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Memorandum

TO: Planning Committee

DATE: April 3, 2009

FR: Executive Director

W. I.

RE: Proposed Final Environmental Impact Report (EIR) for the Transportation 2035 Plan, MTC Resolution No. 3892

MTC has prepared the *Proposed Final Environmental Impact Report for the Transportation 2035 Plan* in accordance with the California Environmental Quality Act (CEQA). In general, the purpose of this EIR is to disclose the significant environmental effect of implementing all projects included in the proposed Transportation 2035 Plan, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the proposed Transportation 2035 Plan (note that projects that secure funding and move into project development will also be subject to individual CEQA analysis).

This Final EIR responds to comments addressing the Draft EIR, which was released for a 45-day public review starting on December 19, 2008 and ending on February 2, 2009. To respond to some comments, revisions and refinements have been made to the Draft EIR. It is important to note that information provided in the responses to comments and in the revisions to the Draft EIR clarifies and amplifies the analysis in the Draft EIR. However, no significant new information was added that would trigger recirculation of the Draft EIR under CEQA. Furthermore, there were no new significant environmental impacts, or a substantial increase in the severity of any impact, identified in the comments or responses that were not already identified in the Draft EIR.

The components of the Final EIR are as follows:

1. **Revisions to the Draft EIR** lists revisions to the Draft EIR by chapter and page, in the same order as the revisions would appear in the Draft EIR.
2. **Comments on the Draft EIR** lists all agencies, organizations and persons who submitted either written or oral comments on the Draft EIR.
3. **Responses to Comments** provides responses to written and oral comments.
4. **Findings and Facts in Support of Findings** states MTC's conclusions regarding the significance of the potential environmental effects of the Transportation 2035 Plan after all feasible mitigation measures have been adopted.
5. **Statement of Overriding Considerations** sets forth the specific reasons supporting MTC's action in approving the Transportation 2035 Plan, based on this EIR and other information in the record.
6. **Mitigation Monitoring Program** establishes a mitigation monitoring program for the Transportation 2035 Plan.

Comments on the Draft EIR

Twenty-nine letters, along with three sets of oral comments from the MTC joint advisors workshop and two public hearings on the Draft Transportation Plan and its EIR, were received during the 45-day comment period. Although several comments were received late, the letters and responses are included in the Final EIR. Where appropriate, the information and revisions suggested in these comment letters have been incorporated into the Final EIR. As noted above, no information or revisions warrant changing the findings or conclusions of the environmental assessment.

Attachment A highlights a few salient comments on the Draft EIR and the abbreviated MTC responses to those comments. MTC staff notes our disagreement with these comments as detailed in length in the responses to comments section of the Final EIR.

Recommendation

MTC staff recommends that this Committee approve and refer MTC Resolution No. 3892 to the Commission for final action, as follows:

- **Resolution No. 3892** certifies that (1) the Final EIR for the Transportation 2035 Plan has been completed in compliance with CEQA; (2) the Commission reviewed and considered the information in the Final EIR prior to considering the proposed Transportation 2035 Plan; and (3) the Final EIR reflects the independent judgment and analysis of the Commission.

Note that the Findings and Facts in Support of the Findings, the Statement of Overriding Considerations, and the Mitigation Monitoring Program, which are included as part of the Final EIR document, are to be adopted with the approval of the Final Transportation 2035 Plan.

Steve Heminger

SH:AN

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Attachment A
Summary of Salient Draft EIR Comments & Responses

Comment #1: (a) *A full evaluation of the committed projects was not conducted, and (b) the Draft EIR incorrectly invokes “infeasibility” in its claim that committed funds cannot be moved to other projects.*

All committed projects were reviewed with respect to the Transportation 2035 goals. Of the capacity increasing projects with total costs of \$50 million or more (2007\$), 61 percent of the committed projects meet four goals, 3 percent meet three goals, 1 percent meet two goals, and 35 percent meet one goal.

In July 2008, at the Commission’s request, MTC staff identified a set of capacity-increasing committed projects totaling over \$50 million, and evaluated these committed projects against three criteria: (1) What is the project’s funding breakdown?; (2) Where is the project in the project development stage?; and (3) How many Transportation 2035 goals did the project strongly support? The analysis found that (1) 82 percent were funded by programs and sources which MTC has no discretionary authority to reconsider; (2) 68 percent have advanced into the design, right-of-way, and (3) 61 percent supported four goals.

To determine which committed projects would be subject to further review by the Commission, staff screened for projects that (1) have 25 percent or more “Other Federal/State Funds” which are moneys that the Commission has authority to redirect, (2) are in planning or environmental review stage which indicate that some funding has been spent but that the project is not too far along into project development, and (3) meet only one Transportation 2035 goal. The analysis found only two projects that met these criteria: (a) San Francisco’s Doyle Drive Reconstruction and (b) San Mateo County’s U.S. 101/Willow Road Interchange Modification.

To further illuminate the infeasibility of shifting committed funds, MTC staff offers the following explanation:

- TIP projects have already been vetted through rigorous and multi-level local and regional required public review and hearing processes, as well as intensive State and federal review processes. Moving these funds to other projects would render these processes, as well as overall financial capacity and conformity findings, moot.
- County sales tax expenditure plans have received the required two-thirds vote. MTC does not have authority to invalidate or modify the expenditure plans adopted following intensive administrative proceedings and special elections.
- Regional operations programs such as TransLink[®] and 511 traveler information are long-term funding commitments that are critical to the viability of current contracting agreements that assume extensions for reasonable implementation of the projects.
- The Commission’s commitment to long-term strategies that require many years to implement, such as Resolution 3434, has no practical bearing if concomitant funding commitments are not adhered to.

Comment #2: The Draft EIR should consider a different No Project definition, including one where no committed funds are invested.

CEQA Guidelines Section 15126(e)(1) states that “the purpose of describing and analyzing a no project alternative is to allow decision-makers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project.” Furthermore, CEQA Guidelines Section 15126(e)(2) states that the “no project analysis must discuss the existing conditions at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services.”

The No Project, as defined, includes the components of the Transportation 2030 Plan that are reasonably expected to be continued. It includes the existing transportation system, transportation projects under construction, and transportation projects that have full funding commitments, such as fully funded sales tax transportation projects authorized by voter-approved transportation expenditure plans and expected to be completed over the Transportation 2035 Plan period.

Comment #3: The Draft EIR should evaluate other alternatives, including an alternative that maximizes greenhouse gas reductions as suggested by the Attorney General’s Office.

To address the Attorney General’s suggestion to evaluate an alternative that reduces greenhouse gases, MTC revised the Heavy Maintenance alternative to reflect increased funding levels for transit and local road maintenance shortfalls and for projects that support walking, bicycling and transit use and infill and mixed used development. See p. 3.1-6 of the Draft EIR for more details.

CEQA Guidelines Section 15126.6(a) requires an EIR 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 proposed project but would avoid or substantially lessen any of the significant effects...”. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation.”

When MTC set out to define alternatives to the proposed Project, the Commission had to balance the basic project objectives with opportunities for substantially lessening significant environmental effects. MTC designed alternatives that balanced the goal of greenhouse gas reduction with other Plan goals, and came up with alternatives predicated on increased investment in operations and maintenance which would reduce potentially significant adverse effects as well without jeopardizing the safety and functionality of the system.

The alternatives ultimately evaluated in the Draft EIR meet all of the CEQA requirements because:

1. they attain most of the basic objectives of the Transportation 2035 Plan;
2. they would avoid or substantially lessen numerous significant effects, and
3. they permit a reasoned choice by distilling the information from extensive early scenario and sensitivity analyses conducted by MTC into two alternatives – Heavy Maintenance/Climate Protection Emphasis + Pricing and Heavy Maintenance/Climate Protection Emphasis + Land Use.