rural areas. In addition, special-status species generally are less likely to occur in developed areas or along transportation corridors. However, the Draft EIR does not state that impacts would not occur at all in previously developed areas. Mitigation Measure 2.9(a) calls for a biological assessment and specific biological surveys (as required based on the general assessment) to be conducted as part of the subsequent environmental review process for each specific project under the proposed

Plan to determine the presence and extent of sensitive habitats and/or species in a specific project area, regardless of the location of that project.

B17-3: The comment states that the impacts of development outside of the PDAs are not considered and that the analysis should be revised to consider potential impacts resulting from such development. Potential impacts resulting from development outside the PDAs are considered in a general way throughout the impacts analysis and are generally expected to be similar to those of development within PDAs. See, for example, the following statement on p. 2.9-57 of the Draft EIR: “As noted above, additional development would occur outside the PDAs in all parts of the Bay Area, and would also have impacts on special-status species. While less development is expected to occur outside PDAs it would have the same general types of impacts and, when situated in more rural areas where habitat is less degraded than in heavily urbanized areas, could have a greater relative effect than development in PDAs.”

However, similar to projects within PDAs, the details of future individual and site-specific projects located outside PDAs in local jurisdictions throughout the planning area are not known at this time, including the one in Larkspur. Therefore, it would be speculative to attempt to quantify such impacts. Moreover, site- and project-specific impacts not analyzed in this program EIR would be subject to further, more detailed review at the time a specific project is proposed. As stated on p. 1.1-2 of the Draft EIR, the Draft EIR’s programmatic, regional approach to the analysis of potential impacts “does not relieve local jurisdictions of the responsibility for evaluating project-specific, locally significant impacts. All impacts of individual projects will be evaluated in future environmental review, as relevant, by the appropriate implementing agency as required under CEQA and/or NEPA prior to each project being considered for approval, as applicable.” See Master Responses A.1 regarding local land use control and A.2 regarding additional CEQA analysis.

B17-4: The comment notes that the PDAs in Marin County would have the potential to impact special-status or endangered species. Please see Table H-1A in Appendix H of the Draft EIR which outlines the impacts on special-status species may occur as a result of development in all Marin County PDAs. See also responses B17-1 to B17-3.

B17-5: MTC and ABAG cannot require that local jurisdictions adopt or implement Plan Bay Area, or the mitigation measures of the EIR. Please refer to Master Response A.1 on local control over land use.

B17-6: MTC and ABAG cannot require that local jurisdictions implement Plan Bay Area; see Master Response A.1 on local land use control. While SB 375 specifically does not grant regional agencies with control over local land use decisions, the proposed Plan includes incentives to pursue the proposed land use pattern through the OneBayArea Grant (OBAG) program and through possible CEQA streamlining established by SB 375. See the Draft Plan, pages 73 through 75, for more details. See also Master Response A.2 regarding CEQA streamlining.

B17-7: The comment states that the Draft EIR does not discuss San Francisco Bay and its importance to the people of the Bay Area and the wildlife that depend on it. The Draft EIR

provides a natural community summary of the Bay on pp. 2.9-11 and 2.9-12. Migratory shorebirds and ducks are discussed briefly on p. 2.9-12 under the natural community summary for coastal marsh and estuaries, which includes San Francisco Bay. In addition, the text discussing San Francisco Bay Aquatic Resources on p. 2.9-11 is revised in Section 2 of this Final EIR to more fully reflect the importance of this resource for migratory birds.

B17-8: See response B17-7.

B17-9: The comment states that several specific areas of sensitive biological resources around the Bay should be mentioned. As stated on page 1-1.4 of the Draft EIR, this is a program level EIR and as such, the analysis is programmatic in nature and the environmental setting is, as a result, coarse-grained. There are many biologically important areas in the Bay Area, many of which are located in protected open space, and most of which are not mentioned specifically in the Draft EIR. There is no compelling reason to specifically discuss areas mentioned in this comment when there are many other equally important areas in the planning area. To specifically address each area is neither feasible nor required in a program EIR. An EIR should be analytic rather than encyclopedic (CEQA Guidelines Section 15006(o)). Those portions of the EIR that are most useful to decision makers and the public should be emphasized rather than emphasizing background material (CEQA Guidelines Section 15006(s)). Further, the disclosure of the specific areas does not alter the findings or provide new information of the programmatic impact analysis that would alter the conclusion of the biological analysis. As noted in responses B17-1 and B17-3, site- and project-specific impacts not analyzed in this program EIR would be subject to further, more detailed review at the time a specific project is proposed. This would include, as applicable, discussion of specific sensitive biological resources in the vicinity of a particular development project that could subsequently be proposed.

B17-10: See response B17-9.

B17-11: Mitigation Measure 2.9(d) requires that project sponsors and lead agencies pursue mitigation measures to reduce impacts on wetlands and other aquatic resources, including compensatory mitigation at a minimum 1:1 ratio to avoid net loss of wetlands resulting from projects under the proposed Plan. See also Master Response A.1 regarding local control over land use.

B17-12: The comment states that the Draft EIR setting does not adequately address special-status wildlife or their habitat needs. Special-status wildlife is discussed in the context of each natural community in the Physical Setting portion of Section 2.9, Biological Resources, coastal marsh and estuary habitat is described on pages 2.9-12 and 13, special-status plants and wildlife in these locations on pages 2.9-13 and 14, and effects on such wildlife species are identified generally on p. 2.9-56 and 2.9-59, with mitigation described on p. 2.9-60. Appendix H lists more than a dozen special status species that use brackish or salt marshes as habitat and cites PDAs and transportation projects that could impact these species. It is unclear what further discussion the comment is looking for that is not covered by all of these instances. Please see also responses B17-3 and B17-9 regarding the nature of this EIR and the type of information and analysis that is appropriate under CEQA for a program EIR.

B17-13: The comment states that uplands adjacent to tidal salt marsh are an essential part of endangered species habitat and impacts to this ‘transition’ habitat should be addressed in the Draft EIR. The comment is correct in stating the importance of adjacent upland habitat for tidal marsh species, both as a refuge from high tides and as a source of additional nesting and foraging opportunities. Such habitat, although not specifically called out in the Draft EIR, would be considered in the project-specific biological assessments required in support of the project permitting process under Mitigation Measure 2.9(a), which would determine the presence and extent of sensitive habitat and/or species in the project vicinity. These assessments typically would take into account all of a species requirements including, for example, upland transitional habitat for tidal marsh species. In addition, wetland buffer zones typically prescribed in project permitting documents, and often prescribed in local policies and ordinances, are usually sufficient to protect upland transitional habitat for tidal marsh species. Mitigation Measure 2.9(a) further requires that project design shall be reconfigured to avoid sensitive species and their habitat, whenever feasible, and that projects shall minimize ground disturbance and construction footprints in sensitive areas. Together these measures would minimize potential project-specific impacts on all habitat used by special-status species, including upland areas adjacent to tidal marshes or other wetlands. These and all other applicable and feasible mitigation measures included in the program EIR must be implemented for a local jurisdiction to take advantage of SB 375’s CEQA streamlining benefits. See Mater Response A.2 regarding CEQA streamlining. While MTC and ABAG cannot require local jurisdictions that are not either utilizing SB 375’s CEQA streamlining benefits or seeking funding from MTC or ABAG to adopt or implement Plan Bay Area, or the mitigation measures included in this program EIR (see Master Response A.1 regarding local control over land use), implementing agencies must comply with CEQA before approving future site-specific projects.

The comment further states that impacts to specific species at specific locations in Marin County should be addressed in the Draft EIR. Impacts to special-status species are discussed in Impacts 2.9-1a, b, and c. Impacts to special-status species in Marin County resulting from implementation of Plan projects are quantified in Tables H-1A through H-3B in Appendix H to the Draft EIR. Please see also responses B17-3 and B17-9 regarding the nature of this EIR and the type of information and analysis that is appropriate under CEQA for a program EIR.

B17-14: The comment states that USFWS is “barely mentioned” in the Draft EIR and that the agency should be consulted about the locations of endangered species populations. USFWS and its role in protection of endangered species is discussed on p. 2.9-16 (designation of critical habitat) and in numerous places in the Regulatory Setting section beginning on p. 2.9-29 of the Draft EIR. Further, the Service was consulted regarding special-status species that occur throughout the nine Bay Area counties. Species-specific consultation with USFWS is required to be conducted in association with specific projects, per Mitigation Measure 2.9(a).

B17-15: Critical habitat is defined and discussed on pages 2.9-16 through 33 of the Draft EIR, including four maps and one table. The Draft EIR relies on the designations of the USFWS as well as the National Marine Fisheries Service. These sources are used because the significance criterion regarding habitat is whether the proposed Plan would “Have a substantial adverse effect: either directly or through habitat modifications, on...designated

critical habitat for federally listed plant and wildlife species.” (There is an additional criterion that relates to riparian habitat.) MTC and ABAG, informed by public and agency comments on the draft significance criteria proposed in the Notice of Preparation, had to choose a threshold that could be mutually agreed upon and commonly defined.

Mitigation Measure 2.9(a) calls on implementing agencies and project sponsors to conduct biological surveys, “to determine the presence and extent of sensitive habitats and/or species in the project vicinity. Surveys shall follow established methods and shall be undertaken at times when the subject species is most likely to be identified. In cases where impacts to State- or federal-listed plant or wildlife species are possible, formal protocol-level surveys may be required on a species-by-species basis to determine the local distribution of these species. Consultation with the USFWS and/or CDFW shall be conducted early in the planning process at an informal level for projects that could adversely affect federal or State candidate, threatened, or endangered species to determine the need for further consultation or permitting actions.” Mitigation Measure 2.9(d) includes a similar requirement for areas containing, or likely to contain, jurisdictional waters and/or other sensitive or special-status communities. This mitigation measure is appropriate for a program EIR.

Also see response B17-9 noting that an EIR is not required to be encyclopedic and B17-13 and Master Response A.3 regarding the level of specificity of the EIR.

B17-16: The comment disagrees with the statement on p. 2.9-53 of the Draft EIR that the analysis greatly overestimates actual impact acreages due to the coarse level of analysis. The statement that the analysis “greatly overestimates actual impact acreages” is presented out of context in the comment, as the Draft EIR provides supporting rationale for the statement on p. 2.9-35, as follows:

“...many special-status species polygons from the CNDDDB are non-specific polygons and simply indicate that a species was documented somewhere within the general area depicted. In addition, many CNDDDB species locations are historical and habitat no longer occurs for the species due to urbanization. Therefore, a PDA polygon intersection with a special-status species polygon simply indicates that the species does, or did once, occur in that area and that projects within that PDA may have impacts on that species if habitat for the species still occurs within or adjacent to the specific project site. Even if the species is currently present, impacts would not necessarily ensue because ... designation of a PDA does not imply that the entirety of that area will undergo development during the lifetime of the Plan.”

These factors combine to likely overestimate the impacts analyzed (acreages given in Appendix H). No quantitative analysis was conducted on potential impacts of projects outside PDAs as the majority of growth is anticipated to be within PDAs. However, GIS layers depicting such potential development locations were examined in association with the resources layers in order to inform this analysis and evaluate the general order of magnitude of possible impacts. The comment provides no substantial evidence that acreages are “probably” underestimated. See also response B17-17.

The comment further states that there may be wetlands and special-status species in locations where they are not currently identified in the Draft EIR. This concern is

recognized throughout the impacts analysis of the Draft EIR, hence the requirement for site-specific assessments and surveys for individual projects in Mitigation Measures 2.9(a) through 2.9(c) (special-status species) and 2.9(d) (wetlands).

B17-17: The comment states that the EIR does not consider all potential PDAs and the growth inducing effects of the development of those PDAs, especially related to impacts on biological resources (e.g. Clapper Rails). The proposed Plan is not intended to “induce” growth outside PDAs, and it would be speculative to consider potential PDAs, which are not included in the proposed Plan. Also, local government land use plans as well as individual land development projects are required to comply with CEQA, so a process is in place should any potential development not currently envisioned in adopted plans be proposed that would have an impact on biological resources. As stated on page 1-1.4 of the Draft EIR, this is a program level EIR and as such, the analysis is programmatic in nature and the environmental setting is, as a result, coarse-grained. Development is not reasonably foreseeable on the vast majority of land outside of PDAs. However, GIS layers depicting such potential development locations were examined in association with the resources layers in order to inform this analysis and evaluate the general order of magnitude of possible impacts. This analysis responds to the comment’s question about whether similar areas were considered within the nine-county analysis.

Further, mitigation measures outlined in the biological resources impact analysis apply to all projects proposed under the proposed Plan, both inside and outside of PDAs, as well as proposed transportation projects. Specifically, mitigation requires project-specific biological assessments to document special-status species. These mitigation measures included in the program EIR must be implemented for a local jurisdiction to take advantage of SB 375’s CEQA streamlining benefits. See Mater Response A.2 regarding CEQA streamlining. While MTC and ABAG cannot require local jurisdictions that are not either utilizing SB 375’s CEQA streamlining benefits or seeking funding from MTC or ABAG to adopt or implement Plan Bay Area, or the mitigation measures included in this program EIR (see Master Response A.1 regarding local control over land use), implementing agencies must comply with CEQA before approving future site-specific projects. Also refer to responses B17-1 and B17-3 above regarding the level of analysis required in a program EIR and response B17-9 and Master Response A.3 regarding the nature of an EIR and the type of information that should be provided and the fact that subsequent project-specific review may be required for individual projects.

B17-18: The Draft EIR does include analysis of biological resources and maps of critical habitat for each quadrant of the Bay that as studied, includes areas around the Bay and their sensitivity, and documents what the effects would be on these resources. The correct Figure 2.9-5, “Critical Habitat: North Bay,” is included in Section 2 of this Final EIR; this figure is only a graphic representation of the EIR analysis and its inclusion would not change the conclusions of the EIR. More specifically, Appendix H documents potential impacts of PDA development on jurisdictional waters, wetlands, and riparian habitat. The comment also states that there should be a discussion of growth-inducing impacts in the Draft EIR. Growth-inducing impacts are discussed in detail, beginning on p. 3.2-4 of the Draft EIR.

B17-19: The comment states that the analysis of impacts and mitigation measures is inadequate and then notes that it is uncertain that the mitigation measures proposed in the Draft EIR would be implemented and unclear whether they would be effective. MTC and ABAG believe that the analysis is, in fact, robust, thorough and complete for all of the impact areas and criteria of significance. The comment further states that the use of language such as “where possible” and “when feasible” provides loopholes in the mitigation requirements. A close reading of the mitigation measures shows that there is usually a logical sequence: avoidance is the first priority, followed by minimizing effects, on-site or off-site enhancement, mitigation banking, or other measures. The language does not provide loopholes, but rather imposes obligations that apply to a variety of circumstances, with the overriding objective of developing an effective mitigation program. Responsible agencies with permitting authority, including the U.S. Corps of Engineers, BCDC, RWQB, CDFW, and CCC also have obligations under the law to impose compensatory mitigation; such mitigation must be implemented, maintained and monitored. The Draft EIR also repeatedly recognizes that the proposed mitigation measures may not be carried out in all cases. Finally, all mitigation measures proposed in this Draft EIR are based on (a) the best available science and (b) measures typically recommended by permitting agencies (e.g., CDFW, USFWS, RWQCB) and are generally recognized by those agencies as being sufficient to mitigate impacts on a project-level basis. Further, as stated in the Draft EIR, project-specific mitigation details will be developed on a project-by-project basis and tailored to be effective for the given situation.

B17-20: MTC and ABAG believe that all of the impact analysis is fully supported by data, as described in the setting sections, and regulatory standards, and that the text fully explains the methodology used for the analysis. The comment claims that the conclusion reached by the Draft EIR that biological resources impacts would be more significant in rural areas is questionable and states that impacts on sensitive habitats in urbanized areas could be more significant. In reality, the Draft EIR does not reach an overall conclusion of this nature. The Draft EIR impact analysis relies largely on the potential for biological resource impacts based on proximity to sensitive resources, whether these occur in rural or urbanized environments. Sensitive resources include those whose significance has been identified pursuant to State or federal law. On p. 2.9-54 the Draft EIR clearly states that impacts would be most likely to occur where development and transportation projects could have an effect upon ecologically sensitive or significant areas, without qualifying whether these areas occur within rural or urbanized settings. These areas have been mapped, and the maps used in the analysis.

Chapter 3.1 does say that “the potential for project-specific impacts on biological resources will be greater in lightly developed and rural areas, since sensitive biological resources are less abundant in highly urbanized portions of the Bay Area.” This logic is sound and appropriate for a regional program-level EIR, as described in responses B17-1, 3, and 9, but as noted in the paragraph above, the Draft EIR recognizes that significant impacts on biological resources can occur in urban settings as well (e.g., “Construction impacts on nesting birds and raptors can occur in both urban and rural areas.”).

In general, and in the absence of adjacent sensitive resources, the strategy of concentrating development in already urbanized areas, as proposed in this Plan, is found through the

analysis in this Draft EIR to be more protective of biological resources than unconstrained development allowed to occur in rural areas. The final comment about the importance of protecting remaining habitat is valid, and MTC and ABAG agree with it and have included Priority Conservation Areas (PCAs) in the proposed Plan.

B17-21: The commenter states that agency mitigation guidelines and regulations should be presented in the Draft EIR for the reader. The Regulatory Setting, starting on p. 2.9-39 of the Draft EIR, provides a 13-page detailed description of federal, State, and local regulations protective of biological resources and applicable to the proposed Plan. Specific citations to regulations are included for those who want additional information. The level of detail presented is appropriate for a program-level assessment. Further, all of these agency regulations and guidelines are available online. None of the regulations are simply “incentives” for project design; they include specific standards, permitting requirements, review and approval criteria and compensatory mitigation. Activities subject to these regulations must follow them; to characterize it as a negotiating process ignores the standards for review imposed on development, and the penalties that can be imposed to compel adherence. Moreover, “[a] condition requiring compliance with environmental regulations is a common and reasonable mitigating measure.” [citation]” (*Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 236.) The objective of this EIR is to determine potential impacts and identify mitigation to protect species, so they would not be adversely affected or “lose” through implementation of Plan Bay Area. See also response B17-1 and B17-3 above regarding the nature of a program EIR and the level of analysis required in a program EIR and also response B17-9 and Master Response A.3 regarding the level of specificity in the EIR.

B17-22: The comment misquotes the Draft EIR related to the impacts of transportation projects. On p. 2.9-45 the Draft EIR actually states (emphasis added): “Transportation projects under the proposed Plan that would not directly expand transportation-dedicated lands were assumed to have minimal potential biological impacts. Such projects include signal and traffic operational improvements, rail extensions along existing rights-of-way, and road widening in urban areas or within existing rights of way.” The qualifier is made because such projects are confined to existing rights-of-way, and low-lying areas adjacent to them would not be affected.

Indirect effects related to people, lights, noise and urban development are addressed in detail in Chapters 2.3 (Land Use and Physical Development), 2.10 (Visual Resources), 2.6 (Noise), 2.12 (Public Utilities and Facilities) and 2.14 (Public Services and Recreation). Finally, where implemented the site- and project-specific surveys required in the mitigation measures, such as 2.9(a), will ensure that all sensitive resources present are identified for a given project and that direct and indirect effects not analyzed in this Draft EIR are examined in detail as required under CEQA. This and other applicable and feasible mitigation measures included in this program EIR must be implemented for a local jurisdiction to take advantage of SB 375’s CEQA streamlining benefits. See Master Response A.2 regarding CEQA streamlining. While MTC and ABAG cannot require local jurisdictions that are not either utilizing SB 375’s CEQA streamlining benefits to adopt or implement Plan Bay Area, or the mitigation measures included in this program EIR (see Master Response A.1 regarding local control

over land use), implementing agencies must comply with CEQA before approving future site-specific projects.

B17-23: The comment states that the Draft EIR should recommend that mitigation be provided for all habitat loss and impacts to special-status and migratory species and their habitats. The Draft EIR does this: Mitigation Measures 2.9(a), 2.9(b), and 2.9(c) provide measures for any potential habitat loss to reduce impacts on special-status and migratory species, as well as to provide compensatory mitigation, as required by the resources agencies, for loss of special-status species habitat. Mitigation Measure 2.9(d) provides measures to avoid and minimize impacts on riparian, wetland, and other sensitive communities, as well as a requirement for compensatory mitigation because avoidance of wetlands and habitat is not always feasible. The Draft EIR does recognize that details of mitigation can only be worked out in the context of site-specific biological assessments. In fact, in *Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, the Court stated that “deferring the formulation of the details of a mitigation measure [is authorized] where another regulatory agency will issue a permit for the project and is expected to impose mitigation requirements independent of the CEQA process so long as the EIR included performance criteria and the lead agency committed itself to mitigation.”(p. 237) Both judicial standards are met in this EIR. See Master Response A.3 regarding the level of specificity in the EIR.

In addition the comment recommends that the statement “whenever practicable” be removed from Mitigation Measure 2.9(a). CEQA Guidelines Section 15126.4(a)(1) states that an EIR shall describe feasible measures that could minimize the adverse impacts of a project. Section 15364 of the CEQA Guidelines defines the term feasible as meaning, “... capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.” As the word practicable is a synonym for feasible, the mitigation language as written is consistent with the intent of Section 15364 of the CEQA Guidelines.

The comment also states that use of a wetland mitigation bank should not be allowed and that a “no net loss” policy be required with respect to wetlands. As stated on page 2.9-67 of the Draft EIR, “In accordance with Corps, EPA, USFWS, RWQCB, and CDFW guidelines, a goal of ‘no net loss’ of wetland acreage and value is required, wherever possible, through avoidance of the resource. Where avoidance is not possible, mitigation for wetland impacts would be based on project-specific wetland mitigation plans, subject to approval by the Corps, RWQCB, CDFW, and the BCDC and CCC where applicable.” Thus, compensatory mitigation is only considered when impacts to wetlands cannot be avoided and/or minimized. That is, MTC and ABAG agree that avoidance is the first priority, consistent with a “no net loss” policy (see pg. 2.9-71), and that mitigation banking only is an option after other alternatives have been evaluated and determined to be infeasible. Wetland mitigation banking is an option supported by the EPA and the Army Corps of Engineers and is currently their preferred method of compensatory mitigation over permittee-responsible mitigation. Wetland mitigation banking focuses on preserving, restoring, and enhancing large, contiguous wetland areas which typically provide much higher quality habitat values than restoration of smaller, possibly isolated, fragmented, or otherwise degraded wetlands is likely to. However, the proposed Plan does not alter the existing land use authority of the implementing agency. Therefore, an implementing agency retains the

discretion to adopt mitigation other than wetland mitigation banking to the extent feasible to substantially reduce or avoid wetland impacts. Similarly, implementing agencies retain the discretion to deny a project based on, for example, potential significant biological impacts to wetlands or other natural resource.

Finally, the comment states that a “no take” approach be required for special-status species. Mitigation Measures 2.9(a) through 2.9(c) of the Draft EIR are designed to avoid and/or minimize take of special-status species. Further, page 2.9-60 of the Draft EIR specifies that a “no take” approach is required during construction near special-status plant and wildlife species whenever feasible.

B17-24: MTC and ABAG agree that Impact 2.9-1a remains significant and unavoidable because local agencies cannot be compelled to adopt adequate mitigation.

B17-25: The comment misrepresents the Draft EIR’s statement on p. 2.9-62 with respect to the critical habitat impacts discussion. The Draft EIR says:

“As noted under the Method of Analysis, above, the GIS-based analysis overestimates the acreage likely to be affected, because it simply represents the intersection of areas where species are, or have been, present and areas where development is likely to occur. Because the analysis is at a regional level it is necessarily very coarse-grained, the actual acreage anticipated to be affected by future development projects would likely be far less than indicated in the tables, due to the potential absence of species and/or habitat from specific development sites.”

Critical habitat units contain both occupied and unoccupied habitat, as well as areas that contain actual habitat for a species and areas that don’t. This fact, combined with the nature of the GIS-based analysis described above, as well as the requirement that critical habitat first be avoided, supports the conclusion that actual impact acreages will likely be lower than the acreages presented in Tables H-2A through H-2C (critical habitat) and H-3A through H-3B (salmonid critical habitat) in Appendix H to the Draft EIR. See also response B17-16.

The comment also states that special-status species should be presumed to exist where suitable habitat exists and that the Draft EIR assumes that critical habitat is the only endangered species habitat that need to be protected. MTC and ABAG agree with the observation about federal and state law, and this point is made in the Draft EIR in the Regulatory Setting section of Chapter 2.9 Also, please see response to Comment B17-15.

The comment further states that no information is provided to support the assumption that the GIS-based analysis overestimates the acreage likely to be affected by future development. Please see the Draft EIR quote above and response B17-16.

Finally, as noted in Response B17-23, MTC and ABAG agree that avoidance should be a first priority in mitigation and that the impact remains significant and unavoidable

B17-26: The comment requests a listing of guidelines and regulations governing mitigation for impacts to special-status birds. Please see response B17-21 on a similar issue and see also

responses B17-1 and B17-3 above regarding the nature of a program EIR and the level of analysis required in a program EIR and also response B17-9 regarding the nature of an EIR and the type of information that should be provided. MTC and ABAG agree that there is no certainty that guidelines and regulations would be used by local jurisdictions if there is no legal obligation to do so, but where a permit is required from a responsible agency with authority over the proposed activity, the guidelines and regulations have the force of law and do apply. The comment about the San Francisco RWQCB is acknowledged; their regulatory authority is noted in the discussion of impacts on jurisdictional waters on pgs. 2.9-66 through 2.9-71.

B17-27: Referencing impact discussion 2.9-2 the comment agrees with the Draft EIR that impacts on jurisdictional wetlands should be avoided and states again that a no net loss of wetland acreage should be implemented. Please see response B17-23 regarding no net loss. The comment also states that the impact discussion should address the role of the Corps and the RWQCB in regulating wetlands. The Draft EIR discusses the role of all wetland permitting agencies on p. 2.9-14 and in the Regulatory Setting section starting on p. 2.9-31. The Draft EIR also refers to the roles and responsibilities of the wetland permitting agencies, including the Corps and the RWQCB, throughout impact discussion 2.9-2, on pgs. 2.9-67 through 2.9-71.

The comment reiterates opinions expressed in earlier comments regarding the location of projects in urbanized versus previously undeveloped areas and the relative potential for impacts in each situation. Please see responses B17-2, B17-3, B17-15, B17-16, and B17-20.

B17-28: The comment states that mitigation measures for wetland impacts should be required, not just considered “where feasible.” The Draft EIR does this: Mitigation Measure 2.9(d) states that “*Implementing agencies shall require project sponsors to prepare biological resource assessments.... The assessment shall identify specific mitigation measures... and said measures shall be implemented.*” For additional information, see response B17-23.

The comment further states that a minimum 1:1 mitigation ratio for wetlands is insufficient. Mitigation Measure 2.9(d) on p. 2.9-71 puts forward this ratio as a minimum, in keeping with no net loss policies, and goes on to say mitigation shall in all cases be consistent with mitigation ratios set forth in local plans (such as general plans and HCPs/NCCPs) or in project-specific permitting documentation. These ratios are often greater than 1:1. In addition, mitigation ratios are often tied to the quality and function of a specific wetland. Therefore, compensatory mitigation for a low quality, degraded wetland that supports common wildlife and is dominated by non-native plant species may appropriately be placed at a 1:1 ratio and a high quality wetland dominated by native vegetation and supporting special-status wildlife would require a higher mitigation ratio of 2:1 or greater.

B17-29: The comment expresses disagreement with the conclusion that Impact 2.9-3 would be less than significant. This is not the conclusion of this EIR, which makes the determination that the combined effects of land and transportation development are potentially significant on p. 2.9-74 of the Draft EIR and proposes the measures in Mitigation Measure 2.9(e) to avoid and minimize potential impacts to less than significant. However, the final determination for this impact is significant and unavoidable, as stated on p. 2.9-75 of the Draft EIR, because

MTC and ABAG cannot compel local implementing agencies to adopt Mitigation Measure 2.9(e).

- B17-30: The comment states that all wetlands along the bay and all riparian corridors and open space should be considered movement corridors. MTC and ABAG agree with the commenter and the Draft EIR recognizes and underscores this point in several places, including the natural community summaries and in the impact analysis itself. The discussion of Essential Connectivity Areas (ECAs) is appropriate for a regional plan; the Draft EIR also looks at potential impacts to migratory corridors on the local level on p. 2.9-73 and states that areas including waterways, riparian corridors, and contiguous or semi-contiguous expanses of habitat are likely to facilitate wildlife movement, even through urbanized areas, throughout the region. Mitigation Measure 2.9(f) requires a project-specific assessment of local wildlife movement corridors and proposes measures to avoid and reduce impacts on such corridors to less than significant levels.
- B17-31: The comment states that Impact 2.9-4 should not be limited to HCPs and NCCPs but should include local general plan policies and ordinances. The Impact 2.9-4 discussion includes consideration of Local Coastal Programs, Conservation Strategies and local ordinances and policies on pp. 2.9-76 and 2.9-77. Mitigation Measure 2.9(f) requires consistency with the most recent General Plan, policy, ordinances and conservation plans, and documentation as part of project-level environmental review that such compliance is achieved. As a result, local jurisdictions are not “*required to have weaker standards than they have adopted*”. The link back to adopted plans is clearly stated as the obligation to design for avoidance first (see second bullet in this measure). See also Master Response A.1 regarding local land use control.
- B17-32: The sea level rise analysis does, in fact, consider effects associated with all low-lying land, including the individual PDAs noted. Impacts are quantified and reported on a county-by-county basis (see Tables 2.5-16 through 2.5-21). Table 2.5-13 lists 430 acres in Marin County PDAs that would be within the potential sea level rise zone. See Master Response E for additional information on sea level rise.
- B17-33: The commenter suggests that tidal wetlands and adjacent upland transition zones should be used as buffers against sea level rise within the setback/buffer strategy. The Draft EIR considers the value of wetlands as a buffer against sea level rise under the “Strategies with a Range of Outcomes” section, “Create / restore / enhance wetlands”. The Draft EIR also notes the importance of upland transition zones to help provide space for wetlands to migrate inland impacts as sea levels rise.
- B17-34: The commenter questions that if raising the floor level of structures is used as a mitigation strategy, as used in other flooded areas, how would people get around with flooded streets? A mitigation strategy associated with raising a building’s elevation is typically associated with periodic flooding associated with a flood event. Most commonly, buildings are raised so that the first floor elevation is above the 100-year base flood elevation, which is associated with a Federal Emergency Management Agency minimum recommendation. In a flood event, the streets and roadways may act as floodways to convey the floodwaters. When the floodwaters recede, the home would be accessible, and if the first floor elevation was sufficiently high, no

damage would have occurred to the structure. Any evacuation plans or strategies associated with a flood event should be specified in the community's emergency management plan or Hazard Mitigation Plan. The mitigation measure "Raise elevation" in the Draft EIR is not specific to raising the elevation of only a single structure, but rather raising a development or set of structures. The mitigation measure further suggests that any changes to overland flow and increased flooding in adjacent areas would need to be considered. See also Master Response E for additional information on sea level rise. Chapter 2.13, Hazards, includes additional information on how implementation of the proposed Plan might impair or physically interfere with an adopted emergency response plan or emergency evacuation plan. The conclusion, under Impact 2.13-7, is that the potential impact would be less than significant.

- B17-35: MTC and ABAG agree with the idea of locating development outside of high-risk areas and the suggestion that this could be combined with funding to purchase properties and restore wetlands or open space lands. The Adaptation Strategies described for informational purposes in the Draft EIR (pages 2.5-76 through 2.5-82) include a number of strategies, including but not limited to: encouraging cluster development in low-risk areas, establishing setbacks/buffers, zoning restrictions in high-risk areas, and conditional development in high-risk areas, and in the more extreme case, relocation. See response B17-38 for more information on the Priority Conservation Area program.
- B17-36: These issues are addressed in this Draft EIR, in Chapters 2.5 (Climate Change and Greenhouse Gases), 2.7 (Geology and Seismicity), 2.8 (Water Resources), and 2.13 (Hazards).
- B17-37: As the comment notes, MTC and ABAG are charged by SB 375 with creating a sustainable communities strategy to reduce greenhouse gas emissions through transportation and land use planning. The proposed Plan does go further, and this Draft EIR includes analysis of vegetation, which is in the Air Quality chapter. Mitigation Measure 2.2(d), on page 2.2-81 of the Draft EIR includes planting trees and/or vegetation to trap particulates as a strategy to reduce the impacts of PM emissions. This mitigation measure also applies to impact criterion 2.2-5(a). MTC and ABAG agree that wetlands and other habitat restoration could provide air quality benefits along with increasing habitat, and improving aesthetic and recreational opportunities. Such site-specific considerations are acknowledged in the mitigation measures in Chapter 2.9 and could well be included in the planning process as part of goal-setting and specifying success criteria and specifics of restoration/creation/enhancement.
- B17-38: For the purposes of this programmatic EIR, Priority Conservation Areas (PCAs) within the region are identified in general terms. The nomination of an area for PCA designation requires the approval of the respective local jurisdiction. Preservation of a PCA may be initiated by a public, private or non-profit entity as a result of a land purchase or a conservation easement that is applied to the land title. MTC and ABAG acknowledge the Marin Audubon Society's comment regarding the need to refine the role of PCAs in the proposed Plan, as well as the process by which the PCAs were selected. In a June 7, 2013 report to their respective boards, MTC and ABAG stated that they will expand and refine the PCA program to strengthen regional coordination around open space preservation and maximize the impact of available funding. This will involve defining the role of different

kinds of PCAs in supporting agriculture, recreation, habitat, and other ecological functions and using this analysis to seek additional funding for PCA conservation efforts. See Section 2 of this Final EIR for text added to page 1.2-26 of the Draft EIR.

- B17-39: This Draft EIR includes a thorough evaluation of the proposed Plan effects on natural resources. Chapter 2.8, Water Resources, states the full range of environmental impacts pertaining to water and water resources. Additionally, Chapter 2.9, Biological Resources, provides a detailed environmental analysis of impacts on wildlife. The mitigation measures provided in these chapters are adequate to provide protection of these natural resources on a regional scale. Mitigation Measure 2.9(a) calls on project sponsors to prepare biological resources assessments for specific projects proposed in areas containing, or likely to contain, habitat for special-status plants and wildlife, developed consistent with the requirements of CEQA, USFWS, and CDFW regulations and guidelines, and that consultation with the USFWS and/or CDFW shall be conducted early in the planning process at an informal level for projects that could adversely affect federal or State candidate, threatened, or endangered species to determine the need for further consultation or permitting actions, and loss of habitat shall be mitigated at an agency approved mitigation bank or through individual mitigation sites as approved by USFWS and/or CDFW. Furthermore, as part of the EIR process, mitigation consultation meetings were held with public resource agencies in January 2013 to review the draft mitigations; the invitation list included USFWS, National Marine Fisheries Service, and CDFW. That said, it is not the role of the EIR to “explore a more active, aggressive program”. The purpose of the EIR is to examine the environmental consequences of the proposals in the proposed Plan. The consultation meetings noted above helped MTC and ABAG refine mitigation measures for this EIR and through them valuable information was obtained that has been incorporated into this Draft EIR.

Letter B18 Santa Clara County League of Conservation Voters (5/30/2013)

- B18-1: The letter refers to a system of HOT lanes, which presumably is the Regional Express Lane Network. This Network represents only a modest increase in the region’s freeway capacity. Table 3.1-7 of the Draft EIR shows only a 4 percent difference in freeway lane-miles between the No Project alternative, which includes only committed express lanes, and the proposed Project, which includes the full Network. This is because approximately half of the Network is composed of existing HOV lanes that will be converted to express lanes. Only the remaining half of the Network would be developed by building new express lanes. Furthermore, express lane mileage is managed capacity, which gives priority to transit and buses and is subject to Federal requirements to maintain speeds of 45 miles per hour or better 90 percent of the time express lanes are in operation. This effectively limits the number of vehicles to approximately 1,600 vehicles per hour per lane, which is less than the typical capacity of an unmanaged lane (2,200 vehicles per hour per lane).

The traffic impacts of the express lane projects on local communities, intra-regional highways, and feeder street networks will be analyzed and addressed through project-level environmental review for the Network. This EIR evaluates Plan Bay Area as a single, regional project and assesses its impacts at a regional level across all nine counties, which is consistent with CEQA provisions regarding program EIRs. As stated in Chapter 2.0 of the Draft EIR, “as a program-level EIR individual project impacts are not addressed in detail;

the focus of this analysis is to address the impacts which, individually or in the aggregate, may be regionally significant.” The individual projects that may result from the proposed Plan must comply with CEQA.

B18-2: This comment states that highway capacity expansion promotes the development of housing far from jobs. The proposed Plan dedicates only 5 percent of the total revenues to road and highway expansion, resulting in a 3 percent increase in total roadway lane miles in the region. This is compared to a 27 percent increase in total daily transit seat-miles by 2040 (Draft EIR page 2.1-27). As outlined in the Draft Plan (page 42), the proposed land use pattern seeks to achieve four comprehensive objectives: (1) create a network of complete communities, (2) increase the accessibility, affordability and diversity of housing, (3) create jobs to maintain and expand a prosperous and equitable regional economy, and (4) protect the region’s unique natural environment. In contrast to past trends that saw the outward expansion of urban growth in the region and spillover growth in surrounding regions, the proposed Plan directs new growth within locally adopted urban growth boundaries, or other similar constructs, and along major transit corridors. These strategies are all meant to improve the jobs-housing balance in the region and reduce the housing sprawl.

The comment also asserts that highway expansion eliminates open space and farm land. The proposed Plan accommodates all non-agricultural growth between 2010 and 2040 within the 2010 urban footprint (Draft Plan, page 116). This is in part the result of the focused growth pattern reflected in the proposed Plan, as well as the historic commitment of local jurisdictions and counties throughout the region to protect and preserve open space through policies such as urban growth boundaries and urban limit lines. (The Draft EIR on pages 3.1-47 through 3.1-55 did find that the proposed Plan does have a significant unavoidable impact on open space and farm land, as do all of the alternatives; this is because the criterion of significance is any conversion of open space or farmland, even if it is included within an existing urban boundary.)

B18-3: MTC and ABAG agree with this comment; these are factors that went into the design of the proposed Plan. Chapter 2.1 of the Draft EIR, Impact 2.1-4, finds that under the proposed Plan per capita VMT will decrease by 6 percent compared to existing conditions. Chapter 2.4 in its assessment of energy impacts, on page 2.4-20, notes that, “According to a study from the Energy Information Administration, multi-family residential units, when compared to single family residential units, are 44 percent more efficient on a per unit basis in terms of consumption of electricity and 35 percent more efficient with natural gas consumption.” And that under the proposed Plan, “Multifamily units are projected to increase from 37 percent of all residential units in 2010 to 44 percent in 2040.”

B18-4: The comment states that HOT lanes will promote sprawl, which will reduce demand for Transit Oriented Development (TODs) and related transit, but if the inter-regional highways were allowed to reach capacity, it would encourage in-fill development and encourage transit usage. As described in response B18-1, more than half of the Regional Express Lane Network is comprised of existing HOV lanes that will be converted to express lanes. Even with the new lanes, the Network represents only a modest increase in the region’s freeway capacity and the additional capacity is managed capacity as described in response B18-1. This is unlikely to significantly affect regional land use patterns. Furthermore, the proposed Plan

includes numerous measures to support TODs and transit ridership, including the OneBayArea grant program and a sizable funding commitment to transit operations. The proposed Plan funds a 27 percent increase in public transit service as measured by transit vehicle seat-miles; a breakdown of additional transit service supplied under the Draft Plan is shown on page 2.1-27 of the Draft EIR.

- B18-5: See Master Response A.1 on local land use control. While SB 375 specifically does not grant regional agencies control over local land use decisions, the proposed Plan includes incentives to pursue the proposed land use pattern through the OneBayArea Grant (OBAG) program and potential CEQA streamlining benefits. See the Draft Plan, pages 73 through 75, for more details and Master Response A.2. Both OBAG and the CEQA streamlining benefits are designed to encourage more development near high-quality transit and reward jurisdictions that produce housing and jobs.
- B18-6: The comment requests MTC and ABAG to reconsider the HOT Network and enforcement. This request will be considered as MTC and ABAG deliberate the final Plan recommendations. In addition, please see response B18-5 regarding local control and enforcement.

Letter B19 Non Profit Housing Association of Northern California (5/16/2013)

- B19-1: See Master Response F regarding displacement. See responses B7-9 and B7-12 regarding in-commuting.

- B19-1.5: On July 19, 2012, the ABAG Executive Board adopted the final Regional Housing Need Allocation (RHNA) methodology for the period between 2014 and 2022. Once adopted the RHNA methodology cannot be changed per state statute. The ABAG Board is scheduled to adopt the RHNA allocation in July 2013.

SB 375 requires metropolitan areas to create a Sustainable Communities Strategy (SCS) for the Regional Transportation Plan (RTP) that aligns land use and transportation planning in order to reduce greenhouse gas emissions from cars and light-duty trucks. While SB 375 requires that the RHNA be consistent with the development pattern included in the SCS, they are separate processes with different timelines and considerations. See also Master Response F regarding displacement and Master Response B.1 regarding population projections.

The commenter suggests shifting 25,000 RHNA units outside of PDAs. RHNA is not within the scope of this project. MTC and ABAG will consider the commenter's suggestion as it pertains to the Plan, however, it should be noted that there is no indication that the shift in housing units in the Plan would reduce any of the significant environmental impacts. MTC and ABAG believe the current housing distribution is the best approach to meeting SB 375's requirements to meet the GHG reduction targets and house all the population.

- B19-2: See Master Response B.2 regarding the PDA Feasibility and Readiness Study.

- B19-3: See responses B7-9 through B7-12.

Letter B20 Natural Resources Defense Council (5/16/2013)

B20-1: Your request to include high-performing aspects of Alternative 5 will be considered by decision-makers as part of the EIR certification process and action on the proposed Plan.

B20-2: The Climate Program is an innovative new program that includes a number of elements, most of which are new and promising strategies MTC and ABAG seek to implement either for the first time or at a larger scale than currently exists. The analysis of greenhouse gas reductions associated with the elements of the Climate Program is included in the Supplemental Report, Draft Summary Predicted Traveler Responses. The analysis details the assumptions and calculations used to estimate the GHG reduction anticipated due to the Climate Program. The analysis was based on the best available information, including existing regulations and current research. Because many of these programs are new and relatively untested, a conservative approach was generally used to estimate the GHG reductions. As the Climate Program is implemented, extensive evaluations will be conducted to quantify and better understand the benefits, particularly in terms of GHG reductions, of the program.

B20-3: NRDC asks for additional information about two assumptions in MTC's analysis: the rate of adoption of car-sharing and the impact of car-sharing on members' driving patterns and GHG emissions. Two recent sources cited in the Draft Plan estimate that adoption rates for car-sharing will be between 10 percent and 13 percent; both sources reflect first generation car-sharing systems that require users to reserve vehicles for a specific amount of time and return vehicles to their original locations. There is a rapid diversification of the U.S. car-sharing market underway, including new one-way car-sharing and peer-to-peer car-sharing services. This shift allows for broader supply of car-sharing vehicles and will also increase the user base to which car-sharing appeals. MTC concludes that this shift will modestly increase the penetration rate of car-sharing to 15 percent in urban areas.

With regard to the impact of car sharing on members' GHG emissions, MTC applies estimates that are based on a representative sample of car share members. A majority of these members are in their 20s and 30s, but the average reduction applied represents all age ranges. In addition, MTC notes that the VMT reduction assumed per member is derived from a sample of urban car share members. Trip distances for suburban dwellers tend to be longer than those for urban dwellers. Therefore, while MTC expects car-share membership to be lower in suburban areas (as reflected in the analysis), the VMT reduced per member in suburban areas may actually be greater than assumed in the analysis.

B20-4: NRDC suggests that the emission reductions attributed to Smart Driving are over-estimated, given that the ability of an advertising campaign to shift driving behavior has not yet been studied. There are two sub-strategies that compose the Smart Driving Strategy: a public information campaign, and a rebate program to encourage the installation of dashboard fuel economy meters. The impact of fuel economy meters has been demonstrated in large scale studies conducted by Fiat and the National Renewable Energy Laboratory, as cited in the Draft Plan. Of the GHG reductions attributed to the Smart Driving Strategy, approximately $\frac{3}{4}$ are attributed to the installation of these fuel economy meters. MTC's estimate of the impact of the public information campaign is modest, at around 0.4% reduction in per capita

GHG emissions. Smart driving practices save both fuel and money for those that adopt them. The campaign envisioned would generate approximately 140,000,000 media ‘impressions’ in the Bay Area in the first four years, yet MTC made the conservative assumption that only around 280,000 people, around 5% of the driving age population, would change their behavior as a result of the campaign. The conclusions regarding the effectiveness of these measures are reasonable and supported by the evidence underlying these measures.

B20-5: Table 2.2-10 of the Draft EIR provides the specificity requested in this comment of where and when the mitigation measures should be implemented. The Draft EIR identifies specific distances around various sources of air pollution where these mitigation measures should be implemented to minimize potentially significant health impacts. The recommendation in the Draft EIR is that all of these mitigation measures should be implemented if sensitive land uses are proposed within any of the set distances identified in Table 2.2-10. To provide additional clarity, the language suggested by the commenter has been added to Mitigation 2.2(d), as shown in Section 2 of this Final EIR. Please see Master Response A.3 regarding the level of specificity in the EIR.

B20-6: The comment does not raise environmental issues that require a response under CEQA. Please refer to Master Response A.2 on CEQA streamlining. Please note that Table 1.1-1 of the Draft EIR summarizes the requirements and benefits for various types of CEQA streamlining under SB 375.

Letter B21 Rose Foundation (5/16/2013)

B21-1: Commenter’s support for Alternative 5, the Environment, Equity and Jobs Alternative, and of particular elements of the alternative, is acknowledged. Commenter’s request will be considered by decision-makers as part of the EIR certification process and action on the proposed Plan. Please see Master Response F regarding displacement.

B21-2: The methodology and significance thresholds used in the Draft EIR to assess public health effects related to air pollutants are consistent with those recommended by the Bay Area Air Quality Management District and other State and federal regulatory agencies. Table 2.2-10 of the Draft EIR identifies specific distances which were used to analyze whether the proposed Plan could cause a localized net increase in sensitive receptors located in Transit Priority Project (TPP) corridors within these set distances to mobile or stationary sources of TAC or PM_{2.5} emissions. The recommendation in the Draft EIR is that Mitigation Measure 2.2(d) should be implemented if sensitive land uses are proposed within any of the set distances identified in Table 2.2-10. Please also see Master Response A.3 regarding the level of specificity in the EIR.

B21-3: The analysis in the Draft EIR included dispersion modeling for particulate matter along all major transportation corridors within the Bay Area. The methodology used is consistent with recommendations from the California Air Resources Board and U.S. Environmental Protection Agency. The analysis identified areas adjacent to major transportation corridors where concentrations could be above the threshold of significance used to determine if potential health impacts would be significant. This conclusion recognizes that adverse health

impacts could occur in some areas, and further analysis of these potential impacts should occur when any sensitive land uses are proposed in these areas above the threshold. A separate analysis was provided under Impact 2.2-6, which concluded that some currently disproportionately impacted communities would be adversely impacted from the proposed plan. In general, any alternative that reduces VMT could likely result in lower air pollution concentrations in the Bay Area and therefore a reduced level of health impacts to the public. Your support for Alternative 5 and of particular elements of the alternative is acknowledged. Decision-makers will weigh the advantages and disadvantages of each alternative in determining which option to adopt. See response B25-8 for additional information regarding air quality impacts.

B21-4: The commenter raises concerns regarding the ability of the proposed Plan to achieve a performance target established by MTC. The decision-makers will consider this comment in weighing the advantages and disadvantages of adopting the proposed Plan or one of the other alternatives included in the EIR. Additional details regarding the performance target are discussed below.

Road safety impacts, including collisions involving bikes and pedestrians associated with the proposed land use and transportation strategy were considered as part of the Plan Bay Area performance targets process (as indicated on page 1.2-22 of the Draft EIR; pages 99-100 of the Draft Plan).

The Draft Plan includes \$4.6 billion specifically for bicycle and pedestrian improvements during the Plan period. The One Bay Area Grant program, \$14.6 billion over the life of the Plan, is another fund source that can be used to pay for 'Complete Streets' projects. These projects can include stand-alone bicycle and pedestrian paths, bicycle lanes, pedestrian bulb-outs, lighting, new sidewalks, Safe Routes to Transit, and Safe Routes to Schools projects that will improve bicycle and pedestrian safety and travel.

Many of the counties in the region included bicycle and pedestrian programs, road safety enhancements, and streetscape improvements in their priority projects/programs being funded under the County Priorities portion of the discretionary funds (see Draft Plan page 83). Major capital projects often include significant elements to improve local streets, either as key components of those projects or as mitigations for project-level impacts. For example, the AC Transit East Bay Bus Rapid Transit project (included in the Draft Plan) will significantly improve the streetscape along International Boulevard in Oakland to improve the safety of all road users and to provide a more pleasant environment for walking and bicycling.

In addition to this funding, cities and counties that wish to use OBAG grant funds must adopt a 'Complete Streets' resolution and in the future an updated general plan element to improve the delivery of Complete Streets projects serving all road users, including pedestrians and bicyclists. During MTC's last survey of project sponsors in 2006, over 55 percent of transportation projects surveyed already included complete streets elements. The resolution requirement is expected to increase the rate of complete street implementation.

- B21-5: The Draft EIR is not required to analyze the individual impacts of subcomponents for each alternative evaluated. Therefore, the direct impacts of the proposed VMT tax in Alternative 5 were not measured separately from the additional transit services funded from those revenues. Both the VMT tax and the additional transit service contribute to reductions in automobile use and growth in transit boardings in Alternative 5, although the relative magnitude of the impact from each subcomponent cannot be determined based on the travel demand model forecast data available. See responses B25-21 through B25-26 for additional information regarding the adequacy of the analysis of Alternative 5. Your support of Alternative 5 without endorsement of the VMT tax is acknowledged.
- B21-6: See Master Response F on Displacement. See responses B25-21 through B25-26 for additional information regarding the adequacy of the analysis of Alternative 5.
- B21-7: See Master Response F on Displacement. See responses B25-21 through B25-26 for additional information regarding the adequacy of the analysis of Alternative 5. See responses B7-9 through B7-12 regarding the In-commuting issue.
- B21-8: The impacts of forecasted growth in regional transit ridership on “transit over-crowding” are analyzed under Impact 2.1-5, comparing the baseline and future levels of public transit demand with the level of public transit service supplied in each alternative. This transit utilization metric appropriately captures the regional transit capacity constraints by mode and by time of day. While individual bus or rail lines may experience transit capacity constraints both today and in the future, those conditions represent localized operational issues outside the regional scope of the Draft EIR. As noted on page 2.1-35 of the Draft EIR, localized operational transit capacity issues should be addressed when considering individual projects, rather than on the programmatic level for Plan Bay Area. Such analyses can look at a broad set of impacts related to capacity constraints, including travel time and public health (as discussed in this comment). As stated in Chapter 2.0 of the Draft EIR, “as a program-level EIR individual project impacts are not addressed in detail; the focus of this analysis is to address the impacts which, individually or in the aggregate, may be regionally significant.” As such, impacts on specific transit lines and systems are more appropriately dealt as part of detailed local analyses. See Master response A.3 regarding the level of specificity in the EIR.

Plan Bay Area also provides funding to projects across the region (including within Alameda County) to address localized issues of transit capacity constraints. In Alameda County, Plan Bay Area prioritized BART Metro, which will allow for increased frequencies of BART service along rail segments with the highest levels of peak demand, and new bus rapid transit lines on International Boulevard and MacArthur Boulevard to provide additional capacity on some of AC Transit’s highest-demand bus routes.

Letter B22 6 Wins Coalition (5/16/2013)

- B22-1: Commenter’s general opinions regarding Alternative 5 are acknowledged. Decision-makers will weigh the advantages and disadvantages of each alternative in determining which option to adopt. The comment does not raise specific environmental issues to which a response is required under CEQA.

B22-2: Increased funding for transit operations and the youth bus pass will be considered by the MTC Commission and ABAG Executive Board as they take final action on Plan Bay Area. The comment does not raise specific environmental issues to which a response is required under CEQA.

Regarding a free youth pass, transit fare policy is set by local transit agency boards. It is not known whether all transit agencies would adopt a free youth pass program. One recent example from the Transit Performance Initiative (TPI), which provided regional funds to support agencies implementing performance improvements, is that some transit agencies did designate TPI funds to help offset the cost of pass programs for youth or low income riders.

B22-3: The comment refers to unspecified “impacts” but does not raise specific environmental issues to which a response is required under CEQA. Nonetheless, a response to the issue raised is provided below.

The proposed Plan demonstrates a robust commitment to expand and maintain transportation choices in express lane corridors and throughout the region. The proposed Plan would, like the two preceding Regional Transportation Plans, invest over 60 percent of all transportation revenue in transit, which includes commitments to the continued operation of the considerable express bus service that operates in the express lane corridors. In addition, the current plan invests in transit expansion projects along express lane corridors on I-80, I-880 and the transbay bridges. Specific projects include the Irvington BART Station, the Union City Commuter Rail Station, the Hercules Commuter Rail Station, new ferry routes and a portion of BART to San Jose.⁷ Through the Freeway Performance Initiative’s Traveler Information/511 program, the proposed Plan would continue the region’s robust commitment to the Regional Rideshare Program, which will support the formation of carpools and vanpools in express lane corridors.⁸ Finally, an additional \$6M is committed in the proposed Plan to funding efforts to maintain and increase the number of vanpools, with the goal of sustaining the investment long-term.⁹

A primary benefit of the Regional Express Lane Network is the closing of gaps and extension of the HOV network. This will leverage existing investments to expand and enhance transportation choices by improving reliability and reducing travel time for transit, carpools and vanpoolers. MTC does not oppose using net revenue from express lanes to fund transit or other investments and is prepared to evaluate specific options and make commitments once the initial HOV lane conversions, and perhaps the gap closures, are up and running and we have established a revenue track record.

In developing projects that compose the Express Lane Network, Bay Area Infrastructure Financing Authority will comply with all relevant state and federal laws and guidance for

⁷ Draft Plan Bay Area, page 89.

⁸ Draft Plan Bay Area, page 78.

⁹ Draft Plan Bay Area, page 85.

assessing impacts on low-income populations and respond accordingly if disproportionate adverse impacts are identified. For example, as described to MTC's Policy Advisory Council on March 13, 2013, MTC staff has begun to explore considerations about the use of FasTrak® toll tags raised by low-income travelers in targeted outreach conducted in fall 2012. See:

http://apps.mtc.ca.gov/meeting_packet_documents/agenda_2008/5_Express_Lanes.pdf

- B22-4: Please see Master Response F regarding displacement and Master Response B.1 regarding population and job growth projections, both of which also discuss the relationship between the SCS and RHNA.

In addition, as referenced in Plan Bay Area Chapter 1 and 6, this is a Plan to build on. Plan Bay Area will be updated every four years, as required by law. Addressing affordable housing issues requires efforts at all levels of government. See Master Response A.1 regarding local control over land use planning. For more information about ongoing efforts to provide housing in the Bay Area for all income levels, see: http://onebayarea.org/pdf/9-26-12_DRAFT_Addressing_Regional_Housing_Needs_Regional_Policy.pdf

ABAG and MTC are also currently undertaking a three year initiative funded by a \$5 million grant from HUD. The initiative is intended to identify strategies to improve the region's economic prosperity by encouraging stronger, more sustainable communities, integrating housing and jobs planning, fostering local innovation in support of new jobs and building a healthy regional economy. The three pronged planning efforts includes the Economic Opportunity Strategy, a Housing the Workforce Initiative, and an Equity Collaborative that together will implement this program. The Housing the Workforce Initiative will provide tools and resources for housing production and preservation in transit served areas, support neighborhood stabilization in communities at risk of displacement, and provide more than \$1 million in sub grants for pilot projects. For more information see: <http://www.onebayarea.org/regional-initiatives/Bay-Area-Prosperity-Plan.html>

- B22-5: The Draft EIR and the Equity Analysis of the Draft Plan recognizes the potential for localized displacement of low income households. (Draft EIR, pp. 2.3-36 through 2.3-40.) In response to this possible risk, Mitigation Measures 2.3(a), 2.3(b), and 2.3(c), are included in the EIR. In addition, numerous policy initiatives are incorporated in the Plan to provide additional resources for addressing displacement pressure. First, several tasks in the Bay Area Prosperity Strategy will specifically research displacement pressures and trends and what actions can be taken to affect displacement pressure. The One Bay Area Grant (OBAG) program requires both cities and counties wishing to receive these funds to have an adopted housing element and for the Congestion Management Agencies (CMAs) to review what housing policies are currently in place throughout the region. As noted, MTC is making a direct investment of \$10 million to increase the Bay Area Transit Oriented Affordable Housing to at least \$90 million. This fund can finance both the preservation of existing housing that is affordable, land banking, or the construction of new affordable housing. This information has been incorporated into the discussion of this impact on page 2.3-39 of the Draft EIR. See the revised text in Section Two of this Final EIR.

B22-6: The Draft Plan makes a considerable investment in bicycle and pedestrian projects and adds new requirements for local agencies to access key funds. The investments for bicycle projects are included in funding under the Road and Bridge: Maintain the Existing System category, which totals almost \$100 billion. State Transportation Development Act (TDA) and local sales tax funds committed to bicycle and pedestrian improvements total \$4.6 billion during the plan period. The One Bay Area Grant program, \$14 billion over the life of the plan, is another fund source that can be used to pay for ‘Complete Streets’ projects. These projects can include stand-alone bicycle and pedestrian paths, bicycle lanes, pedestrian bulb-outs, lighting, new sidewalks, Safe Routes to Transit, and Safe Routes to Schools projects that will improve bicycle and pedestrian safety and travel. In addition to this funding, cities and counties that wish to use OBAG grant funds must adopt a ‘Complete Streets’ resolution and in the future an updated general plan element to improve the delivery of Complete Streets projects serving all road users, including pedestrians and bicyclists. During MTC’s last survey of project sponsors in 2006, over 55 percent of transportation projects surveyed already included complete streets elements. The resolution requirement is expected to increase the rate of complete street integration. Project specific analysis and mitigation are beyond the scope of this EIR. Please see Master Response A.3 regarding the level of specificity in the EIR.

The comment to “better mitigate air pollution” is unclear in what the commenter suggests could be done to improve the mitigation measures in Chapter 2.2 of the Draft EIR. MTC and ABAG believe these measures, which were developed by the Bay Area Air Quality Management District, would adequately reduce most impacts on air quality to less than significant levels, if implemented.

B22-7: This comment does not raise specific environmental issues that require a response under CEQA. That said, the proposed Plan includes an assessment of gross regional product on pages 102 and 103 of the Draft Plan. Local higher and wage policies are the purview of local jurisdictions and project sponsors. The regional agencies are interested in looking at economic development strategies and that is a key component of the Joint Policy Committee’s work plan for the coming year. See Master Response A.1 regarding local control over land use planning.

B22-8: See Master Response E regarding sea level rise.

B22-9: Mitigation measures 2.9(f), (g), and (h) emphasize the need for projects developed under the proposed Plan to incorporate information on biological resources and conservation plans. These measures call on project sponsors to prepare biological resources assessments for specific projects proposed in areas containing, or likely to contain, locally protected biological resources and apply mitigation; modify project designs to ensure the maximum feasible level of consistency with approved conservation plans; and careful review of the applicable local coastal program or San Francisco Bay Plan for potential conflicts. In addition, Priority Conservation Areas are the primary vehicle MTC and ABAG are utilizing as part of Plan Bay Area to support conservation. ABAG and MTC hope to partner with local jurisdictions, stakeholders and members of the public to strengthen the PCA framework in the coming years. To reflect the importance of PCAs, Section 2 of this Final EIR adds text to the Project Description of the Draft EIR, p.1.2-26. See response B17-38

for additional information on PCAs. These modifications do not change the findings or conclusions of the EIR.

Letter B23 SPUR (5/16/2013)

- B23-1: Commenter's support for sea level rise analysis is acknowledged. MTC and ABAG acknowledge that the sea level rise analysis is not required in the EIR; however, the analysis is included for informational purposes. See Master Response F for additional information on sea level rise.
- B23-2: The proposed Plan concentrates growth in PDAs, which were identified by local agencies in order to reflect local preferences and create a land use pattern with a likelihood of local implementation. Some growth is expected to occur outside of the PDAs under the Plan and local agencies have ultimate control over the land use decisions in each jurisdiction.
- B23-3: See Master Response F regarding displacement for more information on affordable housing and OBAG funds.

Letter B24 Transform (5/16/2013)

- B24-1: Your support for Alternative 5 is acknowledged and will be forwarded to MTC and ABAG for consideration.
- B24-1.5: Regarding shifting funds from HOT lanes to other transportation choices in the corridors, see response B22-3 and B24-2. Regarding the request to study implementing HOT lanes through conversion of a general purpose lane, see responses B24-4 and B24-5 below. This request will be considered by MTC and ABAG as part of Final Plan adoption.
- B24-2: This comment does not raise environmental issues that require a response under CEQA.
- The proposed Plan demonstrates a commitment to expand and maintain transportation choices in express lane corridors and throughout the region. The proposed Plan would, like the two preceding long range plans, invest over 60 percent of all transportation revenue in transit, which includes commitments to the continued operation of the express bus service that operates in the express lane corridors. In addition, the current plan invests in transit expansion projects along express lane corridors on I-80, I-880 and the transbay bridges. Specific projects include the Irvington BART Station, the Union City Commuter Rail Station, the Hercules Commuter Rail Station, new ferry routes and a portion of BART to San Jose. Through the Freeway Performance Initiative's Traveler Information/511 program, the proposed Plan continues the region's robust commitment to the Regional Rideshare Program, which will support the formation of carpools and vanpools in express lane corridors. Finally, an additional \$6 million is committed to funding efforts to maintain and increase the number of vanpools, with the goal of sustaining the investment long-term.

A primary benefit of the Regional Express Lane Network is the closing of gaps and extension of the HOV network. This will leverage existing investments to expand and enhance transportation choices by improving reliability and reducing travel time for transit,

carpoolers and vanpoolers. MTC does not oppose using net revenue from express lanes to fund transit or other investments and is prepared to evaluate specific options and make commitments once the initial HOV lane conversions, and the gap closures, are operational and have established a revenue track record.

B24-3: For Plan Bay Area, the assessment of environmental justice impacts and commitment to mitigations are considered for the entire investment program rather than at the project-level. In developing projects that compose the HOT Network, Bay Area Infrastructure Financing Authority (BAIFA) will comply with all relevant State and federal laws and guidance for assessing impacts on low-income populations and respond accordingly if disproportionate adverse impacts are found. For example, as described to MTC's Policy Advisory Council on March 13, 2013, MTC staff has begun to study the use of FasTrak® toll tags raised by low-income travelers in targeted outreach conducted in fall 2012. See also response B22-3.

See Master Response F for more information on displacement and socio-economic issues.

B24-4: This comment does not raise environmental issues that require a response under CEQA. While existing federal and State law clearly prohibits converting an existing general purpose lane to an express lane, MTC is willing to study the traffic impacts of this approach before pursuing new-construction projects that are initiated after adoption of the SCS.

B24-5: This comment does not raise environmental issues that require a response under CEQA. As stated in response B24-4, MTC staff is willing to analyze the potential to use general purpose lanes to complete the HOV network. MTC will consider TransForm's recommendation to seek approval for pilot tests pending outcome of the analysis.

B24-6: In developing the projects that compose the Network, BAIFA will comply with all relevant state and federal laws and guidance for assessing impacts on low-income populations. This guidance directs sponsors to identify any disproportionate adverse impacts through project-level studies during the environmental review process. Furthermore, findings from surveys of existing express lanes throughout the country show travelers of all income levels choose to use express lanes, indicating that travelers of all income levels receive benefits. As Transform notes in their whitepaper "Moving People, Not Just Cars" (May 2013), these surveys also show that higher-income travelers compose a larger share of paying customers; higher-income travelers do get more time savings and they also pay more. The same surveys also show that lower income travelers compose a higher share of carpools and transit riders who use the lane for free.

B24-7: This EIR evaluates Plan Bay Area as a single, regional project and assesses its impacts at a regional level across all nine counties, which is consistent with CEQA provisions regarding program EIRs. As stated in Chapter 2.0 of the Draft EIR, "as a program-level EIR individual project impacts are not addressed in detail; the focus of this analysis is to address the impacts which, individually or in the aggregate, may be regionally significant." SB 375 only requires GHG emissions reductions on cars and light trucks at a regional level. The individual projects that may result from the proposed Plan must comply with CEQA. In developing the Network, BAIFA will comply with all relevant State and federal laws and

guidance. See Master Response A.3 regarding the level of specificity in the EIR and Master Response D.1 regarding SB 375's GHG reduction targets.

Letter B25 Paul Hastings on behalf of Public Advocates (5/16/2013)

B25-1: Commenter summarizes the comments contained in comments B25-3 through B25-39. See responses B25-3 through B25-39.

B25-2: Commenter summarizes the comments contained in comments B25-3 through B25-39. See responses B25-3 through B25-39.

Regarding the specific issue of the land use model, the UrbanSim model responds to a host of explicit inputs, including changes in zoning, accessibility, and development fees, when allocating jobs and households to individual parcels of land. Users of the model can also include less explicit policy levers. These policies may represent any number of governmental or non-governmental actions, such as a change in political climate, more development-friendly attitudes, and/or directed monetary subsidies. Effectively, these less explicit policies instruct the model to assume development is, all else equal, more likely to occur in certain places.

In the Draft EIR, these less explicit policies are referred to as “calibration techniques” and “subsidies” and were used in the UrbanSim analysis of the Proposed Plan, Enhanced Network of Communities, and Environment, Equity and Jobs (EEJ) Alternatives. The commenter’s claim that the “calibration techniques” were used for the Proposed Plan Alternative and not the EEJ Alternative is incorrect. To some extent, this is understood by the commenter, as the attachment to its letter refers to “... ‘calibration techniques’ which likely include [subsidies]” (Sustainable Systems Research (SSR) attachment, p. 5). In the EEJ Alternative, these less explicit policies were used to direct growth to PDAs and TPPs located in cities identified by Public Advocates, Urban Habitat, and TransForm (the designers of the alternative). The commenter’s claims that these “adjustments” were not used for the other alternatives is inaccurate. Again, the commenter seems to understand this comment is inaccurate, as the attachment to its letter notes that “[s]ubsidies were a key policy tool used to encourage the development of affordable housing near jobs in UrbanSim’s modeling of the EEJ alternative” (SSR attachment, p. 3).

B25-3: Commenter cites CEQA case law stating that EIRs must include sufficient detail to allow informed decision making and public participation, and summarizes its comments B25-4 through B25-10. See responses B25-4 through B25-10.

B25-4: Commenter cites the CEQA Guidelines sections relating to the information required in an EIR, and summarizes its comments B25-6 through B25-7. See responses B25-6 through B25-7.

B25-5: Commenter asserts it is unable to determine whether any low performing transportation projects were dropped from the Plan because, to do so, commenter must review a number of documents.

As noted by commenter, CEQA Guidelines section 15147 provides that “placement of highly technical and specialized analysis and data in the body of an EIR should be avoided through inclusion of supporting information and analyses....” Consistent with CEQA, the Draft EIR includes references to supporting analyses and technical reports, but does not include all technical data within the body of the Draft EIR. Commenter’s complaint that the Draft EIR relies on too many documents does not raise an issue under CEQA. The Plan covers complex issues over a large region and, as such, numerous technical studies and analyses were required to prepare the Plan and the Draft EIR. The Draft EIR properly summarizes such studies and references the supporting data and reports, as required by CEQA.

Commenter further alleges in a footnote that a number of technical reports relied on by the Draft EIR were published and/or revised after the Draft EIR was published on April 2, 2013 and, as such, commenter asserts the public has not been given adequate time to review the documents necessary to make an informed decision regarding the adequacy of the Draft EIR.

The dates below note when each of the Supplemental Reports relied upon in the EIR was published:

- Draft Online Project Database, March 22, 2013
- Draft Forecast of Jobs, Population and Housing, April 2, 2013
- Draft Summary of Predicted Land Use Responses, April 3, 2013
- Draft Summary of Predicted Traveler Responses, April 3, 2013

CEQA requires that public review for a draft EIR “should not be less than 30 days nor longer than 60 days except in unusual circumstances.” (CEQA Guidelines, § 15015, subd. (a).) Here, the Draft EIR was released for a period of 45 days, from April 2, 2013 through May 16, 2013, consistent with CEQA’s requirements.

CEQA does not prescribe a particular length of time required for public review of all technical reports and studies relied upon by the Draft EIR. CEQA Guidelines section 15148 provides that “preparation of EIRs is dependent upon information from many sources, including engineering project reports and many scientific documents relating to environmental features. These documents should be cited but not included in the EIR.” The Draft EIR complies with this requirement. Moreover, in *El Morro Community Assn. v. California Dept. of Parks and Recreation* (2004) 122 Cal.App.4th 1341, the Draft EIR included references to technical reports by subject matter but not by title, author and date. Petitioners argued the public was deprived of critical information that precluded their review of the technical information contained within the reports. The lead agency later provided copies of the technical reports to parties that requested copies, but did not extend the public comment period. While the length of the comment period was not directly at issue, the court held “the existence of the technical reports was revealed in the Draft EIR,” the information in the reports was either repeated in the Draft EIR or summarized in the Draft EIR, and nothing more was required. (*Id.*, at p. 1354.)

See Master response C for additional information regarding requests for extension of the comment period.

In response to this comment on low-performing projects, MTC emphasizes the importance of performance assessment throughout the Plan Bay Area process – both on the scenario and project level. As part of the Project Performance Assessment, all uncommitted projects were subject to evaluation. Two distinct assessments were performed for these projects: a benefit-cost assessment to determine the cost-effectiveness for the region’s major capacity-increasing projects and a targets assessment to determine the level of support towards the Plan’s adopted targets for all uncommitted projects. Additional information on the details of the Project Performance Assessment can be found in the Plan Bay Area Draft Performance Assessment Report (Chapter 4); this document was published and made available to the public on April 2, 2013.

As the assessment focused on identifying outliers (high- and low-performing projects), criteria were established to identify low-performers based on their benefit-cost ratios and success in achieving targets (“target scores”). Low-performing projects were defined as projects with benefit-cost ratios less than 1 or target scores less than -1. In total, 34 projects were identified as low-performers over the course of the Plan Bay Area Project Performance Assessment process between 2011 and 2013.

These low-performing projects were subject to additional scrutiny, as they failed to meet a basic cost-effectiveness threshold or had adverse impacts on the Plan’s adopted performance targets. Projects sponsors had three choices on how to proceed after their project had been identified as a low-performer:

- Project sponsors could drop their low-performing project and instead fund other priorities identified as high- or medium-performing projects.
- Project sponsors could re-scope their project to exclude the construction phase or could agree to fund the project using 100% local dollars (exempting their project from the compelling case process).
- Project sponsors could submit a compelling case for consideration by the MTC Planning Committee under a set of eligible compelling case criteria (as documented on page 46 of the Performance Assessment Report).

The following 12 low-performing projects were submitted during the Call for Projects but were later dropped by project sponsors as a result of the compelling case process. These projects were therefore not included in the Draft Plan Bay Area.

- EV Solar Installation
- Golden Gate Bus Service Frequency Improvements
- Monterey Highway BRT
- BART to Livermore (Phase 2)
- Downtown East Valley (Phase 2: LRT)

- Sunnyvale-Cupertino BRT
- Capitol Expressway Light Rail Extension (Phase 3: to Nieman)
- SR-116 Widening & Rehabilitation (Elphick Road to Redwood Drive)
- SR-4 Widening (Marsh Creek Road to San Joaquin County line)
- SR-4 Bypass Completion (SR-160 to Walnut Avenue)
- SR-12 Widening (Walters Road to Sacramento County line)
- SR-4 Upgrade to Full Freeway (Phase 2: Cummings Skyway to I-80)

The following 12 low-performing projects were submitted during the Call for Projects but were substantially rescoped by project sponsors as a result of the compelling case process. The projects were therefore included as modified below in the Draft Plan Bay Area.

- Project sponsor agreed to only pursue right-of-way acquisition
 - ACE Service Expansion
- Project sponsor agreed to only pursue environmental studies
 - Dumbarton Rail
 - SMART (Phase 3: Extension from Windsor to Cloverdale)
 - Capitol Corridor Service Frequency Improvements (Oakland to San Jose)
 - Petaluma Cross-Town Connector/Interchange
 - SR-239 Expressway Construction (Brentwood to Tracy)
 - Whipple Road Widening (Mission Boulevard to I-880)
 - US-101 Widening (Gilroy to San Benito County line)
- Project sponsor agreed to fund the project with 100% local sales tax dollars
 - Pacheco Boulevard Widening
 - Vasona Light Rail Extension (Phase 2)
- Project sponsor agreed to fund the project with 100% toll revenue dollars
 - New SR-152 Alignment

The following 8 low-performing projects were submitted during the Call for Projects and had their compelling cases approved by the MTC Planning Committee in April 2012. These projects were therefore included in the Draft Plan Bay Area.

- Compelling case: project serves one or more communities of concern
 - Lifeline Transportation Program
 - Capitol Expressway Light Rail Extension (Phase 2: to Eastridge Transit Center)
 - Union City Commuter Rail Station + Dumbarton Rail Segment G Improvements
 - Sonoma Countywide Bus Service Frequency Improvements
 - Marin Countywide Bus Service Frequency Improvements
 - Farmers Lane Extension

- Compelling case: project provides cost-effective emissions reduction
 - SR-84/I-680 Interchange Improvements + SR-84 Widening
- Compelling case: project provides service for recreational trips and address transit vehicle crowding
 - Historic Streetcar Expansion Program
- Compelling case: changes to project scope and costs lead to benefit-cost ratio greater than 1
 - SMART (Phase 2: Extensions to Larkspur & Windsor + Pathway)

Two additional low-performing projects were identified as a result of a supplemental project performance assessment in the spring of 2013. These projects were both rescoped as a result of the supplemental compelling case process in May 2013 and therefore remained in Draft Plan Bay Area as modified.

- Project sponsor agreed to fund the project with 100% local dollars
 - James Donlon Boulevard/Expressway (Kirker Pass Road to Somersville Road) + Kirker Pass Operational Improvements
 - San Tomas Expressway Widening (SR-82 to Williams Road)

B25-6: Commenter alleges the document described on page 2.3-32 of the Draft EIR as the “Plan Bay Area Land Use Model Data Summary supplemental report” was improper and should in fact refer to the “Draft Summary of Predicted Land Use Responses” which is attached to the Plan as an appendix.

The reference on page 2.3-32 of the Draft EIR was mistakenly to the wrong document. The reference has been revised in the Final EIR. This minor typographical error does not render the EIR defective. In *El Morro Community Assn. v. California Dept. of Parks and Recreation* (2004) 122 Cal.App.4th 1341, petitioners similarly alleged a Draft EIR was procedurally defective for disclosing the existence of technical reports by subject matter but failing to include the titles of each technical report cited in the Draft EIR. In that case, the court held that the title of the technical reports was not required. (*Id.*, at p. 1354.) Here, the Draft EIR included the subject matter as well as the title of the technical report; even if the title in the Draft EIR is incorrect, it does not constitute a failure to comply with CEQA. Indeed, the commenter was clearly able to locate the correct report in the appendices; there was no procedural error. CEQA requires an EIR to reflect a good faith effort at full disclosure; *it does not mandate perfection.* (*Defend the Bay v. City of Irvine* (2004) 119 Cal. App.4th 1261, 1265.)

Commenter also alludes to its disfavor of the large volume of documents made available for public review by asserting the public must “plow through a technical appendix” to decipher the Draft EIR’s methodology. As noted in response B25-5, the Draft EIR properly included the extensive technical information required as appendices, consistent with CEQA Guidelines sections 15147 and 15148.

B25-7: Commenter asserts the Draft EIR relies upon a “tangle of documents” that make it difficult to discern the land use methodology used for the land use modeling. The land use modeling methodology is described briefly in the Draft EIR on page 1.2-17 and is explained in detail in the Supplemental Report, *Draft Summary of Predicted Land Use Responses*. See also responses B25-5 and B25-6 regarding CEQA’s requirement to include technical detail in appendices and not in the body of the Draft EIR.

B25-8: Commenter asserts the Draft EIR identifies increased air emissions in disproportionately-impacted communities as potentially significant, but fails to provide information regarding the health effects of these emissions.

Commenter is incorrect. The methodology and significance thresholds used in the SCS Draft EIR are consistent with those recommended by the Bay Area Air Quality Management District (BAAQMD) and other State and federal regulatory agencies. The Proposed Plan Draft EIR conducted dispersion modeling for all major transportation corridors within the Bay Area to identify areas that are exposed to levels of toxic air contaminants/particulate matter above the stated threshold of significance. When sensitive land uses are proposed in these areas, lead agencies should conduct a more detailed local air pollutant analysis to determine if project alternatives or mitigation measures exist to lessen any potentially significant impact to public health. The local pollutant analysis was conducted specifically because of epidemiological studies linking an individual’s close proximity to sources of air pollution and an increased risk of autism, asthma or other health concerns.

The Draft EIR discusses the health effects of the air pollutants analyzed in the Environmental Setting section under each pollutant (beginning on page 2.2-1). Most of these air pollutants (other than toxic air contaminants) have State and federal ambient air quality standards established that are based on potential health impacts for individual exposure to certain concentrations of the air pollutants and the duration someone is exposed (see Table 2.2-1). The analysis in the Draft EIR estimates the anticipated increase or decrease in these air pollutants associated with the Proposed Plan to determine if existing and future sensitive populations within the Bay Area will be exposed to an increase in adverse health risks or a decrease in potential health risk when compared to current air pollution levels. Any net increase in emissions or potential increase in exposure to toxic air contaminants or particulate matter identified with the Proposed Plan Draft EIR was considered to be a potentially significant health impact based on the health-based ambient air quality standards and thresholds of significance used in the Draft EIR.

The increased cancer risk of 100 in a million significance threshold used in the Draft EIR is a health based standard based on EPA guidance for conducting air toxics analyses and making risk management decisions at stationary source facilities and the community-scale level. In its guidance, EPA strives to provide maximum feasible protection against risks to health from Hazardous Air Pollutants (HAPs), or toxic air contaminants, by limiting exposure to no higher than a one hundred in a million estimated increased cancer risk that a person living near a source would be exposed to. The methodology used to estimate an individual’s increased cancer risk assumes the individual is outdoors 24 hours per day, 365 days per year over a 70 year lifetime. The EPA goal, and the threshold used to determine if significant health impacts occur in the Proposed Plan Draft EIR, is described in the

preamble to the benzene National Emissions Standards for Hazardous Air Pollutants (NESHAP) rulemaking (54 Federal Register 38044, September 14, 1989) and is incorporated by Congress for EPA's residual risk program under Clean Air Act (CAA) section 112(f). The 100 in a million excess cancer cases is also consistent with the ambient cancer risk in the most pristine portions of the Bay Area based on the District's recent regional modeling analysis, compared to the average increased cancer risk in the entire Bay Area is approximately 400 in a million.

Not only does the Draft EIR include a comprehensive discussion of toxic air contaminants, but a recently published CEQA decision demonstrates that impacts of the environment on the project, such as toxic air contaminants, "do not relate to environmental impacts under CEQA" and are not required to "be analyzed in an EIR." (*Ballona Wetlands Land Trust v. City of Los Angeles* (2011) 201 Cal.App.4th 455, 475 (*Ballona*)). The health effects of existing air pollutants constitute an impact of the environment on the proposed Plan (as opposed to impacts of a project or plan on the environment). In *Ballona*, the court explicitly concluded that an EIR was not required to consider these types of impacts (in particular, sea level rise). (*Ibid.*) The court reached this conclusion because "the purpose of an EIR is to identify the significant effects of a project on the environment, not the significant effects of the environment on the project." (*Id.* at p. 473.) Notwithstanding that an analysis of existing toxic air contaminants on the project is not required by CEQA, MTC and ABAG included a detailed discussion of TACs/particulate matter within the Draft EIR for informational purposes in an effort to foster a robust public discourse regarding the proposed Plan. Therefore, the EIR exceeds the requirements of CEQA with respect to providing information about the health effects of air pollutants including TACs.

- B25-9: Commenter re-asserts comment B25-8 by stating impacts to disproportionately impacted communities are identified as potentially significant on pages 2.2-26 to 2.2-27 of the Draft EIR, but the Draft EIR fails to analyze the significance of the impacts. See response B25-8.
- B25-10: Commenter re-asserts comment B25-8 by stating the Draft EIR fails to analyze or disclose the extent to which the Plan's PM 2.5 and TAC emissions will impact public health. Commenter states the Draft EIR fails to disclose the impacts of the increase in PM 2.5 and TAC emissions on the existing cancer risk or the increase in cancer risk for disproportionately impacted communities. While the Draft EIR identifies the impacts as potentially significant on pages 2.2-24 to 2.2-27, commenter re-alleges its comment B25-8 that the Draft EIR fails to provide the requisite analysis of the extent of these impacts. See response B25-8.
- B25-11: Commenter cites CEQA case law regarding the requirements for an adequate project description and alleges the project description in the Draft EIR is inadequate for reasons explained in comments B25-12 through B25-19. See responses B25-12 through B25-19.
- B25-12: Commenter asserts the Draft EIR was required to have a chapter entitled "Project Description" rather than the chapter entitled "Overview of the Proposed Plan Bay Area," which provided the project description for the Plan.

CEQA Guidelines section 15124 requires that the project description in an EIR must include the following information: project location and boundaries of the project, statement of project objectives, general description of the project's technical, economic and environmental characteristics, and a statement briefly describing the intended uses of the EIR. The project description "should not supply extensive detail beyond that needed for evaluation and review of the environmental impact." The Draft EIR contains the required information in the "Overview" chapter. There is no requirement that the project description be contained within a chapter specifically entitled "project description." The CEQA Guidelines identify the "standards for adequacy of an EIR", which require that an EIR be prepared with a "sufficient degree of analysis ... and a good faith effort at full disclosure." (CEQA Guidelines, § 15151.) Here, the project Overview included the requisite requirements for a Project Description and reflects a good faith effort at full disclosure. The Draft EIR complies with CEQA.

B25-13: Commenter asserts the project description's explanation of the SCS is inadequate and incomplete for failing to mention the land use policy measures the Plan would employ to achieve its focused growth. In the same paragraph, commenter states the policy measures are contained in a table called "policy measures comparison" in the alternatives chapter of the Draft EIR.

The Draft Plan was circulated for comment for 55 days, starting on March 22, 2013 and closing concurrent with the Draft EIR close of comment on May 16, 2013. The Draft Plan includes all of the land use and transportation policies. There is no specific requirement that the policies must appear in the Draft EIR project description. In fact, a project description is meant to be concise, consistent with CEQA's requirement that the description of the project "not supply extensive detail." (CEQA Guidelines, § 15124) See response B25-12 regarding the necessary elements of a project description.

Moreover, the major policy levers used to define the alternatives evaluated in the Draft EIR are described in the Draft EIR on pages 3.1-4 through 3.1-10. The policy levers are grouped into land use policies, transportation investments, and transportation policies. The Draft EIR documents the differences in these policies assumed for each alternative. Additional details on these policies for the proposed Plan are included in detail in the Draft Plan document. Chapter 3 of the Draft Plan, *Where We Live, Where We Work*, describes the land use policies that comprise the Draft Plan. Chapter 4, *Investments*, outlines the major transportation investments and transportation policies, including road pricing and parking policies that comprise the Draft Plan.

In response to the commenter's complaint that readers are directed to other technical documents and appendices, see responses B25-5 and B25-6 regarding CEQA's requirement to include technical detail in appendices and not in the body of the Draft EIR.

B25-14: Commenter questions whether the project is the outputs of the model, the inputs of the model, or the unmodeled outcome of the Jobs-Housing Connection Strategy (JHCS). The SCS is the integrated transportation and land use plan, Plan Bay Area. It incorporates a set of land use policy measures, transportation policy measures, and transportation investments (i.e. policy inputs) that result in certain land use outcomes and transportation outcomes (i.e.

policy outcomes). The SCS is both the housing and jobs distributions (the outcomes) and the transportation and land use policies that support those outcomes. Please see response B25-25 regarding consistency in the land use modeling approach for both the Proposed Plan and other EIR alternatives studied.

B25-15: Commenter re-states its question from comment B25-14 regarding whether the policy measure inputs are part of the project or whether the project is the housing and jobs outcomes. See responses B25-12 and B25-14.

B25-16: Commenter again re-states its question from comment B25-14 and opines that the answer to the question posed “remains an enigma.” As noted in response B25-14, commenter actually answers its own question in comment B25-15. The project definition is adequate under CEQA. See also response B24-14.

B25-17: Commenter states the project description is unclear regarding the number of Priority Development Areas (PDAs) and the number of housing units and jobs that would be directed into them. The PDAs are shown on maps throughout the Draft Plan and Draft EIR. In addition, Appendix A and Appendix B of the *Draft Forecast of Jobs, Population and Housing* report include detailed PDA-level tables of forecasted jobs and housing, respectively.

The commenter is correct that the number of PDAs in the PDA program has changed since the Jobs Housing Connection was adopted in May 2012. The PDA program is an ongoing program. The JHCS included 194 PDAs, including sub-areas, which were all approved PDAs at that time. A number of Rural Community Centers, Rural Corridors, and Employment Centers were also included in the Strategy. These were adopted in July 2012 as Employment Investment Areas and Rural Community Investment Areas, with the exception of Downtown Dixon and Downtown Napa/Soscol Corridor, which were adopted as PDAs. A number of small changes in the PDA program were made between the May 2012 approval of the JHCS and the July 2012 approval of the alternatives to be studied in the EIR based on specific requests from local jurisdictions to amend their PDAs. Those changes (resulting in a total of 198 PDAs, including sub-areas) are reflected in the Draft EIR and in the *Draft Forecast of Jobs, Population and Housing* supplemental report.

These insignificant changes do not alter the conclusions of the Draft EIR and do not constitute “substantial” new information as defined under Section 15088.5 of the CEQA Guidelines because these minor revisions do not deprive the public of a meaningful opportunity to comment upon a substantial adverse environmental effect or a feasible mitigation or avoidance measure.

A complete list of PDAs included in the Draft EIR and Draft Plan can be found in the new Appendix J to the Draft EIR, added via Section 2 of this Final EIR; as correctly stated in the Draft EIR and Draft Plan, there are “nearly 200” (198) PDAs, as studied in the environmental process. The PDA Readiness Assessment relied on the same set of PDAs, although it used a different methodology to calculate a total number of 169 PDAs; that total does not count multi-area or multi-jurisdiction PDAs (such as the numerous El Camino Real PDAs in San Mateo County) as separate PDAs.

See also responses B25-5 and B25-6 regarding CEQA's requirement to include technical detail in appendices and not in the body of the Draft EIR.

B25-18: Commenter notes an inconsistency between the Draft EIR, SCS and JHCS regarding the number of housing and jobs that will go into the PDAs under the Plan.

The Draft Plan as released on March 22, 2013, did include a small number of errors that were corrected in an errata sheet released on April 15, 2013. The errata sheet corrected small errors in the Draft Plan. These errors were the result of a few coding errors, which resulted in some areas being designated PDAs that were in fact not designated PDAs in the JHCS. These areas were Employment Investment Areas (EIAs) and Rural Investment Areas (RIAs).

Employment Centers, Rural Corridors, and Rural Town Centers—which were later adopted as EIAs and RIAs—were erroneously presented as PDAs in the May 2012 JHCS document and associated tables, as they were a policy under consideration by ABAG when the JHCS was developed (but had not been formally adopted as PDAs). When adopting the JHCS, the ABAG board decided not to include EIAs and RIAs under the PDA framework, instead recognizing them as distinct non-PDA places. While these areas were appropriately removed from the PDA calculations for the Draft EIR, the Draft Plan incorrectly cited the outdated JHCS results and was quickly corrected to align with the PDAs analyzed in the environmental process; this fix was reflected in the aforementioned errata sheet.

Despite the minor error corrected in the Draft Plan document, the Draft EIR accurately states the shares of growth in the PDAs: 77 percent of household growth (Draft EIR, pp. 1.2-35) and 63 percent of job growth (Draft EIR, pp. 1.2-36). The Draft Plan errata sheet states that 79 percent of new housing units are anticipated to be accommodated in PDAs; this is a slightly different metric – *housing units* as compared to *households* – than the metric used in the Draft EIR to report that 77 percent of household growth will be located in PDAs. Both are correct.

These insignificant revisions do not alter the conclusions of the Draft EIR and do not constitute “substantial” new information as defined under Section 15088.5 of the CEQA Guidelines because these minor revisions do not deprive the public of a meaningful opportunity to comment upon a substantial adverse environmental effect or a feasible mitigation or avoidance measure.

B25-19: Commenter notes the inconsistencies cited in comments B25-17 and B25-18 result in an inadequate project description. See responses B25-17 and B25-18

B25-20: Commenter cites CEQA case law regarding the legal requirements for alternatives analyses in EIRs generally, and asserts the Draft EIR did not analyze a reasonable range of alternatives for reasons identified in comments B25-21 through B25-26.

The primary intent of the alternatives analysis in an EIR, as stated in Section 15126.6(a) of the CEQA Guidelines, is to “describe 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, and evaluate the comparative merits of the alternatives.” Further, the CEQA Guidelines provide that “the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.” (CEQA Guidelines, § 15126.6(b)).

MTC and ABAG conducted an extensive process to identify potential Plan alternatives and to ultimately identify a reasonable range of alternatives for full evaluation in this EIR.

Multiple rounds of transportation and land use scenario analyses were conducted between 2010 and 2012 by MTC and ABAG to inform Plan Bay Area. The Current Regional Plans, analyzed in February 2011 and the Initial Vision Scenario, released in March 2011, provided a starting point for conversations with local governments and Bay Area residents about where new development should occur, and how new long-term transportation investments can serve this new growth. Input from local jurisdictions was gathered to create a range of alternative land use development scenarios, primarily focused around various levels of projected growth in the urban, suburban, and rural areas. Two transportation networks were also developed by MTC in the initial round of scenario analyses: one that continued the investment strategy of the existing Regional Transportation Plan (Transportation 2035), with significant funding for operations and maintenance of the existing system and limited expansions of highway and transit networks; and one that significantly increased transit service frequencies along the core transit network, kept Transportation 2035 investment levels for maintenance and bike/pedestrian projects, and reduced Transportation 2035 roadway expansion investments. These scenarios and networks informed the development of the proposed Plan as well as the alternatives included for evaluation in this EIR.

The range of alternatives studied in the EIR reflects MTC and ABAG’s efforts to identify and evaluate various types of alternatives that would potentially be capable of reducing the environmental effects of the Plan Bay Area. The alternatives analysis is sufficient to inform the decision makers and the public regarding the tradeoffs between the degree to which alternatives could reduce environmental impacts and the corresponding degree to which the alternatives would hinder achievement of the project objectives and/or be infeasible. The examination of this broad range of alternatives was an iterative effort with significant community involvement. The five alternatives analyzed in the EIR (including the proposed Project) cover a comprehensive range of reasonable possibilities as required by CEQA.

See responses B25-21 through B25-26 for responder’s specific comments.

- B25-21: Commenter provides its opinion that the EEJ alternative and “policy levers” as proposed by Public Advocates and Urban Habitat was superior to the EEJ alternative studied in the Draft EIR. The planning tools used by MTC and ABAG in support of the Draft EIR – similar to the methods used for this type of work across the country – require that policies be simplified such that they fit within the confines of the models’ representations of behavior. When simplifications are not likely to capture the expected behavioral response of a policy, the models cannot provide helpful information to the policy debate. Policies that cannot be meaningfully simulated are thus effectively excluded from the model’s assessment of the

alternative. These simplifications and omissions occur for all of the Alternatives, including the EEJ Alternative, as noted in the comment. The statement that MTC and ABAG “simply did not include them” is misleading; they were excluded, as were many others, as a necessary simplification (i.e., the exclusion was neither selective nor arbitrary). Importantly, the simplifications and omissions noted in the comment are not exhaustive. Others, such as the assumption that the low income student free transit pass program included in the EEJ was applied to all students, regardless of income (see pp. 35 of the *Draft Summary of Predicted Traveler Responses*¹⁰), likely understate the environmental impact of the EEJ Alternative. An analysis that attempts to faithfully and precisely represent all of the EEJ Alternative’s policy levers – not just the select few noted in the comment – is necessary to reasonably conclude that the Alternative “would have resulted in even greater performance relative to the Proposed Plan Alternative”. Absent such analysis, commenter’s claim is speculative.

Moreover, the fact that commenter disagrees with some of an EIR’s methodologies and conclusions is not a basis for overturning an EIR that is supported by substantial evidence – such as the Plan’s Draft EIR. Pursuant to CEQA, “substantial evidence” includes “fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact.” (Pub. Resources Code, § 21080, subd. (e)(1); CEQA Guidelines, § 15384, subd. (b).) Substantial evidence is *not* conjecture, nor is it speculation or unsubstantiated opinion or narrative. (CEQA Guidelines § 15384(a).)

“Challenges to the scope of the analysis, the methodology for studying an impact, and the reliability or accuracy of the data present factual issues, so such challenges must be rejected if substantial evidence supports the agency’s decision as to those matters and the EIR is not clearly inadequate or unsupported.” (*Federation of Hillside & Canyon Assns. v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1252.) Here, substantial evidence supports the conclusions in the Draft EIR. Where substantial evidence supports the agency’s findings, the agency’s actions must be upheld. (*N. Coast Rivers Alliance v. Marin Municipal Water District Bd. of Dir.* (2013) 216 Cal.App.4th 614; see also *El Morro Community Assn. v. Cal. Dept. of Parks and Recreation* (2004) 122 Cal.App.4th 1341, 1349 [court must uphold the EIR “if there is any substantial evidence in the record to support the agency’s decision that the EIR is adequate and complies with CEQA”] (italics added).)

Commenter’s speculation that different “policy levers” or a different EEJ scenario would be better than those selected by MTC and ABAG does not render the Draft EIR inadequate. As the Supreme Court explained in *Laurel Heights I*, “[a] project opponent or reviewing court can always imagine some additional study or analysis that might provide helpful information. It is not for them to design the EIR. That further study ... might be helpful does not make it necessary.” (*Laurel Heights I, supra*, 47 Cal.3d at p. 415, see also *Santa Clarita Organization for Planning the Environment v. County of Los Angeles* (2007) 157 Cal.App.4th 149, 163 (*SCOPE II*) [rejecting argument that EIR is deficient for failing to discuss funding for mitigation

¹⁰ http://onebayarea.org/pdf/Draft_Plan_Bay_Area/Draft_PBA_Summary_of_Predicted_Traveler_Responses.pdf

measures, in part because petitioners could cite to no authority that an EIR is required to discuss funding for mitigation measures]; *Chaparral Greens v. City of Chula Vista* (1996) 50 Cal.App.4th 1134,1145 (*Chaparral Greens*) [refusing to read into CEQA a requirement that an EIR must speculate about the effects of draft regional plans in evaluating a project]; *Association of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1397 [“CEQA does not require a lead agency to conduct every recommended test and perform all recommended research to evaluate the impacts of proposed project”]; CEQA Guidelines, § 15204.)

Finally, MTC and ABAG were not required to analyze the precise EEJ alternative suggested by commenter. Pursuant to CEQA, a lead agency is required to “describe a range of reasonable alternatives to 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.” (CEQA Guidelines, § 15126.6, subd. (a).) Here, MTC and ABAG did not include some of the commenter’s suggested policies due to modeling limitations. For example, commenter requested a free low-income youth bus pass. MTC and ABAG could not replicate this specific policy with precision in the model; therefore, MTC and ABAG instead modeled a Pass for all transit modes (rather than just a bus) available for all youths (it is not possible to limit this policy to low-income households in the model). MTC and ABAG’s determinations are supported by substantial evidence. Ultimately, it is MTC and ABAG as the lead agencies, not commenter or other interested groups, that is “responsible for selecting a range of project alternatives for examination.” (*Ibid.*) The range of alternatives analyzed in the Draft EIR is reasonable and complies with CEQA. See also response B25-20.

B25-22: Commenter re-asserts that its suggested revisions to the EEJ alternative would have been better than the EEJ alternative studied in the Draft EIR.

The stakeholders who designed the EEJ Alternative requested that the UrbanSim model be informed via calibration techniques to direct development into select communities. These “techniques” simulate some unspecified policy levers that could result in the desired land development allocation, such as, for example, a change in political climate or monetary subsidies (see also response B25-2). In an identical fashion, UrbanSim directs growth to PDAs in the Proposed Plan Alternative, such that the resulting development pattern approximately matched the JHCS results, which allowed UrbanSim to “... fill in land use details...”, as noted in a footnote to this comment. In either case, the calibration techniques (also called subsidies) direct UrbanSim to allocate growth into select locations; these locations are determined by the designers of the alternative. The commenter claims the EEJ Alternative would have performed better had housing been “forc[ed] into the desired infill zones”, as in the Proposed Plan Alternative. MTC and ABAG interpret “forcing housing into the desired infill zones” as likely increasing subsidy levels to direct growth to desired infill zones. It is unknown whether such a change to the EEJ Alternative may have resulted in better performance. Furthermore, the funding may not be available to support the commenter’s proposed additional investments. Overall, the implementation of the proposed Plan would require a subsidy of \$800 million per year, compared to a subsidy of \$2.4 billion per year needed to implement the EEJ Alternative. Pursuant to CEQA, an EIR is not required to consider every conceivable alternative to a project. (CEQA Guidelines, §

15126.6) Because Plan Bay Area is so large and is comprised of so many individual projects, there are an almost infinite number of potential alternatives that could be devised. In order to promote informed decision making, MTC and ABAG chose to focus the alternatives on the broader concepts of land use and pricing which help to demonstrate the advantages and disadvantages to specific alternative approaches to transportation planning.

The model application strategy is identical; what has changed is the model inputs – specifically, the spatial allocation of subsidies. MTC and ABAG analyzed the EEJ Alternative as it was designed by Public Advocates, *et al.* MTC and ABAG agree with the comment in that if Public Advocates, *et al.* designed the alternative differently it may have performed differently.

Please see response B25-23 for a discussion of the CEQA streamlining issue. See also response B25-21 explaining the Draft EIR is supported by substantial evidence and commenter’s unsubstantiated opinions regarding the analysis in the Draft EIR does not render the Draft EIR inadequate, and further explaining the lead agency’s role in selecting a reasonable range of feasible alternatives.

B25-23: Commenter asserts the Draft EIR improperly failed to model the impact of CEQA streamlining as applied to projects in Transit Priority Projects (TPPs) when analyzing the EEJ alternative. SB 375 allows for CEQA streamlining, but it does not require it. As such, it is reasonable to assume, as the designers of the EEJ Alternative assumed, that less CEQA streamlining would occur under the EEJ Alternative than under the Proposed Plan Alternative. This assumption was the result of specific requests by Public Advocates, *et al.* during July 2012 meetings to develop the EEJ Alternative; their stated goal at that time was to minimize the opportunities for CEQA streamlining in that alternative. See also response B25-21 explaining the Draft EIR is supported by substantial evidence and commenter’s unsubstantiated opinions regarding the analysis in the Draft EIR does not render the Draft EIR inadequate, and further explaining the lead agency’s role in selecting a reasonable range of feasible alternatives.

B25-24: Commenter asserts the Draft EIR’s analysis of the EEJ alternative is flawed because it understates the benefits of the alternative and masks how much better the EEJ alternative performs compared to the preferred alternative. See responses B25-21 through B25-23 regarding the adequacy of the EEJ alternative.

B25-25: Commenter asserts the alternatives analysis is flawed because MTC and ABAG employed different modeling approaches for the proposed Plan and for the Alternatives, which is allegedly contrary to the California Transportation Commission (CTC) guidelines requiring the same land use models to be used for the project and for the alternatives.

CTC’s guidelines do not prescribe mandatory methodologies. MTC and ABAG complied with CTC’s guidelines to the extent practicable and made certain modifications where necessary to conduct accurate and thorough analyses. MTC’s methodology complied with CTC’s guidelines to a greater extent than any of the other MPOs’ methodologies for analyzing their respective RTP/SCS.

Commenter's statement that MTC "... [employed] UrbanSim differently" across Alternatives is not accurate. The commenter describes a consistent modeling approach as follows: "A consistent land use modeling approach would have set zoning at the parcel level, applied land use policies (e.g., urban growth boundaries) to each alternative as appropriate, and executed UrbanSim for each. If subsidies were required to match regional goals, they should have been applied to the evaluation of each alternative, as required..." (SSR attachment, p. 5). This excerpt accurately describes the process MTC and ABAG used. The second sentence continues, however, as follows: "... rather than mixing the application of scaling and subsidization for one alternative but not the other." It is here where the misunderstanding occurs. Even if given unlimited time and resources, it was not feasible to size the subsidies in UrbanSim such that the UrbanSim Proposed Plan Alternative simulation results exactly matched the JHCS results. Given limited time and resources, MTC and ABAG approximately matched the UrbanSim Proposed Plan Alternative simulation with the JHCS at the PDA-by-county level of detail. Only then were the UrbanSim results scaled to match the JHCS results. The scaling, therefore, is a practical necessity to ensure perfect consistency between the JHCS results and the UrbanSim results.

In order to honor the travel analysis zone (TAZ) and PDA results of the Proposed Plan Alternative (the "regional goals" noted in the SSR quote above), MTC and ABAG had to either (a) match UrbanSim to the JHCS at some reasonable scale using the "subsidies" noted above and then scale the results to close the difference (thus honoring the JHC details, which define the alternative), or (b) execute UrbanSim iteratively, for perhaps several months, to get an exact match. MTC and ABAG chose the former approach. Similar scaling was not required for the EEJ Alternative, as the designers of that Alternative did not provide specific TAZ-scale targets.

Importantly, the only analyses impacted by the UrbanSim "scaling" are those that require sub-TAZ information. Other analyses, such as the estimation of vehicle miles traveled and greenhouse gas emissions, which do not require sub-TAZ information, are not impacted by the scaling of the UrbanSim results. The great majority of development in each of the Alternatives is estimated per UrbanSim's representation of the real estate market and includes both explicit policy levers and less explicit "calibration techniques" (another word for "subsidies"). The adjustments made to the UrbanSim results for the Proposed Plan and the Enhanced Network of Communities Alternative were needed to match small area (i.e. sub-TAZ) counts (of households and jobs) to match precisely. This "scaling" confers no advantages on the Proposed Plan Alternative, but did save many months of modeling time which would have been needed to exactly reproduce the spatial distribution called for in the JHCS.

B25-26: Commenter states the Draft EIR fails to evaluate the feasibility of the EEJ alternative and asserts MTC and ABAG were required to make a finding of infeasibility in either the Final EIR or the administrative record.

Commenter is incorrect in stating the Draft EIR must make a finding of feasibility or infeasibility in the EIR. The issue of feasibility arises at two different junctures: (1) in the assessment of alternatives in the EIR, and (2) during the agency's later consideration of whether to approve the project. (See *Mira Mar, supra*, 119 Cal.App.4th at p. 489.) But

“differing factors come into play at each stage.” (1 Kostka & Zischke, Practice Under the Cal. Environmental Quality Act (Cont.Ed.Bar 2d ed. 2009) § 15.9, p. 740.) For the first phase—inclusion in the EIR—the standard is whether the alternative is *potentially* feasible. (*Mira Mar*, *supra*, at p. 489; CEQA Guidelines, § 15126.6, subd. (a).) By contrast, at the second phase—the final decision on project approval—the decision-making body evaluates whether the alternatives are *actually* feasible. (See CEQA Guidelines, § 15091, subd. (a)(3).) At that juncture, the decision makers may reject as infeasible alternatives that were identified in the EIR as potentially feasible. (*Mira Mar*, *supra*, at p. 489.)

Here, the Draft EIR properly identified potentially feasible alternatives for analysis. (Draft EIR, page 3.1-148.) Commenter improperly suggests the Draft EIR should have reached definitive determinations regarding the *actual* feasibility of the alternatives prior to including them in the alternatives analysis. Pursuant to CEQA, MTC and ABAG will address the actual feasibility of the EEJ alternative when making the final decision on project approval.

Commenter is correct that MTC and ABAG will be required to make a feasibility finding prior to making a final determination on the project and the final EIR. As stated above, MTC and ABAG will make the requisite determinations in their “findings of fact and statement of overriding considerations” which will be prepared by MTC and ABAG and will be part of the administrative record for the project.

Commenter also asserts in a footnote that three feasible alternatives exist which allow \$3 billion to shift to transit operations without a VMT tax. Commenter is correct. As noted below, such a shift would require significant changes to existing policies and past practice at the regional and state level. Such tradeoffs were considered as part of the investments tradeoff discussion leading up to the final transportation investment strategy, approved in May 2012.

Overall, the approach taken in the EEJ alternative removes \$5.4 billion of funding from roadway projects (both operational improvements and expansions), and redirects that same amount of funds to transit operations and to local streets and roads maintenance. The impact of the funding loss to roadway projects is not discussed in the comment letter. There are about 215 roadway projects, covering all nine counties that are proposed for funding with discretionary revenues in the draft Plan. These projects would be partially or entirely unfunded if their discretionary funding were to be redirected.

Regarding the feasibility of applying the \$5.4 billion to transit operations, the funding used for the freeway projects in question comes primarily from the Regional Transportation Improvement Program (RTIP) and some future sales taxes. RTIP funds cannot be directly used for transit operations due to restrictions in both federal and state laws, and would therefore have to be applied to other eligible projects currently using operations-eligible funding, that could then be made available for transit operations. The proposed fund exchanges involve the OBAG, Freeway Performance Initiative, and Express Lanes projects. While most of the expenditures contained in the OBAG program are technically eligible to receive RTIP funds, projects must be approved by the California Transportation Commission (CTC). The CTC’s priority for the use of RTIP funds has been to reduce congestion and improve the state highway system. Since OBAG projects typically consist of

rehab and enhancement projects off the state highway system, there is a high likelihood that OBAG projects, if put forth for funding with RTIP funds, would be rejected by the CTC. Further, this strategy could put the region's assumed share of Interregional Transportation Improvement Program (ITIP) funds at risk, as the CTC prefers to invest these funds in regions that have made a significant investment of RTIP in the state highway system. The Draft Plan Bay Area already assumes that a significant amount of funding for the Freeway Performance Initiative will come from the ITIP, which may not materialize if the state withholds ITIP from the Region as a result of non-investment in the state highway system.

Funding currently assigned to the FPI and Express Lanes projects that is proposed to be made available for transit operations would be ITIP, Federal Surface Transportation Program (STP), Congestion Management/Air Quality (CMAQ) Program, and Anticipated funds. Transit operations are not an eligible use of ITIP funds. Transit operations are not an eligible use of STP funds, unless used for preventative maintenance. CMAQ funds can only be used for "new" transit operations for up to three years. Anticipated funds are unspecified funds anticipated to be available over the Plan period, based on historical analysis. These funds might or might not be eligible for use on transit operations, depending on the eventual source identified.

B25-27: Commenter cites CEQA statutes and Guidelines regarding EIR preparation generally, and asserts the Draft EIR's project description and allegedly flawed modeling approaches, including an undisclosed "calibration technique," preclude meaningful analysis of impacts in the Draft EIR. As noted in response B25-25, the phrase "calibration techniques" is synonymous with "subsidies" (see also comment B25-2). See responses B25-2 and B25-25. See responses B25-11 through B25-19 regarding the adequacy of the project description. See also response B5-28 regarding the alleged inconsistencies in modeling approaches referenced by commenter and referred to in the SSR technical memorandum

B25-28: Commenter cites to the SSR technical memorandum and alleges that if the Plan and the EEJ alternative had been analyzed in a comparable manner, the proposed Plan's housing distribution would have yielded additional physical impacts from sprawl. As noted in comment response B25-22, the "calibration techniques" used in the Proposed Plan Alternative were applied in a similar manner for the EEJ Alternative. The claim regarding the performance of the Proposed Plan Alternative relative to the No Project alternative is speculative and based on a misunderstanding of how the model is applied.

B25-29: Commenter reiterates comments B25-8 through B25-10 regarding health effects on disproportionately impacted populations from increased emissions. See responses B25-8 through B25-10

B25-30: Commenter asserts the Draft EIR was required, but failed, to analyze the physical, environmental and health consequences associated with economic displacement and asserts the Draft EIR was required to model displacement and identify likely trends in displacement.

Commenter cites to an ABAG report to support its argument that displacement has environmental and health impacts. The referenced report, *San Francisco Bay Area Housing Needs Plan: 2007-2014*, states simply that "negative impacts on health, equity, air quality, the

environment and overall quality of life in the Bay Area also result” from people having to in-commute due to a lack of affordable housing.” (Housing Needs Plan, p. 26.) The report certainly does not provide a “candid assessment of the indisputable physical impacts that will result from [displacement]” as commenter alleges. In fact, the text quoted by commenter refers to the effects of regional in-commuting, not displacement. Commenter thus provides no evidence to support its argument regarding displacement.

Commenter specifically states that UrbanSim could have been used to conduct a detailed analysis of socio-economic displacement. Master Response F explains how the EIR incorporated demographic shifts in the environmental analysis where appropriate. UrbanSim can provide useful information on Economic Displacement as in the Arizona Study cited by commenter, and a microsimulation model of this type can be set up to focus on many different types of behavior. MTC’s UrbanSim application, however, lacked the necessary databases and model calibration to successfully treat socio-economic displacement as it occurs today or might occur with different types of anti-displacement policies in place. Regardless, MTC’s UrbanSim application was adequate for the purpose of evaluating the Plan’s potential impacts. Socio-economic displacement is properly addressed as part of the Plan Bay Area Equity Analysis using alternative off-model techniques. Refer to the Plan Bay Area Equity Analysis Report for additional detail on the analytical approach utilized and Master Response F for additional detail regarding the EIR’s qualitative analysis of displacement impacts.

Commenter further states the Equity Analysis Report concluded implementation of the proposed Plan would lead to significant displacement of lower income households, and the Draft EIR improperly ignored this finding and omitted analysis of economic displacement. The commenter misinterprets the findings of the Equity Analysis Report. See Master Response F addressing displacement and the Equity Analysis Report.

B25-31: Commenter re-states comment B25-30 to allege the Draft EIR does not analyze the social and economic impacts 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 housing, fractured neighborhoods and social isolation.

The alleged impacts asserted by commenter are speculative, and CEQA does not require analysis of these types of non-physical effects on the environment. (*San Franciscans for Reasonable Growth v. City and County of San Francisco* (1984) 209 Cal.App.3d 1502, 1516.) Moreover, economic and social impacts of proposed projects... are outside CEQA’s purview.” (*Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1182; see also *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1205 [“the economic and social effects of proposed projects are outside CEQA’s purview”].)

See Master response F addressing displacement and the Equity Analysis Report

B25-32: Commenter cites CEQA Guidelines and case law regarding an agency’s formulation of mitigation measures to reduce potentially significant impacts on the physical environment. In

comments B25-30 and B25-31, Commenter alleged the Draft EIR failed to analyze such impacts of displacement. Yet in comment B25-32 Commenter acknowledges the Draft EIR did, in fact, identify displacement impacts but then alleges the Draft EIR's mitigation measures are inadequate because they do not address the socio-economic impacts of displacement.

“Economic and social changes resulting from a project are not treated as significant environmental effects [citation] and, thus, need not be mitigated or avoided under CEQA.” (*San Franciscans for Reasonable Growth v. City and County of San Francisco* (1984) 209 Cal.App.3d 1502, 1516; *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1182; see also *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1205 [“the economic and social effects of proposed projects are outside CEQA’s purview”].) Physical changes in the environment caused by economic or social effects of a project may constitute significant environmental effects and economic and social effects of a project may be factors in determining the significance of physical changes in the environment. (CEQA Guidelines §§ 15131, 15064(e).) Social and economic effects in and of themselves, however, are not significant environmental effects on the environment under CEQA. (*Melom v. City of Madera* (2010) 183 Cal.App.4th 41, 55.)

See Master response F addressing displacement and the Equity Analysis Report.

B25-33: Commenter asserts the Draft EIR fails to make the required finding that significant and unmitigated displacement impacts on the physical environment will result in identified localized areas. The Draft EIR identifies localized displacement impacts on the physical environment as significant and unavoidable. (Draft EIR, p. 2.3-36.) The Draft EIR states that “[s]ince the proposed Plan seeks to accommodate projected population and employment growth in the region, new development would provide additional space for housing and businesses with-in the Bay Area; locally, however, businesses may be disrupted and residents displaced as some areas transition to denser urban settings.” (*Ibid.*) Mitigation Measure 2.3(b) addresses localized displacement impacts on the physical environment by requiring agencies, when approving projects under the Plan, to consider implementation of feasible project- and site-specific mitigation measures, including but not limited to those enumerated. (Draft EIR, p. 2.3-39.) Mitigation Measure 2.3(c) requires MTC and ABAG to “continue to support the adoption of local zoning and design guidelines that encourage pedestrian and transit access, infill development, and vibrant neighborhoods” through regional programs. (*Ibid.*) Implementation of Mitigation Measures 2.3(b) and 2.3(c) would reduce potentially significant localized displacement impacts on the physical environment to less than significant; however, in recognition of the limits of MTC’s and ABAG’s land use authority, the impact is considered significant and unavoidable because it is ultimately the responsibility of local agencies to adopt and implement project-specific mitigation. (Draft EIR, p. 2.3-35 to 2.3-40.)

B25-34: Commenter alleges that a number of mitigation measures in the Draft EIR are already required by state or local regulations and thus should have been assumed as part of the baseline conditions, and not as mitigation. Commenter is incorrect. “A condition requiring compliance with environmental regulations is a common and reasonable mitigating measure.” (*Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 236-37

[upholding mitigation measures that required compliance with regulatory permitting], quoting *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 308; see also *Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884 [upholding a seismic mitigation measure requiring compliance with all state and local building regulations].)

- B25-35: Commenter urges ABAG and MTC to maximize their leverage under the One Bay Area Grant program to identify and require as additional mitigation measures certain “key components” of the EEJ alternative. This comment will be considered by MTC and ABAG.
- B25-36: Commenter expresses its opinion that the EEJ alternative, as compared to the Preferred Alternative, does a better job of meeting the objectives of SB 375 and state and federal transportation and housing laws. Commenter refers to comments B25-37 through B25-39, wherein it makes specific recommendations for measures it believes should be added to the Plan. See responses B25-20 and B25-21 explaining the Draft EIR is supported by substantial evidence and commenter’s unsubstantiated opinions regarding the EEJ Alternative as compared to the Preferred Alternative does not render the Draft EIR inadequate. See also responses B25-37 through B25-39.
- B25-37: Commenter requests \$3 billion in additional operating revenue for local transit service and a commitment to a long range, high priority “Regional Transit Operating Program” to boost transit operating subsidies by another \$9 billion. This comment will be considered by ABAG and MTC. In addition, see response B25-26.
- B25-38: Commenter requests that 25,000 RHNA units be shifted from PDAs to “PDA-like places.” The distribution of housing in the Draft Plan was adopted in May 2012 by the ABAG Executive Board and the Commission as the Preferred Alternative in July 2012. This followed extensive consultation with local jurisdictions, stakeholders, and the general public. The Draft Plan’s housing distribution identifies the locations that can accommodate future growth, including the scale and type of growth most appropriate for different types of locations. It provides a more focused growth pattern for the region than historic trends and identifies locations for future housing growth while recognizing the unique characteristics of the Bay Area’s communities. Relative to the assertion that the Draft Plan’s land-use pattern is not feasible, the consultant team responsible for the Priority Development Area Readiness Assessment¹¹ that was developed to evaluate the distribution of future growth in PDAs believes that the Draft Plan’s growth allocations represent an achievable, if not easy, outcome consistent with the scope and purpose of a comprehensive regional plan. The team also has stated that in its opinion, it is not certain that non-PDA areas are more “ready” for significantly more growth than has been allocated to them under Plan Bay Area. See Master Response B.2 regarding the feasibility of the PDAs.

¹¹ http://onebayarea.org/pdf/Draft_Plan_Bay_Area/Draft_PBA_PDA_Development_Feasibility_and_Readiness.pdf

Shifting low and moderate income housing to job and transit rich suburbs, would likely require a dramatic increase in housing subsidies for which no funding source has been identified. Redistributing housing to greenfield suburban locations would likely increase pressure on open space and agriculture, and create a host of other environmental impacts. Redistributing housing to suburban locations also conflicts with SB 375's requirement to "utilize the most recent planning assumptions considering local general plans and other factors." (Government Code Section 65080(b)(2)(B).)

- B25-39: Commenter requests modifying the conditions of OBAG grants to ensure 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. This comment will be considered by MTC and ABAG. Such modeling may be useful for understanding socio-economic effects of displacement, but is not necessary for analyzing environmental impacts. See Master Response F.

Letter B25a Public Advocates, Urban Habitat, California Affordable Housing Law Project, and California Rural Legal Assistance (5/16/2013)

- B25a-1: Commenter states the EEJ alternative outperforms the draft Plan and provides a number of examples of how it believes the EEJ is superior. This comment will be considered by MTC and ABAG when reviewing the Plan and the Plan EIR.

The commenter asserts that the Plan and the Regional Housing Needs Allocation (RHNA) "allocate the overwhelming share of... housing to a subset of [Transit Priority Projects] areas based solely on whether a local PDA designation was made in the past." According to the commenter, Transit Priority Projects areas outside of PDAs "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 these TPPs are in neighborhoods that also have many low-income workers." In addition, the commenter asserts that "there are some job rich and high-opportunity jurisdictions that need more low-income housing to accommodate their local workforces, but which may not have sufficient transit service to qualify as a TPP or PDA."

Regarding the concentration of growth in PDAs and specific cities, the commenter correctly asserts that nearly 80% of housing is distributed to PDAs in the Plan, which is approximately the same as the Draft Plan allocated, but incorrectly asserts that 95% of housing growth is distributed to the region's 15 largest cities; the correct figure is 64%.

The commenter makes numerous assertions related to RHNA, including the statement that "allocating RHNA based on zoning is illegal." Comment B25a-4 addresses the RHNA allocation, and the relationship between RHNA and the Plan.

With respect to the housing distribution in the SCS, the commenter's description of this process is inaccurate. Priority Development Areas were one among a variety of factors taken into consideration in the distribution of housing in the Plan. In addition to the presence of a Priority Development Area, the factors determining the distribution of housing into

jurisdictions included employment proximity, median jurisdiction home value, and net low income in-commuting—many of the factors noted by the commenter. Together, these factors resulted in an adjustment factor that shifted housing toward many of the region’s wealthiest communities. For example, Palo Alto was given an adjustment factor of 9.67%, while San Pablo was given an adjustment factor of -7.34%.

The commenter’s statement that PDAs differ from TPPs only in that they that have been made available “for housing development in [a] General Plan and zoning code,” is also incorrect. Many Priority Development Areas are designated “Potential” by the nominating jurisdiction. This indicates that a plan has not been adopted for this area to facilitate new housing and commercial development. Indeed, the readiness of certain PDA’s is dependent upon local jurisdictions making zoning and planning decisions to implement the Plan. The PDA planning grant program administered by MTC and the region’s county congestion management agencies (CMAs) provides funding to many “potential” PDAs to complete specific and other plans that facilitate future housing growth.

The process for adjusting the housing distribution based upon the factors noted above is described in greater detail in Attachments 2-6 of the ABAG Executive Board memo available at the weblink below:

<http://www.abag.ca.gov/abag/events/agendas/e051613a-Item%2008,%20HUD%20HCD%20Coordination.pdf>

The methodology for the housing and jobs distribution process for the Draft Plan is available in the Forecast for Jobs, Population and Housing Supplemental Report.

- B25a-1.5: Commenter provides three recommendations that it alleges would strengthen the final Plan while retaining the strongest elements of the draft. Similar recommendations are set forth in comment letter B25, comments B25-36 to B25-39. See responses B25-36 to B25-39.
- B25a-1.7: Commenter alleges the PDA-centered housing distribution is irrational, and asserts that additional transit-oriented neighborhoods in the Bay Area were not identified as PDAs but are equally in need of housing development. Commenter objects to allocation of housing needs based upon a local PDA designation. Commenter does not allege deficiencies with the Draft EIR or raise any CEQA issues. No response is required. See Master Response I regarding the PDA process.
- B25a-2: Commenter challenges that the PDA-Centered housing distribution is infeasible, and believes the Bay Area will fall short of meeting its projected housing need by over 100,000 units over 28 years and opines that if the units are built at all, they are likely to take the form of greenfield sprawl. Commenter does not allege deficiencies with the Draft EIR or raise any CEQA issues. No response is required. See Master Response B.2 regarding the feasibility of the housing distribution.
- B25a-3: Commenter asserts the PDA-centered housing distribution and the draft RHNA violate federal and state civil rights laws. Commenter does not allege deficiencies with the Draft EIR

or raise any CEQA issues. No response is required. See Master Response F for additional information on displacement risk.

The commenter asserts that ABAG has not conducted an analysis requested by the US Department of Housing and Urban Development (HUD) to assess “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.”

ABAG conducted the requested analysis and submitted this to Anne Quesada, Director of the HUD Office of Fair Housing and Equal Opportunity on May 10, 2013. This analysis found that PDAs are found in all types of communities throughout the Bay Area and represent the full spectrum of the region’s diversity. As a whole, the PDAs do not represent racially or ethnically concentrated areas of poverty compared to non-PDA areas, as asserted by the commenter. Only 41 percent of PDAs have 50 percent or more of their area within Census tracts with a median income (based on 2010 Census data) that corresponds to the very low- or low-income categories, as defined for RHNA. In a similar analysis of race/ethnicity, 56 percent of PDAs have 50 percent or more of their area with a majority concentration of people of color.

This analysis can be found on page 14 (Item 8) of the weblink below:

<http://www.abag.ca.gov/abag/events/agendas/e051613a-Item%2008,%20HUD%20HCD%20Coordination.pdf>

The commenter’s assertion that 95 percent of the housing growth in the Draft Plan is allocated to 15 cities with higher levels of poverty and lower rates of white (non-Latino) residents than the region as a whole is incorrect. As noted in comment B25a-1, the correct figure is 64 percent.

The concerns regarding displacement expressed by the commenter are addressed in Master Response F.

The commenter’s recommendation that 25,000 units be shifted from PDAs to TPPs outside of PDAs and to suburban job centers in the Draft Plan and RHNA, respectively, is addressed in comment B25-38.

B25a-4: Commenter alleges the PDA-centered draft RHNA violates the Housing Element Law. Commenter does not allege deficiencies with the Draft EIR or raise any CEQA issues. No response is required.

This is a comment on the Regional Housing Needs Allocation (RHNA) conducted by ABAG pursuant to the Housing Element Law. While SB 375 requires that the Final RHNA plan be consistent with the region’s adopted SCS, the RHNA process is different from the SCS process and the legal requirements of the Housing Element Law are different from SB

375. To ensure consistency between the two planning processes ABAG used the distribution of housing growth for the period from 2014-2022 in the Draft Plan as one of the factors in the RHNA methodology. The commenter raises policy and legal concerns about this use but none of them are directed at the policy or legal foundations of the Draft Plan. Therefore, the commenter is directed to ABAG's responses to a letter raising similar issues from the California Department of Housing and Community Development (HCD) at: <http://onebayarea.org/regional-initiatives/plan-bay-area/draft-plan-bay-area/supplementary-reports.html>

B25a-5: Commenter states the Plan must reduce and mitigate displacement and disruption of lower income communities. Commenter does not allege deficiencies with the Draft EIR or raise any CEQA issues. No response is required. See Master response F addressing the displacement analysis contained in the Draft EIR and the Equity Analysis Report.

Letter B26 San Mateo County Chamber of Commerce (5/16/2013)

B26-1: Please refer to Master Response C on requests for extensions of the public comment period.

Letter B27 Abrams Associates (5/16/2013)

B27-1: This comment does not raise environmental issues that require a response under CEQA. One of the key goals of Plan Bay Area is transportation system effectiveness, which includes making all modes of transportation more effective. MTC and ABAG established a robust set of performance targets that were used to evaluate various planning scenario alternatives throughout the multi-year planning process. These performance targets included reducing vehicle miles traveled per capita.

B27-2: A summary of the composition of the \$57 billion in discretionary revenue is as follows::

- New user taxes and/or fees (regional gas tax and new bridge tolls) account for \$8 billion or 14 percent of the \$57 billion in discretionary revenue.
- The \$57 billion includes an assumption that counties will reauthorize existing sales tax measures at their current rates, and that Alameda County will increase its sales tax rate from a 1/2-cent to a full cent in the near future. These sales tax reauthorization revenue assumptions account for \$13 billion or 23 percent of the \$57 billion.
- The combination of new user taxes and the reauthorization of existing sales tax measures sum to \$21 billion or 37 percent of the \$57 billion.
- The remaining \$36 billion in discretionary revenue comes from federal and state programs, such as STP, CMAQ, New Starts, STIP, and anticipated funds.
- Other pricing initiatives, including express lane tolling and congestion pricing, are outside of the \$57 billion discretionary revenue pool.

B27-3: Table 1.2-10 in the Draft EIR is incorrect and is updated in Section 2 of this Final EIR. The table incorrectly showed revenue forecasts for the current regional transportation plan, Transportation 2035 (T-2035), as \$227 billion when they were actually revised downward to \$218 billion due to the economic recession. In comparison, the Plan Bay Area revenue

forecast is \$292, as correctly shown in Section 2 of this Final EIR, exceeding revenue forecasts for Transportation 2035 by \$71 billion, due to a longer plan period and higher base values.

The correct Transportation 2035 investment in transit operations and maintenance, as shown in Section 2 of this Final EIR, is \$111 billion, or 51 percent of forecast revenues. In comparison, the proposed Plan increases transit operation and maintenance investments by \$48 billion from Transportation 2035, to \$159 billion, representing a 43 percent increase in funding. The \$48 billion increase comes mainly from the additional revenues forecast, but also in part from a \$9 billion decrease in transit expansion funding in the proposed Plan compared to Transportation 2035 levels. The additional transit and operations funding (\$48 billion) therefore makes up 60 percent of the newly available funds (\$80 billion - \$71 billion from addition revenues and \$9 billion from reductions in transit expansion funding).

B27-4: See response B27-3 regarding corrections to Table 1.2-10 in the Draft EIR. The correct Transportation 2035 investment in roadway and bridge expansion is \$11 billion, or 5 percent of forecast revenues. In comparison, the proposed Plan increases this funding to \$15 billion, which is 5 percent of forecast revenues. The \$4 billion increase comes mainly from the additional revenues forecast, but also in part from a \$9 billion decrease in transit expansion funding in the proposed Plan compared to Transportation 2035 levels. The additional roadway and bridge expansion (\$4 billion) therefore makes up 5 percent of the newly available funds (\$80 billion - \$71 billion from addition revenues and \$9 billion from reductions in transit expansion funding).

B27-5: It is correct that the proposed Plan does not allocate any of the \$57 billion in discretionary revenues specifically towards the maintenance of the state highway system.

B27-6: This comment asks whether the financial viability of the proposed network of toll lanes requires changing the HOV-occupancy requirement on many existing HOV lanes, which require carpools to have at least two persons, to three or more persons. The comment also asks whether an increase in the HOV lane occupancy requirement is built into the financial calculations. MTC's financial calculations for the Regional Express Lane Network (Network) reflect an increase in HOV occupancy requirements to three persons for existing HOV lanes within the Network that presently have a two-person carpool requirement. MTC has not assessed the financial feasibility of the Network if existing carpool occupancy requirements were to be maintained indefinitely. This is because in many corridors in the Network, the numbers of two-person carpools are projected to exceed the threshold at which Caltrans can ensure compliance with Federal performance standards for HOV lanes regardless whether the lanes are converted to express lanes or not. See response B18-1 for more information on Federal performance standards. As the Network becomes connected it becomes more important to have consistent HOV occupancy requirements. The financial calculations in the proposed Plan are based on the financial analysis included in MTC's Bay Area Express Lanes application approved by the California Transportation Commission in October 2011, which includes two scenarios for the timing of increasing the occupancy requirement.

B27-7: The proposed Plan includes a number of bus rapid transit (BRT) projects as part of the region's transportation investment strategy. A subset of these projects involve converting

existing general-purpose lanes to bus-only lanes in order to better serve high-frequency urban bus lines. By converting general-purpose lanes, these projects are expected to improve frequencies and reduce travel times for transit riders on already-congested urban arterial roadways.

The comment incorrectly states the primary funding sources for the region's BRT projects. Most Bay Area BRT lines are expected to be primarily funded with a combination of local sales tax revenues and federal transit funding (Small Starts). These funds will be supplemented with Regional Measure 2 toll bridge revenues for projects that provide congestion mitigation along a Bay Area Toll Authority (BATA) bridge corridor, in addition to other minor funding sources.

In general, BRT projects that are converting existing general-purpose lanes to bus-only lanes are designed to provide additional person-throughput on the identified corridors, thus improving the performance of the local transportation system. Any localized project-specific impacts from the region's BRT projects associated with traffic channelization and lane conversions are outside the scope of this program EIR for Plan Bay Area. For example, the comment's emphasis on the Van Ness BRT project would be more appropriately directed towards that specific project during its environmental review process. The proposed Plan's program EIR focuses on regional transportation impacts resulting from the implementation of the complete set of transportation improvements included in Plan Bay Area (refer to page 2.0-1 of the Draft EIR). Further information on the programmatic nature of this environmental document can be found on page 1.1-4 of the Draft EIR and Master Response A.3.

B27-8: This comment does not raise environmental issues that require a response under CEQA. This comment asks whether low-income consumers spend a greater share of their income on gasoline and tolls and whether this imposes a greater difficulty on low-income consumers than on higher-income groups. This comment also asks how this was considered in the development and evaluation of the toll lanes. Low income families spend a higher percentage of their incomes on most items, including transportation and housing due largely to their lack of income. The separate Equity Analysis Report assessed Housing and Transportation costs and found that increasing travel costs to drive from gas increases, fees, etc. over the life of the plan range from 3 to 5 percent (Equity Analysis Report p. 4-16).

The Express Lane Network expands the choices available to travelers of all incomes without eliminating current travel options. Carpoolers and bus riders will be able to use the lanes for free, excepting bus fares, and all drivers will be able to use the general purpose lanes without charge. Findings from surveys of existing express lanes throughout the country show travelers of all income levels choose to use express lanes, though higher-income travelers use the lanes more frequently as paying customers than do lower-income travelers. Surveys of low-income and minority travelers in the Bay Area reveal that lower-income travelers would value having the choice to pay to use the Network sometimes, when the time savings or reliability is most valuable to them. Finally, in developing projects that compose the Network, BAIFA will comply with all relevant state and federal laws and guidance for assessing impacts on low-income populations and responding accordingly if disproportionate adverse impacts are found.

- B27-9: SB 375 requires an alternative planning strategy (APS) if the RTP/SCS is not able to meet the greenhouse gas emissions reduction targets. This is explained in the Draft EIR in the Executive Summary, page ES-1 and 2. Since the proposed Plan attains the SB 375 targets, an APS is not required for Plan Bay Area.
- B27-10: This comment does not raise environmental issues that require a response under CEQA. The proposed Plan includes funding to assist local jurisdictions in planning to accommodate the suggested housing and job growth pattern, if they voluntarily opt to pursue it. See Master Response A.1 regarding local control over land use.
- B27-11: As noted on page 1.1-1 of the Draft EIR, Plan Bay Area is an update of the current regional transportation plan (RTP), Transportation 2035. RTPs must be updated every four years. CEQA requires that an environmental review compare the outcomes of a proposed Plan at the project horizon (CEQA Guidelines section 15125, subdivision (a)) in this case the year 2040, to existing conditions, in this case the year 2010, as explained on page 1.1-9.
- Chapter 3.1 of the Draft EIR does compare the outcomes of the alternatives, including the No Project alternative, to the proposed Plan. The No Project alternative does not assume all projects included in Transportation 2035 are implemented. As page 3.1-5 explains about the No Project alternative, “Projects and programs that are identified as ‘committed’ in MTC Resolution 4006 Committed Projects and Programs Policy are included in this alternative – this is similar but not identical to the list of projects in Transportation 2035. The transportation network in this alternative would therefore not be equivalent to existing conditions. The committed projects and programs include transportation projects/programs that were sufficiently through the environmental review process as of May 2011 and have full funding plans in place. In addition, regional programs with executed contracts or funding already secured are considered committed and included in the No Project alternative, through the existing contract period for each program.”
- B27-12: See response B27-3.
- B27-13: MTC’s Travel Model One has been used to inform the Proposed Plan Alternative throughout the planning process. UrbanSim was used to (a) efficiently create a reasonable range of EIR alternatives and (b) fill in sub-travel-analysis-zone details for the proposed Plan and “Enhanced” alternatives. The myriad data sources, including the “BATS 2000” survey, used to inform the MTC travel model are discussed in MTC’s Travel Model Development: Calibration and Validation Technical Report; the development of UrbanSim is discussed in the Draft Technical Documentation: San Francisco Bay Area UrbanSim Application, located here: http://analytics.mtc.ca.gov/foswiki/Main/UsersGuide_UrbanSim.
- B27-14: MTC and ABAG are the lead agencies for the Draft EIR. Analysis for the Draft EIR was conducted both in house by MTC and ABAG as well as by consultants who are technical experts in their fields. The MTC travel model is not proprietary. The UrbanSim land use model is available under a GNU General Public License.
- B27-15: As explained in the Draft EIR, p.1.1-5, “The focus of this EIR is on environmental issues and concerns identified as possibly significant by MTC and ABAG in their [Notice of

Preparation], as well as issue areas identified as a result of scoping comments.” That is, MTC and ABAG developed draft significance criteria, which were released to the public with the NOP, and modified in responses from the public and resource agencies, including Caltrans. As explained on pages 1.1-1, 1.1-9, and 2.1-1, the impacts of the proposed Plan are evaluated against the existing conditions (baseline year 2010 except for GHG emissions as explained in Master Response D.1). This is the approach required by CEQA. According to CEQA Guidelines section 15125, subdivision (a), “[a]n EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation [NOP] is published...” This environmental setting will “normally constitute the baseline physical conditions by which a Lead Agency determines whether an impact is significant.” (See also *id.* at § 15126.2(a).) The impacts of the Plan are also compared against thresholds of significance. (CEQA Guidelines § 15064.7.)

The suggestion that the proposed Plan not be evaluated against existing conditions is contrary to CEQA. In *Sunnyvale West Neighborhood Assn. v. City of Sunnyvale* (2010) 190 Cal.App.4th 1351 (Sunnyvale West), the challenged traffic analysis did “not provide information about the [average daily trips] under existing conditions with the project and therefore, no direct comparison [could] be made to the existing conditions without the project.” (*Id.* at p. 1361.) Instead, that analysis *only* compared the project to future (2020) roadway conditions, which was improper. (*Ibid.*; see also *Madera Oversight Coalition, Inc. v. County of Madera* (2011) 199 Cal. App. 4th 48.)¹² Further, see response B27-13 regarding the comparison of the outcomes of the No Project alternative to the proposed Plan in Chapter 3.1 of the Draft EIR.

B27-16: The proposed Plan is subject to CEQA and, as a result, this program EIR is being prepared. MTC and ABAG are serving as joint lead agencies in preparing this program EIR for the proposed Plan. Pursuant to Sections 15050 and 15367 of the State CEQA Guidelines, the lead agency is the “public agency which has the principal responsibility for carrying out or disapproving a project.” The lead agency is “responsible for preparing the EIR.” (*Ibid.*) Therefore, no conflict of interest arises as a result of MTC developing the proposed Plan and serving as a lead agency for the EIR.

Moreover, while this EIR provides lead agencies with CEQA streamlining benefits for certain projects, neither the proposed Plan nor this EIR limits in any way the existing land use authority of any city or county. (Gov. Code, § 65080, subd. (b)(2)(J) [“Nothing in a sustainable communities strategy shall be interpreted as superseding the exercise of the land

¹² In *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2012) 205 Cal. App. 4th 552, the Second District Court of Appeal disagreed with the holding of *Madera* and the *Sunnyvale West* case cited above to the extent those cases purport to eliminate a lead agency’s discretion to adopt a baseline that uses projected future conditions under any circumstances. The *Neighbors for Smart Rail* decision holds that a projected future baseline can be used to analyze traffic and air quality impacts of a long-term project, if supported by substantial evidence. The *Neighbors for Smart Rail* decision is currently pending review by the Supreme Court. Even if the holding in *Sunnyvale* is affected by the outcome of the *Neighbors for Smart Rail* case, it will not affect MTC’s and ABAG’s conclusion that existing conditions as of 2010 is the proper baseline for analysis of the proposed Plan’s impacts.

use authority of cities and counties within the region.”). In other words, cities and counties, not MTC or ABAG, are ultimately responsible for the manner in which their local communities continue to be built out in the future. For this reason, cities and counties are not required to revise their “land use policies and regulations, including [their] general plan, to be consistent with the regional transportation plan or an alternative planning strategy.” (Gov. Code, § 65080, subd. (b)(2)(J).) The proposed Plan merely provides a land use vision that “if implemented, [would] achieve the greenhouse gas emission reductions targets” for the region. (Pub. Resources Code, § 21155, subd. (a) (emphasis added).) The proposed Plan will only be implemented insofar as local jurisdictions adopt its policies and recommendations. MTC and ABAG will not gain any new authority that usurps local authority if the proposed Plan is approved. Also see Master Response A.1 and response B27-15.

- B27-17: MTC and ABAG followed CEQA requirements for public noticing of the EIR. See Chapter 1.2 of the Draft EIR for a description of the public participation process for development of the proposed Plan. Regarding public engagement for the EIR, please see Chapter 1.1 of the Draft EIR for a description of the Notice of Preparation and public scoping process and Section 1 of this Final EIR for a description of the public review process for the Draft EIR. Furthermore see responses B27-14 and B27-16.
- B27-18: See responses B27-13 and B27-14, which explain that these models are publicly available and can be examined anytime.
- B27-19: See responses B27-11 and B27-15.
- B27-20: Purely economic impacts not caused by or resulting from potentially significant environmental impacts are beyond the scope of CEQA, which examines physical, environmental impacts of a plan or project.

Letter B28 Bay Area Regional Health Inequities Initiative (5/16/2013)

- B28-1: Your support of Alternative 5 is acknowledged and your request to include components of it in the proposed Plan will be considered by MTC and ABAG prior to taking action on the proposed Plan.
- B28-1.5: See Master Response F regarding displacement.
- B28-2: See Master Response F regarding displacement.
- B28-3: For local displacement, see Master Response F. Regarding regional displacement, SB 375 requires that an RTP/SCS fundamentally accommodate all of the projected population growth within the region. As discussed in Chapters 1.2 and 2.3 of the Draft EIR, the proposed Plan would do so and even incorporates an assumed regionwide vacancy rate of four percent (Draft EIR, p.1.2-6). As a result, as pages 2.3-35 to 36 of the Draft EIR explain, “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.”

- B28-4: See response B28-3, Master Response F regarding displacement, and Master Response D.2 on the feasibility of the proposed Plan’s Priority Development Areas. The proposed Plan accommodates the project housing need for each economic segment of the region’s population. The proposed Plan can only demonstrate that the ability to continue living in the region is valid through adequate housing supply.
- B28-5: See Master Response F regarding displacement. Furthermore the comment provides a high degree of speculation based on a chain of future possible events; for example, higher housing costs could also be accompanied by a stronger economy with higher paying jobs and more equitable distribution of income. An EIR cannot explore every conceptual future possibility and is merely responsible for assessing the reasonably foreseeable environmental impacts caused by the proposed Plan within its time horizon. This comment does not raise environmental issues that require a response under CEQA. See also Master Response F regarding displacement. Your request regarding OBAG funding requirements will be considered by MTC and ABAG prior to taking action on Plan Bay Area.
- B28-6: Comment’s request that regional funding should be leveraged to encourage local jurisdictions to adopt policies to prevent displacement will be forwarded to the MTC Commission and ABAG Executive Board for consideration. See Master Response F regarding existing programs in the proposed Plan related to alleviating the risk of displacement.
- B28-7: Your support for Alternative 5 is acknowledged. Increased funding for transit operations will be considered by the MTC Commission and ABAG Executive Board as they take final action on Plan Bay Area.

Letter B29 TRANSDEF (5/15/2013)

- B29-1: This comment incorrectly implies that Plan Bay Area will cause an 18 percent increase in transportation GHG emissions between 2010 and 2040. GHG emission increases are the result of various GHG sources, many of which are outside the scope of Plan Bay Area. Furthermore, the Plan does not cause the impact; rather, the Plan is a strategy to meet CARB’s per-capita GHG emissions reductions targets from light cars and trucks through integrated regional land use and transportation planning. This represents an important part of the State’s overall efforts to reduce GHG emissions. Commenter’s figures do not account for the GHG reductions that will be occurring over the same time period as a result of ongoing efforts included in the CARB Scoping Plan. While MPOs are not allowed to account for the reductions brought about by state regulations and legislation in terms of meeting the SB 375 GHG reduction targets, those reductions are expected to occur and are considered when evaluating the overall GHG emissions trends in the region, as outlined in the Draft EIR Criterion 2.5-1 (Draft EIR pages 2.5-42 through 2.5-57). See Master Response D.1 for more details regarding SB 375’s GHG reduction targets.

- B29-2: This comment incorrectly implies that Plan Bay Area will cause a 28 percent increase in land use GHG emissions between 2010 and 2040. See response B29-1 and Master Response D.1.
- B29-3: The comment includes the CARB Scoping Plan reductions and reports the GHG emission reduction figures, as shown in the Draft EIR on pages 2.5-53 through 2.5-56. No response is required.
- B29-4: The comment claims that Plan Bay Area violates the legislative intent of SB 375 by not reducing 2040 regional GHG emissions apart from reductions from Scoping Plan measures. The commenter is incorrect. SB 375 charged CARB with developing SCS GHG emissions reduction targets for the MPOs. The legislation deferred to CARB's expertise regarding the appropriate goals and metrics for each sector, and charged CARB with developing a comprehensive, statewide approach to GHG emission reductions. The Sustainable Communities Strategy (SCS) GHG emission reduction targets set for MPOs for passenger and light duty vehicles emissions, following a robust public process, were set on a per capita basis, as the commenter points out in the footnote to the comment. The Plan complies with these targets and is consistent with the intent of SB 375. See Master Response D.1 for more details regarding SB 375's GHG reduction targets.
- B29-5: The comment states that the SCS will interfere with the state's goal of an 80 percent reduction of GHG emissions below 1990 levels by 2050, which is a reference to the GHG reduction target in Executive Orders S-3-05 and B-16-12. (See Draft EIR, p. 2.5-57.) These are statewide targets that are only binding on State agencies; they are not targets that MTC and ABAG are tasked with meeting in Plan Bay Area. For informational purposes, however, the Draft EIR evaluates whether the Plan would hinder attainment of the State's targets. As demonstrated in the analysis for Criterion 2.5-3, the SCS does not impede attainment of the State's goal. (See Draft EIR, pp. 2.5-57 through 2.5-60.) The analysis demonstrates a downward trajectory of GHG emissions over the life of Plan Bay Area. The horizon year of the Plan is 2040, therefore, a trendline analysis was used to demonstrate the trajectory of GHG emissions out to 2050. New innovations in technology and science are expected, along with continued market shift towards green building and zero emissions vehicles over the 35-year timeframe of the 2050 goals. The analysis in the EIR demonstrates that the Plan results in a downward trajectory of emissions, demonstrating that the region is moving in the right direction and therefore does not impede achievement of these identified goals.
- As noted in CARB's Scoping Plan, "reducing our greenhouse gas emissions by 80 percent will require California to develop new technologies that dramatically reduce dependence on fossil fuels and shift into a landscape of new ideas, clean energy, and green technology" (Draft EIR page 2.5-60). Plan Bay Area includes an innovative Climate Initiatives Program, which seeks to support new technologies and behavior changes that can significantly reduce GHG emissions.
- B29-6: The comment states that the Draft EIR fails to clearly distinguish between statewide and regional requirements for reporting GHG emissions. The Draft EIR provides a detailed description of the regulatory setting on pages 2.5-22 through 2.5-41. The tables included in the Draft EIR, which clearly identify emissions from different sources and sectors, and include specific identification of Scoping Plan reductions, Pavley reductions, and LCFS

reductions, are a reasonable way to report the information. While MTC and ABAG appreciate the commenter suggesting additional tables to identify regulatory requirements and performance of the SCS, the suggested tables from Attachments A and B do not appear to add an appreciable amount of clarity and would not change the conclusions or analysis in the Draft EIR. See Master Response D.1 for additional details regarding SB 375's GHG reduction requirements.

B29-7: On one hand, the comment claims that the Draft EIR failed to demonstrate project consistency with the Scoping Plan's 2020 target. The comment then states that the "SCS is therefore consistent with the Scoping Plan's 2020 target." The comment is inconsistent.

The comment appears to suggest that the SCS should have demonstrated consistency with the Scoping Plan's 2020 target in terms of overall GHG emissions. In doing so, the comment ignores what the Scoping Plan actually says and seeks to replace the per capita GHG reduction targets in the Scoping Plan with the commenter's own overall GHG reduction target. The comment then argues that because the Plan doesn't meet the commenters overall GHG reduction target, it therefore also fails to meet the Scoping Plan's per-capita GHG reduction target. MTC and ABAG disagree with the commenter's flawed analysis.

Consistent with the Scoping Plan, the Draft EIR evaluates consistency with the Scoping Plan targets in terms of GHG emissions reductions on a per capita basis. The Draft EIR clearly demonstrates attainment of the SB 375 GHG emission reduction target for 2020 (see Draft EIR page 2.5-50). In fact, the region exceeds ARB's 2020 SB 375 target of a 7 percent per capita reduction by over 3 percent, projecting a 10.3 percent per capita reduction by 2020. The SB 375 target for 2020 is the only GHG emissions reduction target assigned to the MPOs and is therefore the only 2020 target included in the Draft EIR.

See also Master Response D.1 for additional information regarding SB 375's GHG reduction targets.

B29-8: The comment claims the Draft EIR analyses for 2040 and 2050 are problematic. The comment claims the threshold for GHG emissions reductions for 2040 is legally inadequate. The SB 375 required target, as established by ARB, is a per capita metric for passenger and light duty vehicles and was used for Criterion 1 thresholds. Those targets are clearly met, as demonstrated by the analysis in the Draft EIR (Draft EIR page 2.5-50).

The Plan is required to attain *per capita* emissions reductions from cars and light trucks, hitting a target assigned to the Bay Area region by CARB, per SB 375. This target can be attained through a combination of transportation investments and policy and a proposed land use development pattern that will reduce VMT. MTC and ABAG are restricted in the technologies and strategies they can consider in reaching this target; see Master Response D.1 for information on the analysis for the SB 375 target. As Table 2.5-7 of the Draft EIR shows, the proposed Plan reaches those targets.

As a result of the EIR scoping process, MTC and ABAG established a significance criterion regarding whether the proposed Plan could result in a net increase in direct and indirect

GHG emissions in 2040 when compared to existing conditions. Under CEQA, the lead agency has considerable discretion to decide which significance threshold to apply to an impact. If supported by substantial evidence, that threshold is adequate, regardless of whether a petitioner proposes an alternative threshold. (*Citizens for Responsible Equitable Environmental Development v. City of Chula Vista* (2011) 197 Cal.App.4th 327, 335-336 (CREED) [rejecting petitioner’s argument that the City erred by failing to apply a different significance threshold]; (*California Oak Foundation v. Regents of University of Cal.* (2010) 188 Cal.App.4th 227, 282 [rejecting argument that a lead agency used the incorrect significance threshold]; *National Parks & Conservation Assn. v. County of Riverside* (1999) 71 Cal.App.4th 1341, 1356-1357 [upholding the County’s biological significance threshold as supported by substantial evidence].) Here, MTC operated within its discretion when it adopted the GHG significance thresholds identified in the EIR. (See also *N. Coast Rivers Alliance v. Marin Municipal Water District Bd. of Dir.* (2013) 216 Cal.App.4th 614 [upholding a GHG threshold based upon whether the project would interfere with the lead agency’s goal of reducing GHG emissions to 15 percent below 1990 levels by 2020].)

Moreover, this analysis for Impact 2.5-2 is not required by SB 375 and was always intended to include Pavley, LCFS, and the effects of some State efforts from the Scoping Plan (Draft EIR, pgs. 2.5-43, 2.5-50, and 2.5-55) as shown in Table 2.5-9. Unlike the SB 375 mandated target, this criterion measures total emissions, rather than per capita emissions. The *total* vehicle GHG emissions increase shown in Table 2.5-9 is a result of regional growth that will occur with or without the proposed Plan; this is emphasized in the contrast with the *per capita* car and light truck GHG emissions decrease shown in Table 2.5-7. The analysis under Impact 2.5-2 properly concludes there is no adverse impact and no mitigation measures are required.

- B29-9: The comment requests that a trendline indicating GHG emissions reductions by 81 percent below 1990 levels be added to Figure 2.5-8. The requested trendline would simply be a different visual representation of what is already in the table and is therefore not necessary and would not change any of the analyses or conclusions in the Draft EIR.
- B29-10: See responses B29-8 and B29-9.
- B29-11: See response B29-8.
- B29-12: The comment criticizes Criterion 2.5-3, in particular Table 2.5-7, claiming that the per capita figures are inappropriate for this analysis. Criterion 2.5-3 documents both per capita and overall GHG emissions in an effort to be inclusive of the two analyses used from Criteria 2.5-1 and 2.5-2.

See Response to comment B10-15 regarding Impact 2.5-3. The Bay Area region is not a geographic scale of measurement for the Executive Orders, which are a) focused on statewide GHG emissions and b) do not place the onus for reaching the goals solely on regional transportation plans. The commenter incorrectly implies that the goals from the Executive Orders are thresholds of significance in the EIR. They are not. Reaching the goals of the Executive Orders will involve contributions from many plans, including those listed on p. 2.5-60, as well as CARB’s own acknowledgement of a need for new technologies and

strategies to reach the goals, cited on the same page. The significance threshold in the Draft EIR requires the proposed Plan to not impede other efforts working toward the Executive Orders' goals; it does not require the proposed Plan to reach these goals on its own. Furthermore, the Executive Orders are only binding on State Agencies, not regional planning agencies such as MTC and ABAG.

By attaining the GHG emissions reductions targets for the Bay Area set by CARB, and avoiding a net increase in emissions from transportation and land use, the proposed Plan is in fact making a significant contribution toward meeting the goals. CARB assigned GHG targets at levels appropriate to attain the larger statewide effort to hit the 2050 goals. Commenter's quarrel appears to be with CARB as standard-setter, not with MTC and ABAG as standard-meeter.

B29-13: See response B29-4 regarding the comment that the proposed Plan is in direct conflict with the goals of SB 375.

As preliminarily confirmed by CARB, the Plan complies with SB 375 and the Scoping Plan targets for the Bay Area. As explained in the Draft EIR, the Plan will not interfere with any applicable plan, policy, or regulation adopted for the purpose of reducing GHG emissions; thus, the analysis and conclusions under Impact 2.5-4 are correct. Commenter's disagreement with the significance determinations is not a basis for overturning an EIR that is supported by substantial evidence – such as the Plan's Draft EIR. Pursuant to CEQA, “substantial evidence” includes “fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact.” (Pub. Resources Code, § 21080, subd. (e)(1); CEQA Guidelines, § 15334, subd. (b).) Substantial evidence is *not* conjecture, nor is it speculation or unsubstantiated opinion or narrative. (CEQA Guidelines § 15334(a).)

“Challenges to the scope of the analysis, the methodology for studying an impact, and the reliability or accuracy of the data present factual issues, so such challenges must be rejected if substantial evidence supports the agency's decision as to those matters and the EIR is not clearly inadequate or unsupported.” (*Federation of Hillside & Canyon Assns. v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1252.) Here, substantial evidence supports the conclusions in the Draft EIR. Where substantial evidence supports the agency's findings, the agency's actions must be upheld. (*N. Coast Rivers Alliance v. Marin Municipal Water District Bd. of Dir.* (2013) 216 Cal.App.4th 614; see also *El Morro Community Assn. v. Cal. Dept. of Parks and Recreation* (2004) 122 Cal.App.4th 1341, 1349 [court must uphold the EIR “if there is any *substantial evidence* in the record to support the agency's decision that the EIR is adequate and complies with CEQA”] (italics added).)

B29-14: CARB set the SB 375 target metric – per capita greenhouse gas (GHG) emissions relative to 2005 – and the numerical value of the SB 375 target for the Bay Area. ARB consulted with MTC as part of the target setting process and MTC agreed to a greater GHG reduction than initially proposed by CARB.

B29-15: See responses B29-7 and B29-13.

- B29-16: The Bay Area Air Quality Management District's May 2011 Air Quality Guidelines recommend that the 6.6MT threshold referenced in this comment only "be applied to general plans." In those same Air Quality Guidelines, the Air District recommends that "Regional Plans" such as transportation and air quality plans should use a "No net increase in emissions of GHGs....." which is the threshold used in the SCS/RTP Draft EIR. This threshold is more stringent than the 6.6MT threshold. See also response B29-8 regarding a lead agency's discretion in adopting significance thresholds for the EIR.
- B29-17: The comment requests the definitions of MMTCO_{2e} and MTCO_{2e} be defined on Table 2.5-1. The footnote requested is added to Table 2.5-1, as detailed in Section 2 of this Final EIR.
- B29-18: The subject of the charts referenced by commenter is the relationship between emissions in 1990 and 2050. The best available data MTC and ABAG have for making these estimates are the simulation results for 2005 and 2040. The charts clearly depict the observed data (the markers) and the trends (the dashed lines). Importantly, greenhouse gas emissions from any specific sector cannot be measured directly, meaning it is impossible to "verify" the emissions from 1990 or 2010 any other year.
- B29-19: The forecasted changes in mode share as a result of the Plan can be found in Table 2.1-13 on page 2.1-29, demonstrating that transit and walk mode share are expected to grow while drive alone mode share is expected to decline over the life of the Plan.
- B29-20: This comment addresses MTC's Regional Express Lane Network project and its description in the various Plan Bay Area documents. Because of the complexity and regional scope of this project, both the overall network and the individual components of that network are included in the various Plan Bay Area project listings. The overall Regional Express Lane Network is reflected in the Plan Bay Area analysis under RTPID #240741, with a total cost of \$6.7 billion. Individual line items reflect the various components included in the \$6.7 billion cost, which include specific express lane project segments (e.g. individual construction projects) and network-oriented funding allocations. Regional grant funding (RTPID #240732) is one of these network-oriented funding allocations; it represents the subset of express lane funding coming from regional discretionary sources, rather than from network-generated toll revenues.

With regard to the specific comments on each of the documents:

- The full cost of the network is included in the Draft Plan Bay Area document on page 13; text cited on page 82 refers only to the grant funding discussed above.
- Construction funding is included under the individual express lane segments in Appendix C.
- Grant funding (RTPID #240732) is not shown as operational by 2040 as it is a funding line item, rather than an operational segment of the network. Note that the online project database included an administrative error; as shown in the other documents (e.g. Appendix C), the \$600 million in grant funding comes entirely from regional discretionary sources.
- The online database also included an administrative error for the overall network (RTPID #240741); the regionally significant box should have been checked, as the

network was included in the Draft EIR and air quality conformity analyses. Project completion dates are not shown in the overall network project information page. This data is more appropriately reflected under each of the individual express lane segments (as the network will be phased in over a number of years).

Pages 3.1-5 through 3.1-9 identify which EIR alternatives include MTC's Regional Express Lane Network; Appendix C identifies the specific RTPIDs included in each alternative.

B29-21: The Plan Bay Area performance targets are not significance criteria for the EIR impacts. Instead, they were designed to establish goals for the planning effort and to compare scenarios against a set of regional objectives. The performance targets would not have served the primary purpose of EIR significance criteria – to identify whether the proposed project results in significant impacts compared to existing conditions – as the performance targets are designed to reflect visionary goals. For example, the Draft Plan reduces VMT per capita; this led to a “no adverse impact” finding under Impact Criterion 2.1-4 because it is improving conditions for this measure. However, at the same time, it falls short of the 10 percent reduction targeted for the Plan. Failure to achieve a subset of the regional performance targets does not represent an impact required for analysis in the Draft EIR.

As noted by the Commenter, the lead agencies have considerable discretion to decide which significance threshold to apply to an impact. If supported by substantial evidence, that threshold is adequate, regardless of whether a petitioner proposes an alternative threshold. (*Citizens for Responsible Equitable Environmental Development v. City of Chula Vista* (2011) 197 Cal.App.4th 327, 335-336 (*CREED*) [rejecting petitioner's argument that the City erred by failing to apply a different significance threshold]; (*California Oak Foundation v. Regents of University of Cal.* (2010) 188 Cal.App.4th 227, 282 [rejecting argument that a lead agency used the incorrect significance threshold]; *National Parks & Conservation Assn. v. County of Riverside* (1999) 71 Cal.App.4th 1341, 1356-1357 [upholding the County's biological significance threshold as supported by substantial evidence].) Here, MTC/ ABAG operated within its discretion when it adopted the GHG significance thresholds identified in the EIR and its selected thresholds are supported by substantial evidence. (See also *N. Coast Rivers Alliance v. Marin Municipal Water District Bd. of Dirs.* (2013) 216 Cal.App.4th 614 [upholding a GHG threshold based upon whether the project would interfere with the lead agency's goal of reducing GHG emissions to 15 percent below 1990 levels by 2020.] Commenter's opinion that a different threshold would have been preferred does not render the Draft EIR inadequate. (*CREED, supra*, 197 Cal.App.4th 327, 335-336 (*CREED*) [rejecting petitioner's argument that the City erred by failing to apply a different significance threshold].)

See also Comment 29-8 regarding a lead agency's discretion in adopting thresholds of significance.

B29-22: The forecasted changes in mode share as a result of the Plan can be found in Table 2.1-13 on page 2.1-29. Refer to response B29-21 regarding why impact criteria often must be different to planning targets.

To clarify the per-capita VMT reduction results, the Draft Plan achieves a 9 percent reduction in VMT per capita between 2005 and 2040 (as cited in the Draft Plan performance

target results) and a 6 percent reduction in VMT per capita between 2010 and 2040 (as cited in the Draft EIR). This is due to the differing baselines between the performance targets (year 2005 as mandated by MTC Resolution 3987) and the EIR (year 2010 as described on Draft EIR page 1.1-9).

- B29-23: Detailed documentation of the MTC travel model is available in the *Travel Model Development: Calibration and Validation Technical Report*¹³. The model's estimates of VMT rely on behavioral models applied to individual travelers, not historical trends. Table 13 in the *Summary of Predicted Traveler Responses* document demonstrates the model's ability to represent the decline in GHG emissions from 2005 to 2010. The VMT which is assigned to the roadway network (see also comment B29-24) declines from 151,701,000 (not shown in the EIR) to 149,046,000 (see pp. 2.1-10) between 2005 and 2010.
- B29-24: As noted on page 57 of the *Summary of Predicted Traveler Responses* report, MTC maintains several estimates of vehicle-miles traveled (VMT). The comment's claim that the "transportation analysis excludes intrazonal travel" is inaccurate. Only the analyses of roadway characteristics, such as vehicle hours of delay, ignore intrazonal travel (this is explicitly footnoted in each relevant table). Intrazonal travel, which occurs entirely within (as opposed to between) the spatial units of the MTC travel model, occurs on abstract representations of roadways that do not allow for explicit calculations of delay. Presenting the information in this way allows the reader to understand the amount of travel associated with the delay estimates. MTC and ABAG do not believe this approach "distorts the overall results" or "fails to provide the fine-grained detail needed to evaluate the multimodal performance of PDA policy sets." Estimates of automobile ownership, trip length, mode share, and transit boardings consider intrazonal travel.
- B29-25: See responses B29-5 and B29-8. A 15 percent reduction in per-capita GHG reductions projected for 2040 does not interfere with attaining the state's adopted goal of an 80 percent reduction by 2050. While the reduction estimated for 2040 is not equal to the goal for 2050, it demonstrates progress towards the goal, which is more than 35 years from time of the Plan's adoption and 10 years past the Plan's horizon year.
- Commenter's disagreement with the significance determinations is not a basis for overturning an EIR that is supported by substantial evidence – such as the Plan's Draft EIR. Pursuant to CEQA, "substantial evidence" includes "fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact." (Pub. Resources Code, § 21080, subd. (e)(1); CEQA Guidelines, § 15384, subd. (b).) Substantial evidence is *not* conjecture, nor is it speculation or unsubstantiated opinion or narrative. (CEQA Guidelines § 15384(a).) See also Comment 29-8 regarding a lead agency's discretion in adopting thresholds of significance
- B29-26: See responses B29-5, B29-8, B29-11, B29-12 and B29-25.

¹³ http://mtcgis.mtc.ca.gov/foswiki/pub/Main/Documents/2012_05_18_RELEASE_DRAFT_Calibration_and_Validation.pdf

- B29-27: Refer to response B29-21 for an explanation of why the transportation performance targets were not used as transportation impact criteria. See also responses B29-5, B29-8, B29-11, B29-12 and B29-25
- B29-28: Pursuant to Public Resources Code section 21002, the reason for adopting feasible mitigation measures is to “avoid or substantially lessen” significant adverse environmental impacts. Thus, once an agency has adopted sufficient measures to at least “substantially lessen” such significant impacts, “the agency need not, under CEQA, adopt every nickel and dime mitigation scheme brought to its attention or proposed in the project EIR, let alone proposed in some other EIR.” (*San Franciscans for Reasonable Growth v. City and County of San Francisco* (1989) 209 Cal.App.3d 1502, 1519; *A Local & Regional Monitor v. City of Los Angeles* (1993) 12 Cal. App. 4th 1773, 1809.) None of the components of Alternative 5 recommended by the commenter would reduce a significant impact to a less than significant level or otherwise substantially lessen the significant environmental effects of the proposed Plan. In fact, Alternative 5 would not lessen any of the proposed Plan’s significant and unavoidable impacts to a less than significant level. Therefore, MTC and ABAG need not adopt the suggested measures.

The case cited by commenter, *City of Marina v. Board of Trustees of California State University* (2006) 39 Cal.4th 341, does not compel MTC and ABAG to adopt the listed components of Alternative 5. In *City of Marina*, the issue was whether or not the respondent university had the authority to implement mitigation measures to reduce impacts occurring outside of its jurisdiction. There, the university refused to provide funding for off-site infrastructure that its expansion plans would need, based on the determination that the university lacked the legal authority to contribute these funds. The Court held the university’s determination was incorrect, that the university did, in fact, have such authority, and that the university had to reconsider its refusal because it was based on an incorrect legal premise. (*Id.* at pp. 356-363.) However, the Court also acknowledged that CEQA’s general duty to mitigate does not translate into the authority to do so. Citing Public Resources Code section 21004, the Court expressly stated that CEQA did not expand on the university’s authority to impose mitigation on those beyond its statutory control. (*Id.* at p. 367.)

Moreover, Commenter simply presumes its suggested mitigation measures are legally feasible. Commenter is incorrect. Public Resources Code section 21061.1 defines “feasible” to mean “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors.” CEQA Guidelines section 15364 adds another factor to that definition: “legal” considerations. (See also *Citizens of Goleta Valley v. Bd. of Supervisors* (“*Goleta IP*”) (1990) 52 Cal.3d 553, 565.)

The concept of “feasibility” also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417.) Moreover, “‘feasibility’ under CEQA encompasses ‘desirability’ to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors.” (*Ibid.*; see also *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715.) The commenter fails to point to a significant impact that would be

significantly lessened by the proposed mitigations and does not support the assertion that the proposed mitigations are feasible.

Amongst many other factors that MTC and ABAG must consider in determining feasibility, the economic feasibility of the commenter's proposed mitigations raises serious doubts. The funding may not be available to support the commenter's proposed additional investments. Overall, the implementation of the proposed Plan would require a subsidy of \$800 million per year, compared to a subsidy of \$2.4 billion per year needed to implement Alternative 5. MTC and ABAG will consider all relevant factors in determining feasibility of the proposed Plan or one of the proposed alternatives.

B29-29: See response B29-24 explaining that Impact 2.1-4 is already less than significant because the Plan would reduce per-capita VMT. Thus, even if increasing the supply of bus transit would reduce VMT slightly more, it would not reduce a significant impact to less than significant. MTC recognizes that Alternative 5 (Environment, Equity, and Jobs - EEJ) was forecasted to have the lowest total levels of daily VMT of the EIR alternatives analyzed (refer to Table 3.1-8); however, this is primarily due to the simulated population rather than the land use and transportation strategies included in that alternative.

As indicated on pages 3.1-25 and 3.1-29 of the Draft EIR, it is essential to use simulated population to calculate VMT per capita, as the travel forecasts for a given alternative are based on the simulated population. When different scenarios are run through UrbanSim and the travel model, the simulated populations in 2040 end up being slightly different. In this case, the simulated population for Alternative 5 ended up slightly lower than the proposed Project. Had Alternative 5's simulated population been equivalent with the Proposed Plan's simulated population, that alternative would have had a slightly higher total VMT than the Proposed Plan, as its VMT per capita is slightly higher than the Proposed Plan. Therefore, while Alternative 5 does succeed in outperforming the Proposed Plan on other key metrics, such as transit ridership growth (as shown on Draft EIR page 3.1-24), the Draft EIR analysis does not support this comment's claim that the strategies in the EEJ alternative would lead to significantly lower levels of VMT. See also response B29-28.

B29-30: See response B29-28. The commenter implies that CEQA requires MTC and ABAG to select the "least impactful alternative." The commenter is incorrect. Pursuant to CEQA a lead agency may reject a project alternative that is incapable of avoiding or substantially lessening the proposed project's potentially significant and unavoidable impacts. (See *Laurel Hills Homeowners Association v. City Council* (1978) 83 Cal.App.3d 515, 521.) The Draft EIR identified Alternative 5 as the environmentally superior alternative because it performed marginally better in terms of GHG emissions reductions. Alternative 5 does not, however, reduce any of the proposed Plan's significant impacts to less than significant. MTC and ABAG are under no obligation to adopt Alternative 5 or to incorporate aspects of Alternative 5 into the proposed Plan.

In determining whether to adopt or reject an environmentally superior alternative, CEQA permits a lead agency to consider the ability of an alternative to fulfill the project objectives. (*Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715 [decision makers may reject an alternative that does not fully satisfy the objectives associated with a

proposed project]; *Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1507-1508 [upholding findings rejecting reduced density alternative because it met some but not all of the applicant’s project objectives]; *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1000–1001 [court found that the lead agency was legally justified in rejecting environmentally superior alternatives because they were undesirable from a policy standpoint because they failed to achieve what the agency regarded as primary objectives of the project].)

Decision-makers enjoy considerable discretion in determining whether a particular alternative set forth in an EIR, including the environmentally superior alternative, is “infeasible” and thus may be rejected without violating CEQA. As the California Supreme Court has emphasized, “[t]he wisdom of approving . . . any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced.” (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 576 (*Goleta II*).) As stated in the concurring opinion in *California Native Plant Society v. City of Santa Cruz* (2007) 177 Cal.App.4th 957, CEQA does not require an agency to choose the environmentally superior alternative. It simply requires the agency to consider environmentally superior alternatives, explain the considerations that led it to conclude that those alternatives were infeasible, weigh those considerations against the environmental harm that the proposed project would cause, and make findings that the benefits of those considerations outweighed the harm. (177 Cal.App.4th at pp. 1000-1001 (conc. opn. of Mihara, J).)

B29-31: The MTC travel model predicts household automobile ownership levels; this estimate is referred to as “Average Vehicles per Household”. Within the MTC travel model, it is possible for a household to own a vehicle, but not use it on the typical weekday simulated in the model. The MTC travel model provides estimates of vehicle miles traveled to the ARB EMFAC software. In order to compute emissions, EMFAC translates this VMT estimate into a number of vehicles on the roadway, which is referred to as “Vehicles in Use”. This is an estimate of the number of vehicles traveling on the typical weekday simulated in the model. MTC and ABAG do not believe that the very small difference in the Average Vehicles per Household or Vehicles in Use metrics between the Proposed Plan Alternative and EEJ Alternative are meaningful. See also response B29-28.

B29-32: The comment requests that the Final SCS include policies that support car sharing, including as a requirement for One Bay Area Grant funding. The Draft Plan includes as part of the Climate Initiatives Program a project focused on expanding car sharing. This program would invest \$13 million to expand car-sharing services to ensure vehicles are available at high-demand locations, and to expand services in suburban communities. Additional requirements for future rounds of OBAG grants will be considered by the MTC Commission when the policies and procedures for those rounds of grants are developed. Additional policy requirements above those already included in the OBAG are not being contemplated as part of the Plan Bay Area adoption. See also response B29-28.

B29-33: The comment states that the Final EIR must study an alternative that eliminates all highway capacity-increasing projects not yet under contract. The Draft EIR includes an alternative

(Alternative 5, the Environment, Equity and Jobs Alternative) that eliminates all highway capacity-increasing projects that were determined to be “uncommitted” by MTC’s Committed Policy, *Resolution 4006*. The Committed Policy significantly expanded the number of projects determined to be uncommitted as compared to past long range plans. MTC believes the Committed Policy, as defined in *Resolution 4006*, is the most reasonable way to define those projects that are sufficiently through project development so as to be committed, as well as those projects that are entirely locally funded and thus not under regional discretion. See response 25-20 regarding the adequacy of the range of alternatives analyzed in the EIR.

B29-34: Detailed project performance analytical results can be found in the Plan Bay Area Draft Performance Assessment Report; the quantified benefits of both projects support the benefit-cost ratio findings deemed “unbelievable” by this particular comment. Refer to the response C153-9 regarding how the proposed transit investments and land use pattern would be expected to grow transit mode share in light of historical trends.

The Draft EIR already includes an alternative that does not include funding for the BART extension from North San Jose/Berrysessa to Santa Clara: the No Project alternative. Furthermore, MTC allowed stakeholder organizations to develop two of the EIR alternatives during the scoping process (Alternatives 4 & 5) and reallocate any uncommitted funding. However, these stakeholders decided not to remove any public transit projects from the Plan, instead focusing their efforts on reallocating highway project funding towards other priorities.

B29-35: The comment states that MTC must develop an oversight plan to ensure that the capital and operating funds for BART and Muni achieve maximum reduction of impacts and maximum benefits for the region. Following the adoption of the last RTP, *Transportation 2035*, MTC embarked on the Transit Sustainability Project, aimed at providing Bay Area residents with an efficient, convenient and reliable transit system. The TSP final recommendations include a specific set of performance targets for the large transit agencies, including BART and Muni. In addition, the Transit Performance Initiative includes a program that rewards transit agencies for improvements in overall passenger volumes and service effectiveness.

B29-36: The comment suggests strategies to secure additional funding for transit operations to support Alternative 5, the Environment, Equity and Jobs alternative. Additional funding for transit operations will be considered as MTC and ABAG deliberate the Final Plan Bay Area.

B29-37: The comment suggests considering policies included in the 2005 Smart Growth Alternative evaluated as part of *Transportation 2035* as potential mitigation measures to add to Plan Bay Area. The 2005 Smart Growth Alternative included a broad network of rapid buses and commuter rail in the North Bay. The proposed Plan would, like the two preceding Regional Transportation Plans, invest over 60 percent of all transportation revenue in transit, which includes commitments to the continued operation of the considerable express bus service that operates in the express lane corridors. In addition, the proposed Plan includes a number of new bus rapid transit projects. Regarding commuter rail in the North Bay, the proposed Plan includes implementation of the first two phases of SMART, and funds to conduct

environmental studies and design for the third phase. (See RTP project #s 22001, 240736, and 240737.)

There is no evidence to suggest that a proposed EIR alternative from 2005 that was evaluated under a previous EIR for a Regional Transportation Plan – one that did not include a Sustainable Communities Strategy as this one does – would reduce any of the proposed Plan’s significant impacts. Pursuant to Public Resources Code section 21002, the reason for adopting feasible mitigation measures is to “avoid or substantially lessen” significant adverse environmental impacts. Thus, once an agency has adopted sufficient measures to at least “substantially lessen” such significant impacts, “the agency need not, under CEQA, adopt every nickel and dime mitigation scheme brought to its attention or proposed in the project EIR, let alone proposed in some other EIR.” (*San Franciscans for Reasonable Growth v. City and County of San Francisco* (1989) 209 Cal.App.3d 1502, 1519; *A Local & Regional Monitor v. City of Los Angeles* (1993) 12 Cal. App. 4th 1773, 1809.)

See response B25-20 regarding the adequacy of the range of alternatives analyzed in the EIR.

B29-38: Commenter suggests that MTC and ABAG should adopt the mitigation measures adopted by SCAG for its SCS. The commenter attaches an appendix that lists a multitude of mitigation measures that are specific to SCAG’s SCS. MTC and ABAG’s duty to condition project approval on incorporation of feasible mitigation measures only exists when such measures would “substantially lessen” a significant environmental effect. (§ 21002; Guidelines, § 15021, subd. (a)(2).) The commenter does not suggest any specific mitigation measures nor is there any evidence that the SCAG measures would reduce impacts caused by the Plan, which is a totally different project in a different region. MTC need not, under CEQA, adopt every “nickel and dime mitigation scheme” brought to its attention, let alone measures proposed in some other EIR for a different project. (*San Franciscans for Reasonable Growth v. City and County of San Francisco* (1989) 209 Cal.App.3d 1502, 1519; *A Local & Regional Monitor v. City of Los Angeles* (1993) 12 Cal.App.4th 1773, 1809.)

B29-39: The comment suggests including as a mitigation a requirement to adopt a comprehensive parking policy that discourages private vehicle use and encourages the use of alternative transportation. There is no evidence indicating that the suggested policy would reduce any of the project’s significant impacts. Furthermore, parking policies and mitigation measures are controlled by local jurisdictions. See Master Response A.1 and A.3 regarding local control over land use and the level of specificity in the EIR.

B29-40: The comment suggests including as a mitigation a requirement to build or fund a major transit stop within or near development. The comment lacks specificity. See Master Response A.1 and A.3 regarding local control over land use and the level of specificity in the EIR. See also response B29-39. Moreover, the proposed Plan is built around Priority Development Areas (PDAs). In order to qualify to be a PDA, an area must be within ½ mile of a transit stop with peak headways of 20 minutes or less.

B29-41: The comment lacks specificity and fails to indicate how the proposed measure would reduce environmental impacts. See Master Response A.1 and A.3 regarding local control over land use and the level of specificity in the EIR. See also response B29-39. Moreover, the Plan

includes, as one of the Climate Initiatives Programs, implementation of the Commuter Benefit Ordinance. Senate Bill 1339 authorizes the Bay Area Air Quality Management District and MTC to jointly adopt a regional commuter benefit ordinance as a means to reduce GHG emissions and to improve air quality. Commuter benefits would include pre-tax benefit programs, employer-provided subsidies, free shuttles or vanpools, or an employer-chosen alternative that would provide an equal or greater benefit in terms of reducing GHG emissions. Implementation of the Commuter Benefit Ordinance is included as Mitigation 2.1(b) in the Draft EIR.

- B29-42: The comment suggests including a mitigation to incorporate bicycle lanes, routes and facilities into street systems, new subdivisions and large developments. The One Bay Area Grant program requires jurisdictions adopt a Complete Streets policy in order to be eligible for OBAG funding. This requirement provides an incentive for jurisdiction to incorporate the mitigation measure suggested.
- B29-43: The comment suggests including a mitigation to require amenities for non-motorized transportation. As noted in the response B29-42, the One Bay Area Grant program requires jurisdictions adopt a Complete Streets policy in order to be eligible for OBAG funding. This comment requests an additional level of requirement that is more appropriately determined and implemented at the local level. See Master Response A.1 and A.3 regarding local control over land use and the level of specificity in the EIR.
- B29-44: The comment suggests including a mitigation to require Best Available Control Technology during construction as a GHG mitigation. Mitigation measure 2.2(a) does require implementing agencies and/or project sponsors where feasible based on project- and site-specific considerations include, but are not limited to best management practices. See pages 2.2-34 and 2.2-35 in the Draft EIR for a full list of best management practices. See Master Response D.1 regarding GHG emissions reductions under SB 375.
- B29-45: The comment suggests including a mitigation requiring sponsors of commercial uses to submit a Transportation Demand Management plan containing strategies to reduce on-site parking demand and single occupancy vehicle travel. Many local jurisdictions already require TDMs for various types of commercial development. MTC and ABAG believe such a requirement is more appropriately determined and implemented at the local level. See Master Response A.1 and A.3 regarding local control over land use and the level of specificity in the EIR. See also response B29-39.
- B29-46: The comment suggests including a mitigation that local jurisdictions may prioritize transportation funding to support a shift from private passenger vehicles to transit and other modes of transportation. Local jurisdictions have considerable autonomy regarding how they program transportation funds. It is not clear what additional benefits this mitigation would provide. See Master Response A.1 and A.3 regarding local control over land use and the level of specificity in the EIR. See also response B29-39.
- B29-47: See response B29-39.

Letter B30 Sierra Club Marin (5/16/2013)

B30-1: MTC and ABAG appreciate Sierra Club Marin Group’s clarification concerning the focus of its comments.

B30-1.2: MTC and ABAG are charged under SB 375 and related planning requirements with preparing a Sustainable Communities Strategy for the nine-county Bay Area. This EIR evaluates Plan Bay Area as a single, regional project and assesses its impacts at a regional level across all nine counties, which is consistent with CEQA provisions regarding program EIRs. The individual projects that may result from the Plan - transportation improvements and land use development – must comply with CEQA on a project-specific basis. A county-level evaluation of the proposed Plan and its impacts would be at a greater level of detail than required. Impacts have been assessed at a regional level and a conceptual localized level. County level information has been provided in the EIR when feasible, but does not represent an obligation to evaluate all impacts at that level. This Draft EIR does evaluate resources in Marin and the environmental consequences associated with implementation of the proposed Plan and includes, in tables reporting findings, effects that may occur in Marin County. Moreover, to the extent Marin County, or a local jurisdiction therein, adopts or revises local land use plans to implement the proposed Plan, those second-tier plans would also need to comply with CEQA. See Master Response A.3 regarding the level of specificity in the EIR.

B30-1.5: This Draft EIR includes a systematic evaluation of alternatives at a level of detail adequate to provide a meaningful comparison. The transportation modeling, for example, provided information that allowed for numerical comparisons among alternatives not only for specific transportation impacts, but also for air quality, energy consumption and greenhouse gas emissions. Consistency with local General Plans, Conservation Plans and other planning documents also was assessed, and community character was considered in the evaluation of visual resources. It is true that the established goals of Marin’s environmental organizations were not examined in detail as they are not part of the “regulatory setting” as defined in CEQA Guidelines. See Master Response A.3 regarding the level of specificity in the EIR.

B30-2: MTC and ABAG respectfully disagree with the comment that this Draft EIR should “isolate and evaluate each proposed project area” in detail. This is a program-level assessment, not a project level environmental document. Guidance for this approach to the EIR comes from CEQA Guidelines which state: “Where individual projects are, or a phased project is, to be undertaken and where the total undertaking comprises a project with significant environmental effect, the lead agency shall prepare a single program EIR for the ultimate project as described in [CEQA Guidelines] section 15168.” (CEQA Guidelines, § 15165; see also Pub. Resources Code, § 21093, subd. (b) [EIRs “shall be tiered whenever feasible”].)

The CEQA Guidelines use the term “program” to mean “a series of actions that can be characterized as one large project” and can be “related either: (1) geographically; (2) as logical parts in the chain of contemplated actions; (3) in connection with the issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program; or (4) as individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects that can be mitigated

in similar ways.” (CEQA Guidelines, § 15168, subd. (a).) As the leading California Supreme Court decision addressing program EIRs explains:

A program EIR ... is “an EIR which may be prepared on a series of actions that can be characterized as one large project” and are related in specified ways. (Cal. Code Regs., tit. 14, § 15168, subd. (a).) An advantage of using a program EIR is that it can “[a]llow the lead agency to consider broad policy alternatives and program wide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts.” (Id., § 15168, subd. (b)(4).) Accordingly, a program EIR is distinct from a project EIR, which is prepared for a specific project and must examine in detail site-specific considerations. (Id., § 15161.) Program EIR’s are commonly used in conjunction with the process of tiering. (See *Laurel Heights Improvement Assn. v. Regents of the University of California*, supra, 47 Cal.3d at p. 399, fn. 8.) Tiering is “the coverage of general matters in broader EIRs (such as on general plans or policy statements) with subsequent narrower EIRs ...” (Cal. Code Regs., tit. 14, § 15385.) Tiering is proper “when it helps a public agency to focus upon the issues ripe for decision at each level of environmental review and in order to exclude duplicative analysis of environmental effects examined in previous environmental impact reports.” (Pub. Resources Code, § 21093, subd. (a); see also Cal. Code Regs., tit. 14, § 15385, subd. (b).) In addressing the appropriate amount of detail required at different stages in the tiering process, the CEQA Guidelines state that “[w]here a lead agency is using the tiering process in connection with an EIR for a large-scale planning approval, such as a general plan or component thereof ... , the development of detailed, site-specific information may not be feasible but can be deferred, in many instances, until such time as the lead agency prepares a future environmental document in connection with a project of a more limited geographic scale, as long as deferral does not prevent adequate identification of significant effects of the planning approval at hand.” (Cal. Code Regs., tit. 14, § 15152, subd. (c).) This court has explained that “[t]iering is properly used to defer analysis of environmental impacts and mitigation measures to later phases when the impacts or mitigation measures are not determined by the first-tier approval decision but are specific to the later phases.” [Citation.] (*In re Bay-Delta Programmatic Environmental Impact Report* (2008) 43 Cal.4th 1143, 1169-1170.)

As an RTP/SCS, the proposed Plan is well-suited for a program EIR. Indeed, there is an argument that an agency preparing an RTP/SCS must prepare a program EIR. (CEQA Guidelines, § 15165.) At a minimum, programmatic review of an RTP/SCS is, as a matter of State policy, recognized and encouraged. (CEQA Guidelines, § 15183.5.)

Here, the proposed Plan is a long-term, regional-scale plan covering 101 cities and nine counties, over 150 major transportation projects, and many other transportation and land use projects over the next approximately 28 years. Accordingly, the EIR properly analyzes the Plan at a programmatic level. As such, the Plan does not include city, county, or site-

specific environmental analysis. Subsequent second-tier land use plans (such as city and county specific general plans) as well as project-specific CEQA analysis will be undertaken by implementing agencies. See Master Response A.3 for more information regarding the level of specificity in the EIR.

The proposed Plan also will not “override local jurisdiction decision-making”. See Master Response A.2, local control over land use. Finally, the EIR does include an extensive analysis of alternatives. The process of screening alternatives that were included in this analysis is described on pg. 3.1-2. Preliminary alternatives were vetted with local jurisdictions and available for public comment. Two of the alternatives were, in fact, developed by stakeholder groups, including environmental and equity stakeholders such as Public Advocates, Urban Habitat and Transform. Public comment on preliminary alternatives helped inform development of the final alternatives. The analysis of these alternatives, presented in Chapter 3.1, complies with CEQA and CEQA Guidelines.

B30-3: See Master Response D.2 regarding the connection between high-density housing near transit and reduced greenhouse gas emissions. The proposed Plan is a regional plan. See also Master Response A.1 regarding the program-level nature of the Draft EIR. Finally, MTC and ABAG will revisit the projections used to prepare the proposed Plan prior to adopting the next Bay Area RTP/SCS in 2017, and local consultation certainly will be part of the process as it has been in the past. Decision-making on the proposed Plan will take into account the environmental consequences described in this Draft EIR and the comparisons of alternatives. How GHG reductions will be achieved is addressed in detail in the methodology sections and the GHG reduction methodology has been preliminarily approved by the California Air Resources Board.. The accounting is comprehensive and as complete as needed for analysis of the thresholds of significance and the evaluation criteria presented. Both stationary (e.g., land use) and mobile sources (e.g., transportation) are included and forecasted emissions reductions under the proposed Plan separately consider GHG emissions from single-family residences, multi-family residences, and non-residential land uses as well as vehicle GHG emissions from passenger vehicles, trucks, buses and other vehicles. Moreover, the analysis is consistent with the requirement of measuring benefits related to SB 375 separately from technology and efficiency measures under the Scoping Plan of the California Air Resources Board. All of the supporting information on how the proposed Plan would achieve reductions is in Chapter 2.5. See Master Response D.1.

B30-4: The comment requests that an analysis of GHG emission reductions from “incentive funding” or “earmarks” within Marin County be included in this EIR. Because the proposed Plan does not include any County-specific “earmarks” or “incentive funding”, such County-level effects are not evaluated on an individual basis, nor are they compared under alternatives, including the No Project alternative. The Draft EIR considers the region as a whole, which is proper under CEQA Guidelines, so it does not evaluate the GHG emissions and emissions reductions specifically for Marin County, nor does it evaluate the GHG results related to the OneBayArea Grant (OBAG) program. OBAG, which represents 4.9 percent of funds in the Plan, is the incentive program included in the proposed Plan that provides incentives to encourage more development near high-quality transit and reward jurisdictions that produce housing and jobs (see proposed Plan, pages 73 through 75). Individual projects that will receive OBAG funding have not yet been identified. These

projects will be identified at the county-level through a separate process. The GHG analysis conducted for the Draft EIR evaluates regional impacts of the full program of transportation investments and land use development that will occur over the 28-year life of the Plan. The conclusions of that analysis are presented in Chapter 2.5.

B30-4.5: The Draft EIR evaluates how transportation investments affect GHG emissions, then separately considers impacts related to land use and development under the proposed Plan, and then considers combined impacts of transportation investments and land use development. Therefore, the EIR does not only consider GHG emissions resulting from transportation investments combined with land use changes. The results of the analysis for Criterion 2.5-2 report the GHG emissions reductions specific to land use (Table 2.5-8, Draft EIR page 2.5-53) separately from those specific to transportation (Table 2.5-9, Draft EIR page 2.5-55).

B30-5: See Master Response G regarding water supplies. Regarding desalination, no desalination is assumed for Marin County water supplies. Table 2.12-2 shows current supply and future supply for the Marin Municipal Water District (MMWD) remains the same (29,000 acre-feet per year). In fact, the MMWD Urban Water Management Plan, a source document for this EIR, states: *"In August of 2010, the District adopted Ordinance 420, which states that the District shall not approve construction, or financing for construction, of a desalination facility unless such construction is approved by a majority of District voters, voting in an election held within the District's service area for that purpose... The District's existing water supply sources, in combination with the conservation program, are projected to be sufficient to meet the needs of the MMWD service area for the planning horizon of this UWMP. As a result, the District does not intend to pursue desalination to augment water supplies at this time."* Moreover, as stated in *North Coast Rivers Alliance v. Marin Municipal Water District Board of Directors* (2013) 216 Cal.App.4th 614, the MMWD Board decided, as a matter of policy, even if a desalination plant is authorized by the voters in the future, MMWD will not develop a desalination plant unless all its electricity could be supplied from renewable sources. (*Id.* at p. 654.)

This EIR relies on the District's determination that long-term sources, in combination with the conservation program, are sufficient to meet long-term needs. The proposed Plan would accommodate roughly the same 2040 population as the No Project alternative. The proposed Plan results in 500 more households in Marin County than under the No Project scenario. Given the water supplies indicated by MMWD, it is extremely unlikely that additional water supplies will need to be acquired for projected growth under the proposed Plan.

The EIR does evaluate the consequences of Plan implementation on water supply and demand and concludes that the impacts would be significant and unavoidable at the regional scale. The analysis and conclusions are in Chapter 2.12, Public Utilities and Facilities. As the proposed Plan is a regional level plan, all analysis in the EIR is done on the regional scale. See response B30-1.2 and Master Response A.3 regarding the regional scale of the EIR analysis. An evaluation of water resources specific to Marin County is therefore outside the scope of the EIR. Please refer to Master Response G on water supply. Water supply and information specific to Marin County can be found in the Marin Municipal Water District's Urban Water Management Plan, which specifies water demands through 2035.

- B30-6: The EIR already includes an analysis at a programmatic level of the long-term impact of land use changes on natural habitat and ecosystems functions in the No Project alternative discussion on pgs. 3.1-97 and 3.1-98. See also responses B17-2, B17-3, and B17-9 regarding the scope of the biological resources impact analysis.
- B30-7: The proposed Plan does not include any County-specific guidelines for protecting and preserving the natural environment and rural lands within Marin, and this EIR does not include any analysis or conclusions about them.
- B30-8: MTC and ABAG agree that the preferred means of protection of sensitive wetlands and other natural resources is avoidance, and the mitigation measures for biological resources reflect that preference. The proposed Plan does not address this issue on a “site-by-site” basis. Mitigation Measure 2.9(a) sets forth proposed mitigation for these resources. This Draft EIR recognizes that site-by-site details of mitigation can only be worked out in the context of site-specific biological assessments. This is completely proper under CEQA. In fact, in *Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, the Court stated that “deferring the formulation of the details of a mitigation measure [is authorized] where another regulatory agency will issue a permit for the project and is expected to impose mitigation requirements independent of the CEQA process so long as the EIR included performance criteria and the lead agency committed itself to mitigation.” (p. 237) Both judicial standards are met in this Draft EIR.
- B30-9: The EIR evaluates the effects of foreseeable sea level on households and employment centers within inundation zones (see Tables 2.5-18 through 2.5-21, which include quantification of those affected by sea level rise on a county-by-county basis). The 2050 time horizon is judged appropriate for the proposed Plan, which itself only has a 2040 time horizon. There is no statutory obligation to evaluate a 2100 time horizon. See Master Response E for more detail on the sea level rise analysis.
- B30-10: The proposed Plan does not include as an objective meeting targets in a specific County by focusing solely on bringing additional transportation services to where people currently live, so this idea is not evaluated as part of the Plan itself. The proposed Plan integrates transportation and land use planning, as per SB 375. The proposal is also not part of the final alternatives selected through the alternatives screening process described in Chapter 3.1. An EIR need only include reasonable alternatives that would avoid or substantially lessen any of the significant effects of the project; every conceivable alternative to a project need not be considered per CEQA Guidelines. Accordingly, the suggested additional analysis will not be included in this EIR.
- B30-11: The idea of allowing the population in Marin to decrease naturally is not one of the alternatives selected for evaluation in this EIR and MTC and ABAG do not believe that it must be added to this EIR. An EIR need only include reasonable alternatives that would avoid or substantially lessen significant effects of the project; every conceivable alternative to a project need not be considered per CEQA Guidelines. Furthermore, per SB 375 the Plan must be able to accommodate the region’s projected population in 2040 (see Master Response B.1 on population projections); a decrease in population in Marin County would have to be offset by greater population increases in the rest of the region.

- B30-12: The EIR analysis identifies areas that may be regularly inundated. The frequency and extent of inundation, as well as how each area may adapt to sea level rise is necessarily done at the local level and based on local considerations. However, the EIR does include an extensive analysis of adaptation strategies on pgs. 2.5-76 through 2.5-84, which represent guidelines for local actions. The Draft EIR states the sea level rise is a significant and unavoidable impact under Impact 2.5-5. Planning and implementation responsibilities for much of the mitigation proposed – the adaptation strategies - would rest with local governments and the land use authority they retain under the proposed Plan would not change, so responsibility for relocation would devolve to these jurisdictions under the mitigation measures proposed for this criterion. The proposed Plan would ask implementing agencies to require project sponsors to incorporate appropriate adaptation strategies into local transportation and land use projects. MTC and ABAG also will be formulating regional guidance to facilitate implementation of a regional sea level rise adaptation strategy. See Master Response E for more detail on the sea level rise analysis.
- B30-13: The request for additional economic analysis will be considered by MTC and ABAG as they review and consider action on the proposed Plan. This EIR does include an assessment of the environmental impacts of PDAs located in areas subject to increased risk of liquefaction under Impact 2.7-3. Liquefaction hazards are considered potentially significant, but with the incorporation of Mitigation Measure 2.7(b) the impact is found to be less than significant with mitigation.
- B30-14: Under Impact 2.12-2, localized effects of projected wastewater flows vs. wastewater treatment capacity, on a county-by-county basis, are assessed. In Marin, existing treatment capacity is shown to be more than sufficient (see Table 2.12-8). The EIR also states that the ability of individual treatment facilities to meet projected needs associated with population growth is beyond the range of this program EIR. The proposed Plan does not propose to resolve the increased stress from development on Marin’s aging sewer system, so this potential action is not assessed in the EIR. At a regional scale, the EIR does state that wastewater treatment system impacts would be significant and unavoidable because MTC and ABAG cannot compel local agencies to adopt Mitigation Measure 2.12(d), which would require individual projects to, “ensure that the proposed development can be served by its existing or planned treatment capacity, and that the applicable NPDES permit does not include a Cease and Desist Order or any limitations on existing or future treatment capacity. If adequate capacity does not exist, the implementing agency must either adopt mitigation measures or consider not proceeding with the project as proposed.” The EIR thus includes the information requested.
- B30-15: The proposed Plan does not include the guidelines for protecting and preserving existing community character in Marin, so the potential effectiveness of such guidelines is not analyzed in this EIR. The request to develop such guidelines will be considered by MTC and ABAG as part of the Plan review and adoption process. However, actions necessary to protect and preserve existing community character will ultimately rest with implementing agencies with local land use authority. See Master Response A.1 regarding local control over land use.

- B30-16: As noted in Response B30-1.5, this EIR includes a reasonable range of alternatives that would lessen environmental effects, as required by CEQA. The EIR does not need to address every conceivable alternative. The requested additional analysis is not being included in this EIR. MTC and ABAG appreciate receiving the selected recommendations from the *Community Marin 2013* document. The process of screening alternatives that were included in this analysis is described on pg. 3.1-2. Preliminary alternatives were vetted with local jurisdictions and available for public comment. Two of the alternatives were, in fact, developed by stakeholder groups, including environmental and equity stakeholders such as Public Advocates, Urban Habitat and Transform. Public comment on preliminary alternatives helped inform development of the final alternatives.
- B30-17: SB375 does not require Sustainable Communities Strategies to identify the price or subsidy associated with housing distributed to different locations in the region. Consistent with this, the Draft proposed Plan does not address the specific location of affordable housing. However, as noted above, the Draft proposed Plan distributes nearly all new housing and jobs within existing urbanized areas of the region. As a result, nearly all new housing for all income levels is distributed in the Draft Plan into existing neighborhoods.
- B30-18: This requested analysis will not be added to this EIR because it is not part of the proposed Plan and it is a socio-economic program, with socio-economic implications. This EIR focuses on environmental consequences as required by CEQA and CEQA Guidelines. The proposed Plan does not include a proposal to allow conversion of market rate housing to affordable housing because the housing distribution in the proposed Plan and other Sustainable Communities Strategies is not required by SB375 to specify the price or subsidy associated with housing distributed to different locations in the region. Purely socio-economic effects need not be considered in an EIR
- B30-19: See response B30-18.
- B30-19.5: ABAG and MTC acknowledge the importance of the concern raised in this comment—increasing affordable housing production to reduce VMT and allow workers to live close to their jobs. The proposed Plan identifies potential policy changes to increase affordable housing production through public action. Also see Master Response F on displacement and Master Response B.2 discussing the feasibility of the proposed Plan’s PDAs.
- B30-20: This comment requests the development of “guidelines so that planning actions and projects could reduce vehicle miles traveled /vehicle hours operated are allowed to count toward PBA jobs/housing goals, and include these in the PBA EIR.” This request argues that higher-paying jobs in Marin County could reduce work-related vehicle miles traveled. The Plan meets the region’s future housing needs at all income levels and focuses such growth in areas with existing jobs and projected future increased employment opportunities.
- B30-21: As noted in response B30-17, the housing distribution in the proposed Plan is not required by SB 375 to specify the price or subsidy associated with housing distributed to different locations in the region.
- B30-22: See Master Response C, Requests for Extension of Public Comment Period.

- B30-23: As responses B30-1 through B30-21 confirm, this EIR is a complete assessment of all potential environmental issues and includes substantial detail on reducing GHG emissions and reducing commute times. It does not address housing affordability for the reasons stated in response B30-17.
- B30-24: See Master Response E on sea level rise and Master Response A.1 on local land use control.
- B30-25: Many of the funds available for the proposed Plan have already been committed, but the proposed Plan clearly spends a majority of its discretionary revenues on transit and other strategies that will decrease GHG emissions—see the list starting on page 1.2-50 of the Draft EIR, which includes \$15 billion on transit capital, \$5 billion building new transit systems, and \$14 billion on OBAG which will promote transit-oriented development; these programs alone make up more than half of the available discretionary revenues.
- B30-26: Comment noted. See responses B30-2 and B30-16 for further discussion of the alternative selection process.

Letter B31 League of Women Voters of Oakland (5/14/2013)

- B31-1: Your support for the proposed Plan is acknowledged. The Draft EIR is a document designed to evaluate all possible environmental impacts and does not cover economic analysis, consistent with CEQA requirements.

Letter B32 Council of Community Housing Organizations (5/16/2013)

- B32-1: See Master Response F regarding displacement.
- B32-2: The commenter argues that the Draft Plan has not “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.’” This comment does not raise an environmental issue to which a response is required under CEQA.

With respect to affordable housing, ABAG and MTC acknowledge the importance of increasing production and preservation in meeting the region’s long term demand. Pursuant to SB 375, the SCS identifies “areas within the region sufficient to house all the population of the region, including all economic segments of the population” (Gov. Code § 65080(b)(2)(B)(ii).) The SCS does so by producing a land use pattern sufficient to accommodate RHNA and through ABAG’s and MTC’s efforts to support additional affordable housing production. This includes Chapter 6 of the Plan, which identifies strategies for facilitating greater affordable housing preservation and production in the region. Many of these efforts require policy changes at the state or federal level that are beyond the control of the regional agencies, who will act as advocates for these changes. The regional agencies are providing more direct support for affordable housing through the Transit Oriented Affordable Housing (TOAH) fund, which supports affordable projects in Priority Development Areas and the identification of Affordable Housing as an allowable use for future Cap and Trade funds.

See Master Response F, which addresses the issue of displacement in greater detail and identifies actions included in the Draft Plan to help address this challenge.

- B32-3: The Draft EIR found a potentially significant impact on localized displacement. The language cited in the comment regards regional effects of displacement; see response B32-2 regarding that issue. Regarding localized effects of displacement, the Draft EIR states, on page 2.3-36, that, “Locally, however, businesses may be disrupted and residents displaced as some areas transition to denser urban settings. Impacts of displacement or disruption would be most likely felt as a result of new development where the overall density changes most significantly, since in these areas the building type may be likely to change (e.g., from low or midrise to high rise buildings or from single family to multifamily housing). Changes in building type may impact the types of uses accommodated, the desirability or target market, as well as rents...Overall, implementation of the proposed Plan could result in potentially significant (PS) permanent localized displacement and disruption.”
- B32-4: The proposed Plan contains several policies to address localized displacement; see Master Response F, which addresses the issue of displacement in greater detail and identifies actions included in the Draft Plan to help address this challenge. Commenter’s concerns relate to the socio-economic effects of displacement, which are beyond the scope of the environmental analysis in the EIR, as discussed in detail in Master Response F.
- B32-5: The requested mitigation in this comment was reviewed by MTC and ABAG. The commenter requests actionable local measures to mitigate unspecified long-term displacement impacts. The suggested mitigation measure appears to target socio-economic impacts of displacement, which are beyond the scope of this EIR; it does not address a specific environmental impact and therefore is not integrated into the Final EIR. See Master Response F, which addresses the issue of displacement in greater detail and identifies actions included in the Draft Plan to help address this challenge.
- B32-6: The requested mitigation in this comment was reviewed by MTC and ABAG. It does not address a specific environmental impact and is not integrated into the Final EIR. MTC and ABAG have no authority to enact State-level reforms. See Master Response F, which addresses the issue of displacement in greater detail and identifies actions included in the Draft Plan to help address this challenge.
- B32-7: The requested mitigation measure in this comment was reviewed by MTC and ABAG. It does not address a specific environmental impact and is not integrated into the Final EIR. See Master Response F, which addresses the issue of displacement in greater detail and identifies actions included in the Draft Plan to help address this challenge.
- B32-8: See response B32-3 above regarding the Plan’s ability to house the population. The requested mitigation measures in this comment were reviewed by MTC and ABAG. They do not address a specific environmental impact identified in the Draft EIR and are not integrated into the Final EIR. See Master Response F, which addresses the issue of displacement in greater detail and identifies actions included in the Draft Plan to help address this challenge.

- B32-9: CEQA streamlining is a State mandate under SB 375 and beyond the scope of this project and of MTC and ABAG's authority. See Master response A.2 regarding CEQA streamlining under SB 375. As explained therein, due to the extensive list of criteria that must be met to achieve this exemption, the exemption will likely only be available in very limited circumstances. The entire City of San Francisco would not be exempt from CEQA under SB 375. Moreover, among other criteria, in order to achieve the exemption a project would need to meet both of the following: (A) At least 20 percent of the housing will be sold to families of moderate income, or not less than 10 percent of the housing will be rented to families of low income, or not less than 5 percent of the housing is rented to families of very low income; and (B) The transit priority project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for very low, low-, and moderate-income households at monthly housing costs with an affordable housing cost or affordable rent, as defined in Section 50052.5 or 50053 of the Health and Safety Code, respectively, for the period required by the applicable financing. Rental units shall be affordable for at least 55 years. Ownership units shall be subject to resale restrictions or equity sharing requirements for at least 30 years. See Master Response A.3 regarding SB 375 streamlining and Master Response A.1 clarifying that the Plan will not preempt any local land use authority.
- B32-10: The comment's request is essentially granted in the language cited from the Draft EIR. Whenever the mitigation measure(s) for a potentially significant impact is accompanied with the statement that, "MTC and ABAG cannot require local implementing agencies to adopt mitigation measures," which occurs when a mitigation involves local land use control, the Draft EIR also says, "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." In other words, for a land development project to pursue SB 375 CEQA streamlining using this EIR, it must apply all of the applicable and feasible mitigation measures included in the EIR. See Master Response A.2 on CEQA streamlining for more information.
- B32-11: The commenter again suggests mitigation for unspecified impacts that appear to be socio-economic impacts. TPP eligibility and CEQA streamlining are functions of State law and not within the authority of MTC and ABAG. Furthermore, MTC and ABAG will not be adding this as a mitigation measure to Impact 2.3-1, as the comment appears to indirectly request, because the RHNA and Plan Bay Area are separate processes. See response B19-1 and Master Response F for more details. Furthermore, the proposed mitigation measure could actually allow a jurisdiction to underperform relative to RHNA affordability goals with the purpose of blocking CEQA streamlining of multi-family, mixed-use projects near transit, which are the types of projects that are more likely to provide an affordable cost of living to lower income households.
- B32-12: Your support for Alternative 5 is acknowledged and will be forwarded to MTC and ABAG. See responses B32-5, 6, 7, 8, 9, and 11.

Letter B33 TRANSDEF (5/15/2013)

- B33-1: This letter is a duplicate of letter B29; please see the responses to that letter.

Letter B34 Citizens Committee to Complete the Refuge (5/16/2013)

- B34-1: PCAs are not intended to cover important open space and biological resources within the region and the designations do not supersede or in any way alter the existing federal, state, regional or local protection of lands within the region limit nor does it limit the manner in which additional lands may be protected in the future. Moreover, PCA locations are approximate and specific boundaries will be determined in consultation with appropriate agencies and jurisdictions during plan implementation. See response B17-38 for more information on PCAs.
- B34-2: The proposed Plan is designed to direct all future growth within the existing urban footprint, including existing urban boundary lines, which may include open space which has already been designated for development at a local level. Furthermore, the location and boundaries of PDAs were designated by local jurisdictions and are beyond the decision-making ability of MTC and ABAG. Open space impacts are analyzed and mitigated in Chapter 2.3 of the Draft EIR. See Master Response I regarding the PDA process.
- B34-3: The locations and extent of PCAs has not yet been fully determined. The commenter's request for specific PCA locations will be taken into consideration by MTC and ABAG during Plan implementation. Please see also response B34-1 and Master Response E for more information regarding sea level rise.
- B34-4: MTC and ABAG believe that this EIR adequately evaluates and mitigates environmental impacts consistent with the requirements for a programmatic plan of this nature. See also Master Response A.3 regarding the level of specificity in the EIR.

Letter B35 Safe Routes to School National Partnership

- B35-1: Commenter states that the only way to move closer to achieving the targets to reduce injuries and fatalities from collisions and to increase walking and bicycling is to make significant new investments in active transportation, coupled with investments in transit, and housing policies that encourage transit oriented development with affordable housing. The comment is noted. Decision-makers will consider the comment in evaluating the merits of the proposed Plan as well as the alternatives analyzed in the EIR.
- B35-2: The commenter raises concerns regarding the ability of the proposed Plan and the other alternatives evaluated in the EIR to achieve a performance target established by MTC. The decision-makers will consider this comment in weighing the advantages and disadvantages of adopting the proposed Plan or one of the other alternatives included in the EIR.
- Commenter states that the only way to move closer to achieving the targets to reduce injuries and fatalities from collisions and to increase walking and bicycling is to make significant new investments in active transportation, coupled with investments in transit, and housing policies that encourage transit oriented development with affordable housing.
- The proposed Plan includes \$4.6 billion for bicycle and pedestrian improvements during the Plan period. The One Bay Area Grant program, \$14.6 billion over the life of the Plan, is

another fund source that can be used to pay for 'Complete Streets' projects. These projects can include stand-alone bicycle and pedestrian paths, bicycle lanes, pedestrian bulb-outs, lighting, new sidewalks, Safe Routes to Transit, and Safe Routes to Schools projects that will improve bicycle and pedestrian safety and travel.

In addition to this funding, cities and counties that wish to use OBAG grant funds must adopt a 'Complete Streets' resolution and in the future an updated general plan element to improve the delivery of Complete Streets projects serving all road users, including pedestrians and bicyclists. During MTC's last survey of project sponsors in 2006, over 55 percent of transportation projects surveyed already included complete streets elements. The resolution requirement is expected to increase the rate of complete street implementation.

- B35-3: The commenter requests greater investments to encourage walking and bicycling and notes that the proposed Plan and alternatives analyzed in the EIR fail to meet the target of increasing daily walking and bicycling by 70 percent. MTC and ABAG recognize that continuing to increase the average daily time walking or bicycling per person is an important project objective. While the proposed Plan does not achieve the target, it moves the region towards the objective by increasing daily walking and bicycling over baseline levels. Before taking any action on the Proposed Plan, the decision-makers will weigh the advantages and disadvantages of each alternative including their ability to achieve the project objectives.
- B35-4: Commenter's request for increased funding for dedicated pedestrian and bicycling programs including the Regional Safe Routes to School Program is noted. The decision-makers will consider this comment in evaluating the merits of the proposed Project and the alternatives analyzed in the EIR.
- B35-5: Commenter's request for the Regional Bicycle Program to be funded is noted. The decision-makers will consider this comment in evaluating the merits of the proposed Project and the alternatives analyzed in the EIR. See response B35-1 regarding the current investment in bicycle and pedestrian projects in the proposed Plan.
- B35-6: Commenter's support of Complete Streets policies and its ideas on how to improve enforcement are noted. The decision-makers will consider this comment in evaluating the merits of the proposed Project and the alternatives analyzed in the EIR. See response B35-1 regarding the Complete Streets requirement of OBAG.
- B35-7: Commenter requests MTC expedite improvements to its active transportation data collection and modeling efforts. Commenter's request is noted.
- B35-8: See Master Response F regarding displacement. See also response B25-8 regarding equity and health and safety concerns.

Letter B36 Sustainable San Rafael (5/16/2013)

- B36-1: Please see Master Response E for regarding sea level rise as analyzed in the Draft EIR. Commenter's belief in the importance of meaningfully addressing climate change is noted. Consistent with the requirements of SB 375, the proposed Plan was developed with the

fundamental goal to address climate change by better linking transportation and land use planning, and reducing per capita CO₂ emissions from cars and light trucks.

B36-1.5: Commenter requests the proposed Plan incorporate year-by-year flexibility to ratchet up funding for climate policies included in the proposed Plan. The comment is noted. The decision-makers will consider this comment in evaluating the merits of the proposed Project and the alternatives analyzed in the EIR.

B36-2: Mitigation Measure 2.5(d) notes that, “Executive Order S-13-08 requires all state agencies, including Caltrans, to incorporate sea level rise into planning for all new construction and routine maintenance projects; however, no such requirement exists for local transportation assets and development projects. Implementing agencies shall require project sponsors to incorporate the appropriate adaptation strategy or strategies to reduce the impacts of sea level rise on specific transportation and land use development projects where feasible based on project- and site-specific considerations. Potential adaptation strategies are included in the *Adaptation Strategy* sub-section found at the end of this section.” See Master Response A.3 regarding the level of specificity of the EIR. Commenter’s request that additional transportation-sourced funding be reallocated to the proposed Plan’s climate policies is noted. The decision-makers will consider this comment in evaluating the merits of the proposed Project and the alternatives analyzed in the EIR.

Commenter desires further investment in resources for local planning and improvements within PDAs. One of the goals of the OBAG program is to incentivize development within the PDAs. CEQA streamlining provisions are also designed to further incentivize development consistent with SB 375. See Master Response A.2. If adopted, MTC and ABAG will also work with local jurisdictions and community stakeholders during implementation of the proposed Plan in an effort to promote development consistent with the proposed Plan.

B36-3: The proposed Plan complements existing climate change mitigation policies and plans. Consistent with federal, state and local policies, MTC and ABAG agree that implementing agencies should consider available climate change policies and programs to reduce project-specific impacts including the policies and programs identified by the commenter.

Letter B37 The California Endowment (5/17/2013)

B37-1: The commenter’s support for Alternative 5 is acknowledged. Decision-makers will weigh the advantages and disadvantages of each alternative in determining which option to adopt.

B37-2: Please see Master Response F regarding displacement.

B37-3: See response B24-3.

Letter B38 The League of Women Voters of Berkeley, Albany and Emeryville (5/10/2013)

B38-1: The commenter requests the proposed Plan shift funding from high cost, low cost-effective projects to transit operations and transit system maintenance that better meet the needs of

all residents. The comment is noted. The decision-makers will consider this comment in evaluating the merits of the proposed Project and the alternatives analyzed in the EIR.

B38-2: Please refer to Mitigation Measures 2.5(a) through (d) presented in the Draft EIR Chapter 2.5, Climate Change, which will work to provide greater identification of locations at risk of sea level rise as well as provides adaptation strategies. Also see response B36-2 and Master Response E on sea level rise.

B38-3: Your comments regarding alternatives 3 and 5 are acknowledged. Decision-makers will weigh the advantages and disadvantages of each alternative in determining which option to adopt.

Letter B39 The League of Women Voters of the Los Altos-Mountain View Area (5/14/2013)

B39-1: PDAs were identified and adopted by local jurisdictions. See Master Response I regarding the PDA selection process. It is the responsibility of the City of Mountain View in exercising its local land use authority to determine where to allow residential development within its jurisdiction; see Master Response A.1 on local land use control. Please refer to Mitigation Measures 2.5(a) through (d) presented in the Draft EIR Chapter 2.5, Climate Change, which will work to provide greater identification of locations at risk of sea level rise as well as provides adaptation strategies. See also Master Response E regarding sea level rise.

B39-2: See Master Response F on displacement.

B39-3: Commenter's support for elements of Alternative 5 is acknowledged. Decision-makers will weigh the advantages and disadvantages of each alternative in determining which option to adopt.

B39-4: Commenter recommends additional emphasis on providing for complete streets. Commenter's policy recommendation is noted. The decision-makers will consider this comment in evaluating the merits of the proposed Project and the alternatives analyzed in the EIR.

In addition cities and counties that wish to use OBAG grant funds must adopt a 'Complete Streets' resolution and in the future an updated general plan element to improve the delivery of Complete Streets projects serving all road users, including pedestrians and bicyclists. During MTC's last survey of project sponsors in 2006, over 55 percent of transportation projects surveyed already included complete streets elements. The resolution requirement is expected to increase the rate of complete street implementation.

B39-5: The Draft EIR analyzed impacts on public services at a regional level in Chapter 2.14 and proposed Mitigation Measure 2.14(a) for this potentially significant impact. The provision of adequate school facilities for the student population is ultimately the responsibility of local school districts, which receive impact fees and public moneys for that purpose. Future second tier plans and projects must comply with CEQA. When necessary, these issues will be considered at the local level in future project-specific analysis.

B39-6: Commenter's support for Alternative 5 is acknowledged. Decision-makers will weigh the advantages and disadvantages of each alternative in determining which option to adopt.

Letter B40 Bay Area Business Coalition (4/17/2013)

B40-1: See Responses to Comment B7-4 and B7-9 through B7-12.

B40-2: Please see Master Response B.2 regarding the feasibility of the proposed Plan's Priority Development Areas.

B40-3: MTC and ABAG acknowledge the suggestion regarding combining aspects from various alternatives as presented in the Draft EIR. Decision-makers will weigh the advantages and disadvantages of each alternative in determining which option to adopt.

Letter B41 Los Ranchitos Improvement Association (5/16/2013)

B41-1: Please see Master Response C regarding requests for extensions of the public comment period.

B41-2: Commenter's support for the No Project alternative is acknowledged. Decision-makers will weigh the advantages and disadvantages of each alternative in determining which option to adopt.

B41-3: The region is anticipated to experience a high amount of growth regardless of whether the proposed Plan is adopted. Please see Master Response B.1 regarding population projections. Also note that the proposed Plan would only add an additional 500 households to Marin County compared to the growth anticipated under the No Project alternative, as shown in Table 3.1-3 of the Draft EIR.

B41-4: Please see Master Response D.2 regarding the connection between high-density housing near transit and reduced greenhouse gas emissions.

B41-5: This issue is analyzed in Chapter 2.2 of the Draft EIR. MTC and ABAG acknowledge that some air quality impacts will remain significant and unavoidable. These impacts must be weighed by MTC and ABAG along with other significant environmental impacts against the benefits of the proposed Plan during the adoption process.

B41-6: See Master Response F regarding displacement. The comment states that the proposed Plan increases the cost of housing and transportation on low-income people by putting housing in areas where there are not services or sufficient transportation. Plan Bay Area is an integrated land use and transportation plan, and growth is specifically centered around Priority Development Areas, which include transit service requirements. While the performance targets analysis of the proposed Plan (see Draft Plan page 116) identifies that the share of low-income and lower-middle income residents' household income consumed by transportation and housing will go up 3 percent by 2040 under the proposed Plan, the increased would be significantly worse under the No Project alternative, which would have an 8 percent increase by 2040.

- B41-7: Please see Master Responses E and G regarding sea level rise and water supply, respectively.
- B41-8: Many of the proposed Plan's significant and unavoidable impacts occur because MTC and ABAG cannot require local implementing agencies to adopt the mitigation measures, and it is ultimately the responsibility of a lead agency to determine and adopt mitigation. Please see Master Response A.1 on local control over land use for additional information. The commenter's belief that the decision-makers should not override the proposed Plan's significant and unavoidable impacts in adopting the proposed Plan is noted. Decision-makers consider this comment before acting on the proposed Plan.
- B41-9: Commenter's opposition to the proposed Plan is acknowledged. Chapter 2.5 of the Draft EIR, under Impact 2.5-1, finds that the proposed Plan would attain the GHG emissions reduction targets of SB 375; Chapter 3.1 finds that Alternatives 3 and 5 would also attain these targets. Decision-makers will weigh the advantages and disadvantages of each alternative in determining which option to adopt.

Letter B42 League of Women Voters of the Bay Area (5/14/2013)

- B42-1: MTC and ABAG acknowledge the commenter's suggestions regarding the incorporation of elements of Alternatives 3 and 5; they will be considered by decision-makers as part of the EIR certification process and action on the proposed Plan.
- B42-2: Please see Master Response F regarding displacement.
- B42-3: Commenter requests funding in the proposed Plan is shifted to transit operation and transit system maintenance. The comment is noted. The proposed Plan invests 55 percent of all revenues in operations and maintenance of the transit system. The decision-makers will consider this comment as part of the EIR certification process and action on the proposed Plan.
- B42-4: Please refer to Mitigation Measures 2.5(a) through (d) presented in the Draft EIR Chapter 2.5, Climate Change, which will work to provide greater identification of locations at risk of sea level rise as well as provides adaptation strategies. Potential impacts of mitigation measures proposed during project-specific environmental review must also be evaluated as part of the project-specific analysis. Also see response B36-2 and Master Response E on sea level rise.
- B42-5: Please see Master Response B.2 regarding the feasibility of the proposed Plan's Priority Development Areas.
- B42-6: Commenter's concerns regarding implementation of the OBAG program are noted. The decision-makers will consider this comment as part of the EIR certification process and action on the proposed Plan.

Letter B43 League of Women Voters of Fremont, Newark and Union City (5/7/2013)

- B43-1: Commenter requests funding in the proposed Plan be shifted from high-cost, low cost effective projects to transit operations and system maintenance to serve the needs of the region's diverse population is noted. The decision-makers will consider this comment as part of the EIR certification process and action on the proposed Plan.
- B43-2: Please refer to Mitigation Measures 2.5(a) through (d) presented in the Draft EIR Chapter 2.5, Climate Change, which will work to provide greater identification of locations at risk of sea level rise as well as provides adaptation strategies. Also see response B36-2 and Master Response E on sea level rise.
- B43-3: Commenter's support for Alternative 5 is acknowledged. Decision-makers will weigh the advantages and disadvantages of each alternative in determining which option to adopt.
- B43-4: Please see Master Response C regarding requests for extensions of the public comment period.

Letter B44 League of Women Voters of Marin County (4/29/2013)

- B44-1: Commenter concludes that the proposed Plan is good for Marin County. The decision-makers will consider this comment as part of the EIR certification process and action on the proposed Plan.
- B44-2: The decision-makers will consider this comment regarding climate change as part of the EIR certification process and action on the proposed Plan.
- B44-3: Comments regarding the importance of open space and agricultural preservation are acknowledged. The decision-makers will consider this comment as part of the EIR certification process and action on the proposed Plan.
- B44-4: Commenter's comments regarding Alternative 5 are acknowledged. Decision-makers will weigh the advantages and disadvantages of each alternative in determining which option to adopt.
- B44-5: Commenter's conclusions regarding the need for affordable housing in Marin County are acknowledged. The decision-makers will consider this comment as part of the EIR certification process and action on the proposed Plan.
- B44-6: Please refer to Mitigation Measures 2.5(a) through (d) presented in the Draft EIR Chapter 2.5, Climate Change, which will work to provide greater identification of locations at risk of sea level rise as well as provides adaptation strategies. Also see response B36-2 and Master Response E on sea level rise.
- B44-7: CEQA streamlining is permitted under SB 375. See Master Response A.2 for information on CEQA streamlining. Commenter's additional comments concerning how to improve the proposed Plan are noted. The decision-makers will consider these comments as part of the EIR certification process and action on the proposed Plan.

B44-8: MTC and ABAG acknowledge the commenter's suggestions regarding Alternatives 3 and 5. Decision-makers will weigh the advantages and disadvantages of each alternative in determining which option to adopt.

Letter B45 League of Women Voters of Palo Alto (5/14/2013)

B45-1: Commenter requests funding in the proposed Plan be shifted to cost effective transit options and transit system maintenance is noted. The decision-makers will consider this comment as part of the EIR certification process and action on the proposed Plan.

B45-2: Please refer to Mitigation Measures 2.5(a) through (d) presented in the Draft EIR Chapter 2.5, Climate Change, which will work to provide greater identification of locations at risk of sea level rise as well as provides adaptation strategies. Also see response B36-2 and Master Response E on sea level rise.

B45-3: Commenter's recommendation that elements of the alternatives be combined to achieve objectives identified by the commenter is noted. Decision-makers will weigh the advantages and disadvantages of each alternative in determining which option to adopt.

Letter B46 Chinatown Community Development Center (5/16/2013)

B46-1: MTC and ABAG followed CEQA requirements for public noticing of the EIR. See Chapter 1.2 of the Draft EIR for a description of the public participation process for development of the proposed Plan. Regarding public engagement for the EIR, please see Chapter 1.1 of the Draft EIR for a description of the Notice of Preparation and public scoping process and Section 1 of this Final EIR for a description of the public review process for the Draft EIR. Please see Master Response C regarding requests for extensions of the public comment period.

B46-2: Future development in San Francisco under the proposed Plan will still be subject to all local laws and regulations regarding affordable housing, rent control, and other anti-displacement measures. Also see Master Response F for more information regarding displacement. Furthermore this is a regional-scale, program EIR that does not assess impacts of particular locations; see Master Response A.3 for additional information on the specificity of a program EIR.

B46-3: See Master Response F for more information regarding displacement.

B46-4: See Master Response F regarding displacement, which explains that the traffic modeling and GHG emissions for the EIR took such population shifts into account.

B46-5: See Master Response F regarding displacement.

Letter B47 BIA (6/15/2013)

This late submission by the commenter does not raise any new environmental issues that are not already addressed in the responses to Letter B7. The request for assurances and statements of intent will be considered by MTC and ABAG prior to project approval.

Letter B48 Marin Conservation League (5/16/2013)

B48-1: As shown in Table 3.1-3 of the Draft EIR, the proposed Plan would result in only 500 more households in Marin County than under the No Project scenario and Marin County would grow more slowly than the region as a whole. MTC and ABAG believe that these growth rates for Marin are reasonable; see Master Response B.1 for more information on the population projections.

See response B30-5 regarding water supplies for Marin.

To the commenter's point about susceptibility to flooding in eastern Marin, Appendix G of the Draft EIR lists the acres of PDAs that are within a 100-year floodplain as mapped by FEMA, and includes nearly 103 acres within the Urbanized 101 Corridor PDA, 29 acres in the San Rafael Civic Center/North Rafael Town Center PDA, and 158 acres in the San Rafael Downtown PDA. The flooding issue is analyzed in Chapter 2.8 under Impact 2.8-7 which finds a potentially significant impact that would be reduced to a less than significant level by Mitigation Measure 2.8(b) which is tied to existing regulations.

Chapter 2.5, under Impacts 2.5-6 and 2.5-7, analyzes the number of people and land development within sea level rise inundation zones and Chapter 3.1, on pages 3.1-68 through 81, shows that the proposed Plan would place more people and land development in these zones than under the No Project alternative. The Draft EIR proposed implementation of Mitigation Measures 2.5(b) and 2.5(d) but this impact remains significant and unavoidable. However, as noted on page 3.1-82, "In general, because the No Project alternative results in increases (compared to existing conditions) in transportation investments, the number of residents, and land-use development within the future sea level rise inundation zone, this alternative results in significant impacts for all criteria related to sea level rise." In other words, impacts from sea level rise will occur in the no project scenario as well.

Finally, the locations of PDAs were nominated by local jurisdictions; see Master Response I on the PDA process.

B48-2: See Master Response E regarding sea level rise and response B48-1. The Draft EIR analyzes sea level rise extensively in Chapter 2.5 and proposes mitigation measures 2.5(a), (b), (c), and (d), which among other efforts commit MTC and ABAG to conduct vulnerability and risk assessments for the region's transportation infrastructure, identify appropriate adaptation strategies to protect transportation infrastructure and land use development projects that are likely to be impacted, and creating a regional sea level rise adaptation strategy for the Bay Area.

B48-3: See Master Responses D.2 on the connection between high-density housing near transit and reduced greenhouse gas emissions, B.1 on population projections, A.1 on local land use control, and B.2 on PDA feasibility.

B48-4: PDAs were designated by local jurisdictions; see Master Response I regarding the PDA process. The transportation investments in the proposed Plan were selected through a process that balanced local and regional needs with provide adequate infrastructure within

and between PDAs; see Chapter 1.2 of the Draft EIR for more details on the plan development process. Areas must already have frequent transit service during commute times to quality as a PDA, which is the case for all of the Marin County PDAs, and the proposed Plan includes funds to bolster transit operations around the region.

- B48-5: See Master Responses B.1 on population projections, F on displacement, and H on UrbanSim modeling and subsidies. The proposed Plan does consider assisted living units and accessory units as housing.
- B48-6: RHNA and RTP/SCS adoption requirements are State law mandates that MTC and ABAG must comply with. The Plan Bay Area update and environmental review processes will comply with legal requirements and engage public participation. MTC and ABAG have taken the commenter's suggested revision to the Plan under consideration.
- B48-7: It is within MTC and ABAG's rights to engage in the public debate regarding CEQA reform.
- B48-8: MTC and ABAG followed CEQA requirements for public noticing of the EIR. See Chapter 1.2 of the Draft EIR for a description of the public participation process for development of the proposed Plan. Regarding public engagement for the EIR, please see Chapter 1.1 of the Draft EIR for a description of the Notice of Preparation and public scoping process and Section 1 of this Final EIR for a description of the public review process for the Draft EIR.
- B48-9: The list of controversial issues is adequate. See Master Response B.1 for more information on the population projections.
- B48-10: As the commenter notes this issue is already included in the Areas of Controversy. See Master Responses A.1 regarding local land use control and A.2 on CEQA streamlining. SB 375 is clear that an SCS, such as Plan Bay Area, does not usurp local land use control. It is responsibility of public agencies and governments to be informed on State statutes.
- B48-11: See response B30-1.2 regarding the regional scale of this EIR and the proposed Plan. Discrete local issues such as local roadway congestion will be the subject of environmental review for individual transportation and land development projects as well as local land use plans. In addition, this issue is effectively covered under the third bullet of Areas of Controversy, "Determining whether the proposed Plan's emphasis on maintaining and sustaining the existing regional transportation system will be adequate to serve the Bay Area's anticipated population and employment growth."
- B48-12: See Master Response A.2 on CEQA streamlining.
- B48-13: See the Mitigation Monitoring and Reporting Program that accompanies this Final EIR.
- B48-14: MTC and ABAG identified the alternatives as part of a reasonable range of alternatives in an effort to reduce or avoid one or more of the proposed Project's potentially significant and unavoidable impacts as required by CEQA. The comment is correct to note that all alternatives are similar with respect to the amount of growth and GHG reductions; however, there are other important differences that provide a meaningful comparison, including but

not limited to the geographic location of development and concentrating density in urban centers as opposed to more greenfield development. MTC and ABAG received many requests and comments around alternatives—see Chapter 3.1 of the Draft EIR regarding the alternatives screening process—and allowed stakeholder organizations to develop two of the EIR alternatives during the scoping process (Alternatives 4 & 5) as these groups represented multiple parties across the region. MTC and ABAG reviewed and considered all comments on the Plan and the EIR.

B48-15: See Master Response D.1 regarding assumptions allowed by SB 375 in calculating GHG emissions reductions for cars and light trucks. Tables 2.5-8 in Chapter 2.5 of the Draft EIR (and updated in Section 2 of this Final EIR) and Table 2.5-9 clearly show the forecast net GHG emissions expected from land use and transportation, respectively, under the proposed Plan both without and with CARB’s Scoping Plan reductions. As noted in response B48-3, Plan Bay Area is required to achieve the GHG emission reductions targets set by CARB while accommodating the region’s projected growth, and MTC and ABAG also have adopted their own objectives for the Plan (see Table 1.2-2 of the Draft EIR).

B48-16: As the commenter notes, the EIR analyzes sea level rise regardless of the fact that it is not required, as discussed in the *Ballona* decision. See response B48-1 and B48-2 and Master Response E regarding sea level rise.

B48-17: The EIR addresses the issues raised by the commenter:

- Mitigation Measure 2.5(a) which calls on MTC and ABAG to continue to conduct vulnerability and risk assessments for the region’s transportation infrastructure and identify the appropriate adaptation strategies to protect transportation infrastructure and resources.
- Mitigation Measure 2.5(b) which requires MTC and ABAG to create a regional sea level rise adaptation strategy for the Bay Area.
- Mitigation Measure 2.5(c) which calls on project sponsors and implementing agencies to coordinate with BCDC, Caltrans, local jurisdictions (cities and counties), and other transportation agencies to develop Transportation Asset Management Plans (TAMPs) that consider the potential impacts of sea level rise over the asset’s life cycle.
- Mitigation Measure 2.5(d) which notes that Executive Order S-13-08 requires all state agencies, including Caltrans, to incorporate sea level rise into planning for all new construction and routine maintenance projects and calls on project sponsors to do the same for local transportation assets and development projects.
- Mitigation Measure 2.8(b) which cites that implementing agencies must conduct or require project-specific hydrology studies for projects proposed to be constructed within floodplains to demonstrate compliance with Executive Order 11988, the National Flood Insurance Program, National Flood Insurance Act, Caltrans Highway Design Manual, Cobey-Alquist Floodplain Management Act, as well as any further Federal Emergency Management Agency (FEMA) or State requirements that are adopted at the local level. These studies shall identify project design features or mitigation measures that reduce impacts to either floodplains or flood flows to a less than significant level.

Such actions are included in the EIR in order to eliminate the need to repair facilities.

- B48-18: See Master Response E on sea level rise and Master Response A.3 regarding the level of specificity in the EIR. MTC and ABAG have taken the commenter's suggested revisions to the EIR under consideration. .
- B48-19: See Master Response E on sea level rise.
- B48-20: Mitigation Measures 2.5(a) and (b) take economic feasibility into account. Many existing developments lie within areas of potential sea level rise inundation and the strategies will focus on adaptation, rather than pure avoidance.
- B48-21: See Master Response D.1 regarding SB 375's GHG reduction requirements and Master Response E regarding the sea level rise analysis.
- B48-22: The 100-year floodplains are mapped by FEMA for the purposes of the National Flood Insurance Program. It is the understanding of MTC and ABAG that these floodplains are typically based on storm events and water flow patterns and do not incorporate sea level rise. Sea level rise is covered extensively in Chapter 2.5, however. It would be far beyond the scope of MTC and ABAG to determine the locations or even nature of revised floodplains; we can only work with the best data currently available, as called for under CEQA Guidelines.
- B48-23: Page 2.5-46 of the Draft EIR explains that, "The sea level rise impact analysis considers the inundation extent associated with 24 inches of sea level rise at MHHW [mean higher high water], as presented within NOAA's Sea Level Rise and Coastal Flooding Impacts Viewer and in Figure 2.5-3. This extent of inundation is used as a surrogate for 12 inches of sea level rise at midcentury, coupled with a King Tide event. This scenario was selected as it represents a level of future inundation by Bay waters that could be expected to occur multiple times each year, particularly during the winter months when King Tides typically occur, even in the absence of extreme coastal storm surge events. For the purposes of this assessment, this level of inundation is considered "regular inundation" by sea level rise. Figure 2.5-6 presents the relationship of these different scenarios for illustrative purposes."
- B48-24: These issues are addressed in the maps in Appendix 2 of the proposed Plan which show both resource lands and housing and job growth locations under the Plan. All of the tables in Chapter 2.3 list the sources used. The key piece of data is the land development pattern projected by UrbanSim; see Master Response I on UrbanSim.
- B48-25: The sources for each of the tables listed are described in footnotes for each of the tables. The methodology for the mapping is documented in the Draft EIR on pages 2.3-31 through 2.3-35. See also response B48-24 and Master Response I.
- B48-26: As noted on page 2.3-44 of the Draft EIR, "PDA boundaries overlap with approximately 300 acres of lands that are under Williamson Act contract" and on page 2.3-45, "Anticipated new urbanized land, based on UrbanSim modeling, was also compared to agricultural lands. In contrast to the above summary, this UrbanSim analysis includes areas located both inside

and outside of PDAs and represents the likely extent of overall development resulting from the proposed Plan rather than assuming full development within each PDA....471 acres of agricultural land under Williamson Act contract could be converted to urbanized land, as indicated in Table 2.3-12.” As noted in response B48-1, the locations of PDAs were nominated by local jurisdictions, see Master Response I on the PDA process. The conversion of Williamson Act lands is beyond the control of MTC and ABAG. The UrbanSim modeling for the proposed Plan found some conversion would occur despite reliance on urban growth boundaries, possibly because these lands have been included within a jurisdiction’s urban growth boundary, beyond the control of MTC and ABAG.

Tables 2.3-12 and 2.3-16 clearly show that 723 acres of Williamson Act lands would be potentially converted during the life of the proposed Plan and as stated on page 2.3-51 this represents 0.06 percent of all Williamson Act lands in the Bay Area. As explained above these conversions are not caused by the proposed Plan, but rather are the result of local jurisdictions’ PDA designations and other local development policies.

B48-27: See responses C26-32.5 and C26-48 regarding sequestration.

B48-28: See response B17-28 regarding the adequacy of the 1:1 ratio. MTC and ABAG have taken the commenter’s suggested revision under consideration.

B48-29: Given the programmatic, regional nature of this EIR, mitigation measures were designed to be directive yet flexible for localized situations. The Mitigation Measure cited by this comment, 2.9(f) has clear standards for success, as the project must demonstrate that it followed applicable ordinances or plans developed to protect trees, designed the project to avoid and minimize direct and indirect impacts to protected trees, and replaced qualifying trees at a minimum of a 1:1 ratio in locally approved mitigation sites or as otherwise required by the local ordinance or plan. See Master Response A.3 regarding the level of specificity in the EIR.

The latest Urban Water Management Plan (UWMP) of the Marin Municipal Water District (MMWD) indicated that it has adequate water supplies for projected growth through the year 2035, the time horizon for the UWMP, with additional supply capacity remaining unused. The proposed Plan would result in essentially the same year 2040 population as under the No Project alternative - a three percent increase, with the proposed Plan resulting in 500 more households in Marin County than under the No Project scenario. Given the water supplies indicated by MMWD, it is unlikely that additional water supplies will need to be acquired due to growth under the proposed Plan. Please see Master Response G for additional information on water supplies. MTC and ABAG have appropriately relied on the latest Urban Water Management Plans by the region’s water supply agencies, who are responsible for acquiring and managing adequate water supplies. Furthermore, any regional water supply issues brought on by climate change would not be an impact caused by the proposed Plan and would equally affect all possible alternatives to the Plan. Note that the projected population growth in the region is anticipated regardless of the proposed Plan.

B48-30: See response B48-11.