

Date: October 28, 2015

W.I.: 1121

ABSTRACT

MTC Resolution No. 4210

This resolution approves the functional consolidation of planning departments within MTC, revises the multi-year funding framework between MTC and the Association of Bay Area Governments (ABAG) consistent with the functional consolidation, and extends the FY2014-15 funding agreement, as amended, through FY 2015-16 or until completion of the functional consolidation, whichever occurs first.

Further discussion of this subject is contained in Commission memoranda dated September 18, 2015 and October 23, 2015.

Re: Approval of the Functional Consolidation of Planning Departments within MTC

METROPOLITAN TRANSPORTATION COMMISSION
RESOLUTION NO. 4210

WHEREAS, the Metropolitan Transportation Commission (MTC) is the regional transportation planning agency for the San Francisco Bay Area pursuant to California Government Code Section 66500 *et seq.*; and

WHEREAS, MTC is the federally designated Metropolitan Planning Organization (MPO), pursuant to Section 134(d) of Title 23 of the United States Code (USC) for the nine-county San Francisco Bay Area region (the Bay Area or region); and

WHEREAS, the Association of Bay Area Governments (ABAG) was created in 1961 and serves as the Council of Governments for the region; and

WHEREAS, California Government Code § 65080 *et seq.* requires MTC to prepare and update a long-range Regional Transportation Plan (RTP), including a Sustainable Communities Strategy (SCS); and

WHEREAS, Senate Bill 375 (Steinberg, 2008) requires that each metropolitan planning organization in California prepare and adopt an SCS to bring together transportation and land use planning; and

WHEREAS, in the Bay Area's case, there is a unique section in the law (Government Code 65080 (b)(2)(B)) that assigns responsibility for preparing the various elements of the SCS to either MTC, ABAG or both, based on the traditional roles each agency has historically performed; and

WHEREAS, the current bifurcated structure between the MTC and ABAG planning departments leads to significant duplication, inefficiencies and missed opportunities in preparing

the SCS and to best serve the needs of the Bay Area and its local communities; now, therefore, be it

RESOLVED, that MTC supports an integrated planning department incorporating staff from MTC and ABAG planning departments as the best near-term approach to carry out the significant and challenging responsibilities set forth in Senate Bill 375; and be it further

RESOLVED, that MTC approves principles to guide the creation of an integrated regional planning department attached hereto as Attachment A and incorporated herein as though set forth at length; and be it further

RESOLVED, that MTC approves the revisions to the MTC/ABAG Funding Framework attached hereto as Attachment B and incorporated herein as though set forth at length; and be it further

RESOLVED, that MTC approves the amendment to the Interagency Agreement between MTC and ABAG for Planning substantially in the form attached hereto as Attachment C and incorporated as though set forth at length; and be it further

RESOLVED, that MTC directs staff to move forward to create an integrated regional planning department, including consultation with local government and other interested stakeholders, consistent with Attachments A, B, and C.

METROPOLITAN TRANSPORTATION COMMISSION

Dave Cortese, Chair

This resolution was entered into by the Metropolitan Transportation Commission at a regular meeting of the Commission held in Oakland, California on October 28, 2015.

Principles for Functional Consolidation of MTC-ABAG Planning Departments

1. MTC shall provide the remaining six months of FY 2015-16 planning funds at current levels, ~~unless the functional consolidation and transition is accomplished sooner,~~ as detailed in Amendment #2 to the MTC/ABAG Interagency Agreement (Attachment C).
2. Beginning July 1, 2016, MTC shall offer positions at equal or better compensation to 13 ABAG planners through a right of first refusal retention process, and together with MTC's planning department, shall create an integrated regional planning department (regional planning department).
3. The regional planning department shall be employed and receive performance reviews through MTC. The regional planning department shall serve both the MTC Commission and the ABAG Executive Board.
4. Creation of the regional planning department shall respect and maintain the existing statutory authority of MTC Commission and ABAG Executive Board. Further, the respective agency roles in preparing/approving the Regional Housing Needs Analysis (RHNA) and Plan Bay Area will be unchanged.
5. After consultation with ABAG, MTC shall annually adopt a resolution identifying the scope of staffing services to support the work of the ABAG Executive Board, including the ability of the ABAG Executive Board to commission additional studies and other activities.
6. ABAG will retain two planners to perform RHNA and five employees for Bay Trail and resiliency work (based on FY2015-16 staffing levels).
7. BATA shall continue to fund Bay Trail activities at current funding levels and the function will remain the responsibility of ABAG.
8. MTC shall provide \$1.2 million in transition funding to ABAG through at least FY 2020-21, as detailed in Attachment B. The funding will be directed to ABAG's pension liability or other specific expense to improve the financial stability of the agency, and will be subject to an annual fiscal audit.
9. With the exception of principle #8 above, MTC shall retain the remaining planning funds (that were subject to the MTC/ABAG Interagency Agreement prior to Amendment #2)

beginning in FY 2016-17, consistent with the revised MTC/ABAG Funding Framework (Attachment B).

10. In the event that a question concerning representation of MTC employees arises, MTC will adhere to its adopted MTC employer-employee organization relations resolution and current Memorandum of Understanding with the Committee for Staff Representation while maintaining neutrality
11. MTC and ABAG shall ~~retain~~ expedite the retention of a mutually acceptable consultant to conduct a jointly funded merger study and a merger implementation plan of MTC and ABAG in FY 2016-17 to be completed by June 1, 2016. The study shall examine the policy, management, financial and legal issues associated with further integration, up to and including institutional merger between MTC and ABAG and shall set forth the specific plans benchmarks, and milestones for implementation. This plan shall be referred to as the proposed ABAG/MTC Merger Implementation Plan (MIP). The study and plan shall be governed by the joint MTC Planning and ABAG Administrative committees and be informed by the full participation of designated ABAG and MTC representatives through public meetings governed by the Brown Act.
- 11.12. Notwithstanding paragraphs 1-10 in Attachment A, in the event ABAG and MTC approve the MIP prior to July 1, 2016, each in its sole discretion, and by formal resolution, the functional consolidation of planning departments shall be pre-empted and the actions outlined in principles 2-10 shall be void.

Attachment B
MTC/ABAG Funding Framework
REVISED MTC Funding Commitments
October 2015

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 Attachment B
 MTC Resolution No. 4210
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	FY2013-14	FY2014-15	FY2015-16	FY2016-17	FY2017-18	FY2018-19	FY2019-20	FY2020-21	Total
Current Framework									
Planning & Research	3,755,000	3,687,000	3,742,000	3,798,000	3,855,000	3,913,000	3,972,000	4,031,000	\$ 30,753,000
Tenant Improvements	400,000	400,000	450,000	550,000	600,000	600,000	600,000	600,000	\$ 4,200,000
Total	4,155,000	4,087,000	4,192,000	4,348,000	4,455,000	4,513,000	4,572,000	4,631,000	\$ 34,953,000
Revised Framework									
Planning & Research	3,755,000	3,687,000	3,742,000 ⁺⁺	-	-	-	-	-	\$ 7,442,000
Transition Cost Support			1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	\$ 6,000,000
Tenant Improvements	400,000	400,000	450,000	550,000	600,000	600,000	600,000	600,000	\$ 4,200,000
Total	4,155,000	4,087,000	4,192,000	1,750,000	1,800,000	1,800,000	1,800,000	1,800,000	\$ 21,384,000
Difference	-	-	-	(2,598,000)	(2,655,000)	(2,713,000)	(2,772,000)	(2,831,000)	(13,569,000)

⁺⁺ Unless modified pursuant to Attachment C.

AMENDMENT NO. 2 TO INTERAGENCY AGREEMENT
Between METROPOLITAN TRANSPORTATION COMMISSION
And ASSOCIATION OF BAY AREA GOVERNMENTS
For PLANNING
FISCAL YEARS 2014-15 and 2015-2016

THIS AMENDMENT, effective as of October 28, 2015 is Amendment No. 2 to the Interagency Agreement by and between the Metropolitan Transportation Commission ("MTC") and the Association of Bay Area Governments ("ABAG") for Planning, dated July 1, 2014 (collectively the "Agreement") and as amended on July 1, 2015. This Amendment No. 2 extends the term of the Agreement to June 30, 2015 and applies to planning occurring in Fiscal Year 2015-16.

NOW, THEREFORE, the parties agree to modify the subject Agreement as originally executed, as follows:

1. Section 3.0 Funding is revised to add subparagraph (e) as follows:
 (e) Notwithstanding the foregoing, ABAG agrees that any amount of State Planning Funds spent during FY 2014-15 or FY 2015-16 in excess of the \$697,965 amount described in subparagraph (a) above shall offset MTC's \$3,075,092 funding commitment to ABAG for FY 2015-16.

2. Section 3.1 FUNDING FOR FIRST SIX MONTHS OF FY 2015-16, is superseded by the following:

FUNDING FOR FY 2015-16

ABAG and MTC mutually agree that MTC shall pay ABAG a total of three million seventy-five thousand ninety-two dollars (\$3,075,092) for Fiscal Year 2015-16. Payment shall be from the following sources in the following amounts:

SOURCE	Payment Amounts for FY 2015-16
General Fund/TDA Planning	\$456,204
FTA 5303 (Toll Credit for match)	\$244,888
FHWA PL (Toll Credit for match)	\$1,015,000
STP 6084 (175)	\$699,000
STP 6084 (187)	\$660,000
Total	\$3,075,092

- (a) In addition to these amounts, \$728,908 (representing \$666,908 to be credited towards MTC's funding commitment for FY 2015-16 as described below plus \$62,000 to cover the ABAG planner referenced below) in state planning funds may be made available to the region in FY 2015-16 to support ABAG's research, planning and implementation activities ("FY 2015-16 State Planning Funds"). ABAG shall make a good faith effort to invoice in a timely manner for eligible expenses against the FY 2015-16 State Planning Funds. MTC and ABAG agree that \$666,908 of the FY 2015-16 State Planning Funds shall be credited toward MTC's funding commitment for FY 2015-16 (which amount together with the \$3,075,092 of funding set forth in the table above equals MTC's \$3,742,000 for FY 2015-16 per the funding framework), provided that the first \$62,000 of FY 2015-16 State Planning funds received by ABAG shall not be credited toward MTC's funding commitment but instead shall be used to cover expenses associated with a new ABAG planner.
- (b) If an amount less than the \$666,908 of FY 2015-16 State Planning Funds applicable to FY 2015-16 is invoiced and received by ABAG, and credited towards MTC's annual funding commitment in accordance with paragraph (a) above, MTC agrees to cover the difference through such other mechanisms as shall be reflected in an amendment to this Agreement prior to April 30, 2016.
- (c) MTC and ABAG shall work cooperatively to develop a plan and identify reasonable parameters for the future fiscal year re-allocation of any unspent portion of the General Fund/TDA Planning funds, subject to the availability of funds and approval of appropriate contract and budget amendments by the Commission for future expenses.
- (d) ABAG agrees that any FY 2015-16 State Planning Funds remaining unspent per subparagraphs (a) and (b) above and any State Planning Funds remaining unspent per Section 3, subparagraphs (a) and (b), of the originally executed agreement shall be carried over into ensuing fiscal years' Interagency Agreements for expenditure by ABAG, and as an offset to MTC's funding commitment to ABAG for those fiscal years, with a goal of providing capacity over the term of the eight-year funding framework to meet anticipated agency expenses and to offset potential lower State funding levels.
- (e) Notwithstanding the foregoing, ABAG agrees that any amounts for FY 2015-16 State Planning Funds spending during FY 2015-16 in excess of \$728,908 amount described in

subparagraph (a) above shall offset MTC's \$3,075,092 funding commitment to ABAG for FY 2015-16.

3. Appendix B, **Funding for First Six Months of FY 2015-16** is revised as follows:

Funding for FY 2015-16

WORK ELEMENT 2015-16	FTA (Toll Credit for match)	FHWA (Toll Credit for match)	TDA/ General Fund	STP 6084 (175)	STP 6084 (187)	TOTAL:
Regional planning, modeling, research and outreach, including intergovernmental coordination.	\$244,888	\$1,015,000	\$456,204	\$699,000	\$660,000	\$3,075,092
TOTAL:	\$244,888	\$1,015,000	\$456,204	\$699,000	\$660,000	\$3,075,092

4. Condition for Release of FY2015-16 Funds. Payment for work performed after November 1, 2015 shall be subject to the condition listed in Attachment 1, attached hereto and incorporated herein by this reference.

~~5. Reduction of Amounts Due in the Event of Consolidation. In the event the planning functions of ABAG and MTC are consolidated through action by MTC to offer ABAG planners positions at MTC, the total amount payable to ABAG under this Agreement shall be reduced in an amount equal to \$256,258 times the number of months remaining until June 30, 2016, calculated from the first day of the month succeeding the date any ABAG employee commences employment at MTC. MTC shall apply a corresponding prorata credit to each funding source listed in Appendix B.~~

6. Retention of Contract Provisions. Except as provided herein, all other terms and conditions of the Agreement remain unchanged.

IN WITNESS WHEREOF, the parties have executed this Amendment on the date indicated above.

METROPOLITAN TRANSPORTATION
COMMISSION

ASSOCIATION OF BAY AREA
GOVERNMENTS

Steve Heminger, Executive Director

Ezra Rapport, Executive Director

Attachment 1

The condition is as follows:

Separation of Direct and Indirect Costs: ABAG shall continue to cooperate with MTC and Caltrans on questions related to costs for personnel that have been charged as direct and also included as part of the indirect pool.

