



A Tides Center Project



June 1, 2018

Kristine Cai
Planning Director
Fresno County Council of Governments
2035 Tulare Street, Suite 201
Fresno, CA 93721

Re: Draft 2018 Regional Transportation Plan

Dear Ms. Cai,

Thank you for the opportunity to comment on the Draft 2018 Regional Transportation Plan for Fresno County. We commend the Fresno Council of Governments (Fresno COG) for the significant time and resources it has spent to date on the public process for the development the 2018 Regional Transportation Plan / Sustainable Communities Strategy (RTP/SCS). Leadership Counsel has been engaged in this process from the beginning and has helped ensure that environmental justice and disadvantaged communities have the opportunity meaningfully engage. Through these comments and our continued participation in this RTP/SCS update process, Leadership Counsel aims to ensure that Fresno COG explicitly considers input received by residents and representatives of disadvantaged communities and that the final RTP/SCS plans for an integrated and comprehensive multi-modal transportation system that affirmatively addresses the disparate adverse conditions impacting disadvantaged communities as required by state and federal law.

Fresno COG has made substantial strides in developing a more inclusive public process, new project evaluation criteria intended to benefit the County's communities most in need of transportation infrastructure, and policies to better suit the needs of environmental justice communities. However, the Draft falls short of legal mandates and guidance that require that Fresno COG "to explicitly consider" the public input, including input provided by residents of



A Tides Center Project

disadvantaged communities, and to advance access to critical infrastructure and services in low-income communities, communities of color, and immigrant communities which have been denied these services in the past. In addition, the Draft fails to incorporate and take advantage of recommendations contained in CalTrans 2017 RTP Guidelines (“Guidelines”) intended to ensure that RTP/SCS fulfills its potential to facilitate sustainable development, advance the state housing goals, promote public health, and address the needs of disadvantaged communities and protected populations.

Fresno COG must revise the Draft to address these shortcomings, including in particular by planning for the transportation needs of disadvantaged communities and environmental justice communities. This letter below provides additional detail about the Draft’s deficiencies and recommendations regarding revisions which would ensure that the final RTP/SCS complies with applicable state and federal mandates and advances transportation access for the communities and populations with the greatest need.

I. The Draft RTP Fails to Serve as a “Comprehensive” Planning Document That Will Lead to an “Integrated” Transportation Network & Fails to Include Action to Affirmatively Overcome Past & Present Discriminatory Practices As Required by Law

Federal law requires the metropolitan planning process to be “continuous, cooperative, and comprehensive,” and “include strategies and actions that lead to the development of an integrated multimodal transportation system.” 23 CFR §450.350(b), 23 CFR 450.324(b). However, the Draft RTP fails to address the transportation needs of rural communities as identified during the public process; stipulates unreasonably long timelines for completion of projects benefiting disadvantaged communities; lacks an adequate analysis of the impact of projects on environmental justice communities, and does not include effective planning for transportation that complements availability of affordable housing. By failing to invest in the needs of rural areas and disadvantaged communities in a timely manner that ensures their connection to the regional system and failing to properly analyze the plan’s allocation of benefits to protected classes, inadequately investing in rural areas and not ensuring their connectivity to the rest of the transportation system, the Draft RTP/SCS does not satisfy the requirement that Fresno COG plan for an “integrated” or “comprehensive” multi-modal system.

Furthermore, federal and state civil rights law requires Fresno COG to ensure that it does not discriminate against protected classes, either intentionally or in effect. 42 USC § 2000d, 49 CFR § 21.5(b)(2); Gov. Code §§ 11135. Where present or prior discriminatory practices or patterns result in inferior access to services, MPOs must take action to overcome the persisting effects of those practices or patterns. 49 U.S.C. § 21.5(b)(7). Many disadvantaged communities within Fresno COG’s jurisdiction are disproportionately comprised of people of color and immigrants and also lack access to basic public and private investments, including transportation investments such as sidewalks, streetlights, and stormwater drainage, as a result, at least in part, of discriminatory practices. However, the RTP not only fails to include projects which will



A Tides Center Project

affirmatively address these discriminatory practices but entrenches historic discrimination by failing to include most of the projects identified by residents as critical to addressing the needs of disadvantaged communities.

We recommend the following revisions to the Draft RTP to ensure that the 2018 RTP complies with Fresno COG's obligations to create a "comprehensive" and "integrated" plan that makes strides to reverse existing inequities impacting protected classes and low-income communities of color in Fresno County.

1. Fresno COG Must Not Disregard Projects Identified By the Public to Meet the Needs of Disadvantaged Communities

Fresno COG created a process in which local jurisdictions submit projects for funding through the RTP, and Fresno COG. As a result of this process, almost all projects proposed during the public engagement process by residents, including in particular residents of color and immigrants and members of disadvantaged communities, were excluded from the Draft RTP. For instance, numerous projects proposed by residents of the rural disadvantaged unincorporated communities of Lanare, Cantua Creek, El Porvenir, and Tombstone Territory for essential pedestrian and bicycle infrastructure, public transit and road improvements were excluded. These neighborhoods, which are disproportionately comprised of people of color and which are environmental justice communities, have seen little if any transportation investment in their history.

A recipient of federal funding may not "utilize criteria or *methods of administration* which have *the effect of* subjecting persons to discrimination because of their race, color, or national origin." 49 CFR § 21.5(b)(2); See also Gov. Code § 11135. Fresno COG's chosen method of selecting projects of allowing local jurisdictions to select which projects are ultimately included in the RTP resulted in the near categorical exclusion of projects proposed by residents to benefit communities disproportionately comprised of protected classes and therefore has an unlawful effect of denying transportation improvements based on residents' inclusion in a protected class.

In addition, by allowing jurisdictions to eliminate projects proposed by residents during the public participation process with no analysis by Fresno COG, Fresno COG effectively ignores that input. Fresno COG's methodology therefore conflicts with the federal requirement that the COG "explicitly consider" input provided by the public and the criteria identified by the Department of Transportation to assess COGs' Title VI compliance. 23 CFR § 450.316(a)(1)(vi); DOT, FHA, Title VI Requirements in Metropolitan and Statewide Planning¹ (providing that DOT will consider the mechanisms in place to ensure that issues and concerns raised by low-income and minority populations are appropriately considered).

¹ Available at https://www.fhwa.dot.gov/environment/environmental_justice/legislation/ej-10-7.cfm

To satisfy the COG's civil rights and public participation obligations, Fresno COG must select an alternative methodology which does not result in the exclusion of projects designed to benefit communities of color and immigrant communities without analysis and revise its project list accordingly.

We recommend that the COG revise its methodology that it uses to determine the RTP/SCS project list to include an independent analysis of each project proposed by the public and to include a set aside requirement. Fresno COG should also add a policy to the Policy Element stating that no public dollars can be used to subsidize new growth at the expense of disadvantaged communities.

2. Revise Project Timelines to Eliminate Delay and Frontload Project Benefiting Disadvantaged Communities

Federal Transportation Administration Circular 4703.1 identifies three guiding environmental justice principles which COG's must incorporate and transportation decision-making process and environmental review documents. The third principles requires COG's and other agencies "prevent the *denial of, reduction in, or significant delay* in the receipt of benefits by minority and low-income populations." Emphasis added.

In conflict with this requirement, the few projects that the RTP does include to address the needs of disadvantaged communities and environmental justice communities are not scheduled for implementation until years and even decades into the planning period. For example, the Draft includes a sidewalk requested by residents of Lanare along Mt. Whitney Avenue -- a road with high velocity traffic that lacks active transportation infrastructure but which pedestrians from the disadvantaged community rely on to travel between homes, the community center, and a small store -- but schedules it for completion only in 2050. Other projects in more affluent areas are scheduled for much earlier completion. This includes a project to install new bike lanes in Clovis as early as 2022 and many road expansion projects.

Fresno COG must revise the timelines for projects identified to meet the needs of people and communities of color and immigrant communities to ensure timely completion early in the planning period. In addition, many of the projects requested by residents in the RTP workshops to address the needs of disadvantaged communities are small and inexpensive, and their impact on public safety is much more critical than other projects slated for more immediate construction. Fresno COG should especially prioritize projects proposed during the public process that would address public health and safety risks associated with absent or deficient infrastructure in DUCs consistent with Fresno COG's duty to not to discriminate in the allocation of transportation benefits and to take affirmative actions to remove disparate adverse conditions impacting protected classes. See e.g., 49 CFR §§ 21.5(b)(1)(ii)&(iv); 21.5(b)(3); 21.5(b)(7); Gov. Code § 11135.

3. Conduct a Disadvantaged Communities Needs Assessment

The Transportation Needs Assessment program incorporated into the 2014 RTP was passed by Fresno COG to analyze transportation needs of disadvantaged communities and rural communities in the County. Instead, it only analyzed the gaps in transportation between cities in the County, leaving out many isolated and disadvantaged rural communities with significant transportation needs. Without an analysis of the needs of unincorporated communities within the county, the Transportation Needs Assessment (“TNA”) did not fulfill its purpose to serve as a tool for evaluating which projects are needed to meet the needs of communities that lack critical transportation infrastructure throughout the region. The Draft 2018 RTP does but not but should include a similar program which would ensure that Fresno COG completes an analysis that includes residents’ transportation needs in unincorporated Fresno County.

Disadvantaged communities of color, particularly in rural areas of Fresno County, suffer from absent and severely inadequate roads, sidewalks, and public transit as compared to more affluent areas of the County with smaller populations of people of color. Thus, the incorporation of a TNA with an explicit focus on disadvantaged unincorporated communities would assist Fresno COG in fulfilling its duty to ensure that the RTP plans for a “comprehensive” and “integrated” regional transportation network, which includes the needs of rural and unincorporated communities, and to identify appropriate actions necessary to overcome the effects of the disproportionate denial of infrastructure and services to communities of color and immigrant communities in the region. See 23 CFR §§ 450.300; 450.305(b); 49 CFR 21.5(b)(7). Its inclusion is also consistent with the CalTrans Guidelines which describes consideration of rural communities a “key element” of the transportation planning process. p. 153.

We recommend that Fresno COG conduct a Disadvantaged Communities Needs Assessment in the next two years by including this in the Environmental Justice policies and adding an action item with funding to the Action Element. The assessment process would include targeted workshops with in disadvantaged communities and regional workshops to identify the transportation projects needed to connect them to critical resources and services, such as health centers, grocery stores, educational centers. The results from this process would form the basis of the needs assessment for future RTP rounds, which would in turn serve as the basis for the Project Evaluation Criteria and the Environmental Justice analysis for the 2022 RTP. The Sustainable Infrastructure Grants Program should be expanded with existing and future funding sources to fund projects identified by the Disadvantaged Communities Needs Assessment.

4. Expand the Sustainable Infrastructure Grant program

In addition to applying for federal and state funding for the projects that disadvantaged communities identified as necessary for meeting their needs, Fresno COG should also expand the Sustainable Infrastructure Grants program in order to comply with its obligation to “overcome the effect of” disparate impacts on protected groups. Fresno COG created the Sustainable Infrastructure Grants program through the 2014 RTP, shaped the program over the last four years to be a planning grants program using SB 1 planning funds, and this year Fresno COG selected

several rural transit planning projects for funding. This is a successful model of a program that prioritizes dedicating dollars to projects benefiting disadvantaged communities, and should be expanded to incentivize local agencies plan other types of transportation projects that benefit disadvantaged communities, such as active transportation infrastructure and road improvements.

5. Identify housing for all segments of the population, and ensure that jurisdictions are implementing affordable housing programs before allocating funding to projects

Fresno COG must include more programs to incentivize local agencies to invest in affordable housing to fulfill their federal affordable housing requirements. Fresno COG's housing obligations in its SCS extend beyond identification of RHNA requirements; as specified in state law, an SCS must "identify areas within the region sufficient to house all the population of the region...including all economic segments of the population, over the course of the planning period of the regional transportation plan," "identify areas within the region sufficient to house an eight-year projection of the regional housing need," and "consider the state housing goals" including a suitable living environment for all economic segments of the population including farmworkers. Gov. Code § 65080(b)(2)(B).

In order to comply with these obligation, Fresno COG must do more thorough planning for how it will meet affordable housing needs in the region. It should also encourage compliance with federal fair housing requirements by ensuring that local agencies are effectively implementing their affordable housing programs before allocating funding to projects proposed by local agencies. We explore additional potential incentivization programs obligations more below.

6. In the Action Element, Fresno COG should add a commitment to developing a projects map for the 2022 RTP

We are encouraged to see the addition of a commitment in the Action Element to developing an activity-based model by 2018. This will be crucial for a more accurate model to measure impact of the RTP on environmental justice communities. Existing modeling limitations this round made accurate modeling of impacts on EJ communities incomplete and inaccurate. An activity based model will be able to better predict movement of individuals between areas in the County (not just within TAZs) and how transportation infrastructure will facilitate or impede that movement.

Another tool that will be critical for conducting an effective EJ analysis will be a projects map to superimpose the map of project locations over a map of existing EJ communities. This was asked for in 2014, and advocates were told that such a map would be prepared for this 2018 RTP round. Since this was not finished this round, we ask that Fresno COG include an explicit, funded and prioritized commitment to develop a projects map for the 2022 RTP.

7. Support rural smart growth throughout the document



A Tides Center Project

Fresno COG should implement effective policies for rural smart growth to comply with its obligation to address current disparities in transportation investment. DOT Title VI Regulations 49 CFR 21.5(b)(7). Such a policy would also preserve farmland and reduce GHG emissions. In order to comply with law requiring the RTP to be an “internally consistent” document, Fresno COG should integrate rural smart growth throughout the document, including in the Policy Element, Action Element, Growth Scenario, and other chapters. Gov. Code § 65080(b). We would gladly work with Fresno COG to shape this language.

II. Recommended Changes to the Policy Element

A. We commend Fresno COG on inclusion of an Environmental Justice policy

We appreciate Fresno COG staff and stakeholders from the public on the RTP Roundtable working with us and other environmental justice (EJ) advocates to include more commitments to investing in and protecting the health of environmental justice communities in its Policy Element. While we were not able to collectively include an explicit commitment to ensuring equitable investment, this is a step towards that goal.

B. The EJ goal in the Policy Element must be accompanied by “pragmatic,” “action-oriented” policies that will effectuate equitable treatment of environmental justice communities in the “short term and long term.”

State law requires that the RTP be “*action-oriented and pragmatic, considering both the short-term and long-term future, and shall present clear, concise policy guidance to local and state officials.*” Gov. Code § 65080. Furthermore, the Policy Element must include “*pragmatic objectives and policy statements.*” Gov. Code § 65080(a).

While the new Environmental Justice goal in the Policy Element outlines some general policies for serving the needs of environmental justice groups, several of the policies listed are vague. The wording of these policies should be strengthened so that they constitute “pragmatic,” “action-oriented policies” that serve all segments of the population in both the “short term and long term.” For example, the policy regarding alignment with Title VI and Environmental Justice obligations should be reworded to state: “Ensure equitable distribution of benefits and burdens of transportation projects in alignment with Fresno COG’s Title VI and Environmental Justice obligations through timely implementation of projects identified in needs assessments and requested by disadvantaged communities and environmental justice communities during the public participation process.” Policies under this goal should also include a clear commitment to “Prioritize planning for rural smart growth and projects that benefit disadvantaged communities and Environmental Justice communities via creation of project evaluation criteria and provision of funding to incentivize such projects.” This link to the project evaluation criteria, which did include many points for projects benefiting disadvantaged communities, complies with the requirement that the RTP be an “internally consistent document.” Gov. Code § 65080(b). Currently, the document lacks internal consistency. Such a link to the project evaluation criteria,



A Tides Center Project

along with inclusion of a commitment to provide funding to incentivize such projects in the Action Element, would start to comply with Fresno COG's obligation to create an "internally consistent" document.

C. Promote integrated land use and transportation planning within the SB 375 goal, particularly the availability of affordable homes near jobs

We appreciate that the current policy element highlights the importance of partnering with local agencies to promote the integration of land use and transportation. Integrating these can best achieve climate reduction and air quality goals; improve equitable access to jobs, housing, and services; conserve habitat, farmland and other open space; and maximize the benefits of good regional planning. The benefits of this integration are at the heart of Sustainable Communities Strategies and SB 375. We therefore suggest these edits:

- "Goal: A regional transportation and land use network consistent with the intent of SB 375 (Senate Bill 375 also known as the Sustainable Communities Protection Act of 2008)."
- "Objective: Development of a regional transportation network which is environmentally sensitive, fosters sustainable regional growth, and helps reduce greenhouse gas emissions wherever possible."

While we recognize that Fresno COG lacks land use authority and cannot achieve this goal on its own, as this Policy Element notes elsewhere, it can communicate with its member jurisdictions and align the actions that it does take with that purpose.

One key land use issue that Fresno COG and its member jurisdictions will address in the Regional Housing Needs Allocation and associated Housing Elements is the distribution of affordable housing. When jobs and homes are located close to one another, commutes are short. A lack of affordable homes in job-rich locations can spur long commutes. (One study of the Bay Area found that a lack of affordable homes there is *quadrupling* some workers' commutes.) We would encourage that a policy on this topic be added to the SB 375 Goal, such as "Educate member jurisdictions and other stakeholders about the benefits of a good match between the number of jobs, and those jobs' wages, with the availability and affordability of homes ("jobs-housing fit") in reducing commute lengths and saving money for households. Identify areas where the fit is poor, especially job-rich areas that lack affordable homes, and use the Regional Housing Needs Assessment process to prioritize housing growth in those areas."

D. Recognize that roadway expansion induces more driving demand and prioritize more effective strategies that not only reduce congestion but better meet air quality and climate goals

Under "Highway, Streets, and Roads Goals," we appreciate that you removed Level of Service, an out-of-date concept. However, this section continues to imply that the goal is to reduce congestion rather than to make it easy and convenient for people to drive less. It also implies that



A Tides Center Project

roadway development can alleviate congestion. However, research has found that expanding roadway capacity expansion is counterproductive. It fails to alleviate congestion and leads to both short- and long-term increases in vehicle miles traveled and associated air pollution. "A capacity expansion of 10% is likely to increase VMT by 3% to 6% in the short-run and 6% to 10% in the long-run."² We therefore suggest that you add a policy that reads: "Except where needed to serve existing communities that currently lack paved road networks, limit roadway expansion and instead prioritize alternative solutions to reduce congestion by promoting alternatives to single-occupancy driving, including public transit, telecommuting, car- and van-pooling, a better jobs-housing fit, and cycling or walking."

E. Add a policy that focuses on first mile/last mile solutions

We applaud the goal to develop "an integrated multimodal transportation system which facilitates the movement of people and goods." We would encourage a policy that focuses attention on "first mile / last mile" solutions. For example, someone might commute from Madera to downtown Fresno via the Amtrak, but they must then travel from downtown Fresno to their job or meeting location. Solutions for this "last mile" might include bikeshare, carshare, enhanced taxi service, employer-run shuttles, or other alternatives.

The policy might read: "Conduct a study that identifies first-mile last-mile linkages near transit stops and stations throughout the county. Work with local jurisdictions to identify solutions and prioritize these for funding, with a priority on high-volume transit and on transit that serves disadvantaged communities or communities of color."

F. Adopt a ten-year target and identify near-term investments to contribute to Caltrans' statewide goal of tripling biking and doubling walking by 2020.

Related to the active transportation section, Caltrans has set a statewide goal to triple biking and double walking mode shares by 2020 as compared to 2010-2012. We would encourage Fresno COG to adopt the same ten-year target and then identify near-term investments that would achieve this. Given the relatively low rates of walking and biking and plans for infill investment in a number of communities, this target is likely well within reach.

G. Modify active transportation goal to include a commitment to improving pedestrian- and cyclist-safety infrastructure and to bringing pedestrian and cyclist deaths to zero in ten years (Vision Zero).

We appreciate that Fresno COG wishes to improve bicycle and pedestrian safety, but we would modify that goal as follows: "...through education, enforcement, *and improved infrastructure, with the goal of zero pedestrian and cyclist deaths in ten years ("Vision Zero").*" Policies should

² Handy, Susan. (2015). Increasing Highway Capacity Unlikely to Relieve Traffic Congestion. http://www.dot.ca.gov/newtech/researchreports/reports/2015/10-12-2015-NCST_Brief_InducedTravel_CS6_v3.pdf

be added to reflect the value of pedestrian- and cyclist-safety infrastructure, such as improved lane striping and protected bike lanes, the installation of stop signs and traffic signals, and traffic calming solutions. Fresno COG could work with local jurisdictions to study and design strategies to improve dangerous streets and intersections. These interventions are particularly important in low-income communities and communities of color, where pedestrian and cyclist injuries are more common.

II. Recommended Changes to the Action Element

Along with the project list, the Action Element is one of the most critical pieces of the RTP, since it outlines the concrete actions that Fresno COG commits to take in order to implement the policies and priorities outlined in the Policy Element and the SCS. According to the 2017 RTP Guidelines, the Action Element must provide “clear direction” to implement the policies in the Policy Element. p. 114. Therefore, it is critical to include clear actions for implementing the Environmental Justice and Title VI goals from the Policy Element.

A. Include timelines for proposed actions in Action Element

We urge Fresno COG to include timelines for all Proposed Actions set out in the proposed section. Without clear timelines, it is not clear when implementation of actions should occur. This lack of “clear direction” could lead to a “significant delay” in benefits from protected groups, amounting to an unlawful disparate impact under federal civil rights law.

B. Incorporate EJ and Title VI commitments into Proposed Actions

Fresno COG has made significant strides towards effective implementation of Title VI and addressing environmental justice issues in the 2014 RTP/SCS process, including inclusion of a set of policies in the Policy Element for protecting environmental justice groups and furthering Title VI.

In order to provide “clear direction” for implementation of these policies, Fresno COG must include a paragraph under “Proposed Actions” of section 5.11 saying that it will consider the following initiatives going forward: implementation of its Title VI and Environmental Justice Plan; a qualitative and quantitative Environmental Justice Needs Assessment; the expansion of the Sustainable Infrastructure Planning Grants Program; and a general commitment to furthering Environmental Justice and Title VI goals.

C. Include additional language describing actions that will be taken to ensure that transportation planning supports fair housing goals

“Clear direction” must also be provided for implementing Fresno COG’s affordable housing obligations.



A Tides Center Project

While Fresno COG does not receive federal funding directly from HUD, it is still subject to the Fair Housing Act (Title VIII of the Civil Rights Act). Under the Fair Housing Act, as recipients of federal funding, Fresno COG and local governments in Fresno County are required by law to act consistently with and further the goals of the Fair Housing Act (“FHA”). They must do so not only in the programs that are federally funded, but in all of their activities. HUD defines jurisdictions’ obligation to affirmatively further fair housing under the FHA to mean: taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.

Fresno COG is also subject to requirements under California civil rights laws to avoid any actions or inactions which would contribute to existing patterns of segregation and disparities in access to opportunity based on protected characteristics. These requirements extend to Fresno COG and member jurisdictions’ identification and allocation of RHNA sites, as well as planning and investment actions and inactions that cross housing, land use, transportation, and education lines.

In Fresno County, many areas of racially and ethnically concentrated poverty exist. These areas have also received the least public investment, and few, if any, affordable housing opportunities exist for lower-income families in new development and growth areas. Therefore, Fresno COG’s RTP/SCS growth scenarios, policies, plans, and actions must expand -- and not restrict -- access to opportunity both within and outside of low- income neighborhoods through clearly defined land use, housing, transportation, and public engagement strategies. Such policies would not only avoid further aggravating current disparities but would also help guide local agencies towards meeting their AFFH obligations. Such inter-agency collaboration goes towards the heart of Title VI and the Civil Rights Act by “promot[ing] economic mobility and equal access to the many benefits provided by affordable housing, great schools, and reliable transportation.”

In light of these legal obligations, Fresno COG must provide “clear direction” on how it is going to implement these obligations. We suggest the addition of the following language in the Overview or in the new Transportation Planning to Support Local Housing Needs section:

Fresno COG seeks to address disparities in transportation access, pursuant to its obligation under Title VI, and to support local agencies’ efforts to address housing needs and access to opportunity by coordinating with and providing resources to local agencies conducting land use planning. Fresno COG shall do so by identifying areas of concentrated minority and low-income populations; helping local agencies identify housing needs in the region, particularly in areas of racially and ethnically concentrated poverty and facilitating local governments in developing and implementing strategies to expand affordable housing opportunities outside of lower-income neighborhoods in areas of opportunity and



A Tides Center Project

new development and growth areas; and identifying, planning for, and funding initiatives to address transportation needs in areas of concentrated minority and low-income populations.

Additionally, we recommend that Fresno COG further detail the actions that it has already taken and plans to take in light of its duty to affirmatively further fair housing.

We are glad to see Fresno COG's support for and implementation of the AHSC, Multi-Jurisdictional Housing Element ("MJHE"), and Measure C programs noted in "Accomplishments" as housing-related activities. These programs may be a step towards affirmatively furthering fair housing if done in a manner that alleviates resource deficits and inequities and expands access to opportunity for disadvantaged communities and protected classes.

To facilitate Fresno COG and member jurisdictions' compliance with their obligations under state and federal civil rights laws, we recommend the addition of commitments to the following action under "Proposed Actions" in section 5.11:

- Allow public participation in and provide public notice of the Countywide Housing Element Technical Committee meetings hosted by Fresno COG, post committee meeting minutes to the Fresno COG website, and annually publish a report documenting the outcomes of committee meetings and activities performed pursuant to MJHE Program 1. Fresno COG currently does not allow the public to attend these meetings or provide meeting minutes to the public. Doing so would create greater transparency in and strengthen Fresno COG and member jurisdictions' efforts to implement MJHE Program 1, which contains the Housing Element's only explicit commitments for jurisdictions to work collaboratively to affirmatively further fair housing.
- Similar to the role played by Fresno COG in facilitating the development of the MJHE, Fresno COG could convene local jurisdictions to facilitate the timely development of local and/or regional Assessments of Fair Housing pursuant to HUD's AFFH Rule.
- Convene jurisdictions to provide information regarding the availability of and eligibility requirements to receive funding for community and specific plans and the development and maintenance of affordable housing pursuant to SB 2. Provide technical support for the development of the allocation plan required of local jurisdictions in a manner consistent with the Valley Blueprint, Roadmap, MJHE, RTP/SCS, and jurisdictions' obligations under state and federal civil rights laws.
- Commitment to require that jurisdictions receiving competitive funding allocations from COG must create and implement Displacement Avoidance and AFFH plans.
- To avoid contributing to existing patterns of concentrated poverty and concentrated racial and ethnic groups, Fresno COG could also work with local agencies to identify areas that are not well served by transit, as well as opportunities to align fair housing goals with planned transportation investments.

III. Sustainable Communities Scenario

As mentioned above, the SCS must identify areas to sustain the housing needs of all segments of the population over the course of the planning period. Gov. Code § 65080(b)(2)(B)(ii). It is not clear whether this was done in the formation of the SCS, or in the evaluation of the SCS alternatives. When comparing the scenarios, Fresno COG staff modeled housing type, but not the allocation of affordability of housing in each scenario.

The RTP must be an internally consistent document. Therefore, the priorities in the SCS must correspond with the project evaluation criteria, as well as the priorities identified in the Policy Element and the Action Element. The RTP currently lacks coherence, since it is not clear whether the priorities expressed in the SCS, the Policy Element, the project evaluation criteria and the Action Element align. To ensure internal consistency, Fresno COG must explain how projects were selected to comply with both the SCS and the project evaluation criteria, as well as the values expressed in the Policy Element. Since protection of EJ communities is a priority in the Policy Element, Fresno COG must more clearly explain how the projects list changed between the four proposed SCS, and how the alternative projects list impacted EJ communities.

IV. Recommended Changes to the Environmental Justice Report

Fresno COG staff worked diligently with many stakeholders on developing the Environmental Justice chapter. However, this chapter does not fulfill the requirements of the law because it does not accurately reflect the impact of the RTP on EJ versus non-EJ populations.

According to Executive Order 12898, Fresno COG must “identify and address, as appropriate, disproportionately high and adverse human health or environmental effect of its programs, policies, and activities on minority populations.” FTA Circular 4703.1 further requires MPOs to incorporate EJ principles into its transportation decision-making process and environmental review documents. The Circular states that MPOs must do three key things: (a) “avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations;” (b) “ensure the full and fair participation by all potentially affected communities in the transportation decision-making process;” and (c) “prevent the *denial of, reduction in, or significant delay* in the receipt of benefits by minority and low-income populations.” p. 2.

Fresno COG does not accurately “identify...disproportionately high and adverse human health or environmental effect of its programs, policies, and activities on minority populations” because of severe limitations in its methodology for identifying the impact of the RTP projects on EJ communities. While we are glad that COG staff added more indicators to measure housing mix and air quality concerns, the metrics used to measure impact on EJ versus non-EJ communities do not give an accurate picture of actual impacts. Decreased travel time during peak hours, congestion within EJ versus non-EJ TAZs, transit investment effectiveness, and distribution of



A Tides Center Project

transit investments do not successfully show whether the projects in the RTP are meeting the transportation needs of EJ communities. More importantly, since Fresno COG has an obligation to affirmatively overcome prior patterns of disparate impact, Fresno COG must measure whether the RTP projects will put beneficial investments in communities that have not seen meaningful transportation investments for many years. The EJ element must effectively measure whether Fresno COG's RTP will *reverse* prior patterns of lack of investment in EJ communities, based on what the actual needs of EJ communities are. Therefore the EJ analysis must include the following components:

- Information gathered directly from EJ communities on what their actual transportation needs are (these were expressed by many communities in the projects that they proposed in the RTP outreach workshops)
- Fresno COG must develop a project map to show where projects are located in relation to EJ communities
- A new activity-based model must be developed in order to better approximate travel around the region

V. Project Evaluation Criteria Incorporated Important Commitments

We commend Fresno COG on including effective project evaluation criteria in this RTP process. Much work went into developing project evaluation criteria that prioritized projects that benefit disadvantaged communities, protected the environment, and protected public health.

However, as noted above, Fresno COG must establish a process that ensures that projects submitted by the public, particularly by disadvantaged communities and environmental justice communities, are evaluated for inclusion in the RTP, rather than allowing local agencies to exclude projects submitted by the public. Alternatively, the project evaluation criteria should incentivize inclusion of such projects by adding substantial points to projects that were identified by the Disadvantaged Communities Needs Assessment. Points should also be added for projects submitted by disadvantaged communities as part of the RTP outreach process.

VI. Public Participation Plan Made Progress, but Changes Needed for 2020 Round.

Fresno COG's 2018 Public Participation Plan was used as a successful model of public participation statewide, due to its inclusion of an outreach mini-grants program, several series of community workshops aimed at a wide variety of stakeholders, and an RTP Roundtable that provided input into decisions about each of the RTP elements. Leadership Counsel appreciates the inclusive process that Fresno COG staff created for vetting many of the decisions regarding the RTP.

However, we recommend several significant changes for the next round. First, in order for the public to meaningfully participate in determining the values expressed in the RTP, the first round of workshops should be dedicated to gathering information about community needs and values. Instead of being shaped by the public, the scenarios for this round were based largely on data



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from four years ago and one public workshop in an urban center. This did not allow for many voices in the county to shine through as scenarios were being developed, and restricted all of the county to four scenarios based on outdated information and urban priorities. Next round, we strongly recommend that Fresno COG conduct a complete round of workshops asking for residents' and stakeholders' transportation needs and values before developing the four alternative scenarios. Then, scenarios can be formed based on this information, and a second round of workshops can ask community residents and stakeholders to choose between scenarios.

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We thank Fresno COG for the opportunity to comment on this proposed new section of the RTP, and hope to meet with staff to discuss these points.

Sincerely,

Amanda Monaco
Policy Advocate
Leadership Counsel for Justice and Accountability

With the support of:

Social Justice Ministries of the Catholic Diocese of Fresno

Central California Asthma Collaborative

Safe Routes to School National Partnership

