CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

FIGHTING FOR JUSTICE, CHANGING LIVES

September 5, 2017

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Fresno Council of Governments
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VIA ELECTRONIC MAIL TO: toboren@fresnocog.org; traih@fresnocog.org

Re: Scoping Comments on Environmental Justice Analysis for 2018 Fresno RTP

Dear Fresno COG Transportation Technical Committee,

I submit this letter in my capacity as Vice Chair of the Fresno Council of Governments (FCOG) 2018 Regional Transportation Plan (2018 RTP) Environmental Justice Subcommittee ("EJ Subcommittee"). California Rural Legal Assistance was invited to sit on the EJ Subcommittee to provide recommendations and feedback regarding FCOG's compliance with its environmental justice obligations during the 2018 RTP drafting process. CRLA is a non-profit law firm that has served rural communities throughout California for more than fifty years. CRLA's Community Equity Initiative specializes in environmental justice, equitable land use planning, and civil rights law.

FCOG reported on August 2, 2017 that the drafting process for the 2018 RTP Environmental Justice Analysis ("EJ Analysis") had begun, and welcomed scoping comments for this section.

This letter provides an overview of the legal requirements that FCOG must consider in the 2018 RTP to comply with its Title VI, Environmental Justice, Affirmatively Furthering Fair Housing, and SB 375 obligations and identifies current omissions in addressing the legal requirements in the 2018 RTP draft.

I. FCOG MUST COMPLY WITH CIVIL RIGHTS OBLIGATIONS

a. MPOs have civil rights obligations

Civil rights obligations for Metropolitan Planning Organizations (MPOs) arise under federal and state law. Title VI of the federal Civil Rights Act of 1964 prohibits recipients of federal financial assistance from discriminating because of race, color, or national origin in the provision of their programs or activities.[1] The prohibition on discrimination extends to both disparate treatment and disparate impact discrimination. If a facially neutral policy has a disparate discriminatory impact on a minority

[1] 42 USC 2000d et seq.

population, it is subject to increased scrutiny and is impermissible unless it meets additional legal requirements.[2] Disparate impact protections exist to ensure that public funds are not spent in ways that entrench previous patterns of discrimination and segregation.[3] Title VI obligations extend to all programs and activities conducted by the funding recipient.

California Government Code §11135 prohibits discrimination on the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation by any agency receiving state funding.[4]

FCOG is subject to both Title VI and Government Code §11135 obligations in the development and implementation of its regional transportation plans.

b. The 2018 RTP draft does not reflect FCOG's civil rights obligations

FCOG has taken actions that remove or weaken civil rights protections and make it difficult to address the needs of protected classes in the 2018 RTP draft.

The list of protected status groups in Title VI and Government Code §11135 have specific meaning. The language used when addressing these legal obligations has tangible impacts. The Fresno COG RTP Roundtable (the Roundtable) made the following modifications to the draft Policy Element, among others, during its August 27, 2017 meeting:

1) The following goal …Improved mobility and accessibility for all regardless of race, income, national origin, age, or disability, the Roundtable struck the protected classes… now reads "Improved mobility and accessibility for all."

2) The policy of … "Encourage local transportation agencies to leverage federal funding to address unique challenges of the low income, disabled, and elderly populations," …was modified to read: "Encourage local transportation agencies to leverage federal funding to address unique

[2] 49 C.F.R. §21.5(b)(2)-(3) (DOT Title VI Regulations). The specific language of the DOT Title VI policy is as follows: A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the class of person to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program, or the class of persons to be afforded an opportunity to participate in any such program; may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, or national origin.

[3] *See, e.g. Griggs v. Duke Power Co.*, 401 U.S. 424 at 429-30, explaining that, under Title VII, which was enacted at the same time as Title VI, "practices, procedures, or tests neutral on their face, and even neutral in terms of intent, cannot be maintained if they operate to 'freeze' the status quo of prior discriminatory employment practices."

[4] Cal. Gov't Code §11135

challenges of people who are economically, socially, or physically disadvantaged in order to support their full participation in society." [5]

Removing "regardless of race, income, national origin, age, or disability" from the Policy Element's goal of "Improving mobility and accessibility for all," eliminated reference to civil rights protections for protected groups. Similarly, by removing the terms "disabled" and "elderly" and replacing them with "people who are. . . socially, or physically disadvantaged," removes express protections for those groups by replacing terms explicitly recognized as protected under Cal. Gov't Code §11135 with vague, non-legal descriptions. "Disabled" individuals have explicit rights under Gov't Code §11135, whereas the law does not mention "physically disadvantaged".

FCOG also opposed the inclusion of additional language that acknowledges the civil rights of minorities. Several environmental justice organizations submitted comments to FCOG on June 26, 2017 outlining recommended language to include in the RTP policy element. [6] The recommendations included language specifically referencing civil rights protections for minority populations under state and federal law. One recommendation was to include a policy of "Enhance all resident's access to areas of opportunity (jobs, education, etc.), healthy food, clinics and hospitals, regardless of national origin, age, location, physical ability, or any other factor."[7]

FCOG staff recommended striking the language in each instance where a recommended policy included language related to civil rights protections, but otherwise adopting the policy.[8] The RTP Roundtable approved the inclusion of the policies, always without the language referencing civil rights. The recommendation referenced above was adopted as "Enhance all resident's access to areas of opportunity (jobs, education, etc.), healthy food, clinics, and hospitals." It is worthy goal, but it does not promote civil rights for protected groups.
Excluding references to protected classes removes the protections they are afforded by law. It also prevents FCOG from addressing a key obligation: FCOG may not develop or implement policies, programs, or activities that entrench a discriminatory status quo or have the effect of disproportionately burdening a racial or ethnic minority group. Failing to include policies and practices specifically addressed at improving transportation for historically-discriminated groups (transportation equity) means that it is less likely these groups will receive the investment and priority necessary to reverse historic disinvestment and discrimination. Failure to specifically address the needs of these populations therefore maintains a discriminatory status quo, in conflict with FCOG's obligations under Title VI.

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[5] Policy Element Outline for the 2018 RTP, pg. 6-7

[6] Marked-up copy letter submitted by Leadership Counsel for Justice and Accountability, Cultiva La Salud, Safe Routes to School National Partnership, ClimatePlan, and Sequoia Riverlands Trust dated June 26, 2017. The marked-up copy shows both FCOG recommendations as well as RTP Roundtable actions on those recommendations.

[7] Id at 7.

[8] For example, FCOG staff recommended the following language struck from the policy recommendations: "regardless of national origin, age, location," and "regardless of race, income, national origin, age, or disability".

A pattern of eliminating, weakening, or excluding language protective of protected groups of people threatens FCOG's compliance with its civil rights obligations. FCOG must adhere to these legal obligations and must incorporate them throughout the RTP drafting process.

II. FCOG Must Consider Human Health and Environmental Effects on Environmental Justice Communities in the RTP Environmental Justice Analysis

a. Legal requirements for MPOs when conducting the environmental justice analysis

MPOs are subject to federal legal requirements related to environmental justice, which originate from Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations."[9] These requirements are designed to address historical patterns where low-income communities and communities of color have been disproportionately burdened with the social, economic, environmental, and health costs of development while being largely excluded from its benefits.

Executive Order 12898 and implementing guidance from the Department of Transportation[10] and the Federal Highway Association[11] require that MPOs "identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of [their] programs, policies, and activities on minority populations." They further require that the activities, programs, or policies funded through federal funds must not "have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under, such programs, policies, and activities, because of their race, color, or national origin."[12]

i. *Identify disproportionately high adverse effects*

MPOS are required to include an environmental justice analysis (EJ Analysis) in their regional transportation plans to identify disproportionately high and adverse human health effects of the RTP's policies, programs and activities. "Disproportionately high" adverse effects are defined as "an adverse effect that (1) is predominately born by a minority population and/or a low-income population, or (2) will be suffered by the minority population and/or low-income population and is appreciably more

[9] Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (Clinton 1994), §1-101.
[10] U.S. Department of Transportation, Updated Environmental Justice Order 5610.2(a) (amended 5/2/2012)
[11] FDWA, Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, Order 6640.23 (12/2/1998)
[12] Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (Clinton 1994), §1-101. §2-1

severe or greater in magnitude than the adverse effect that will be suffered by the non-minority population and/or non-low-income population."[13]

The adverse effects that an MPO must evaluate within its EJ Analysis include the denial of, reduction in, or significant delay in the receipt of benefits of federally funded programs, policies, or activities. Adverse effects also include "the totality of significant individual or cumulative human health or environmental effects" on low-income and minority communities. This extends to

> interrelated social and economic effects, which may include, but are not limited to: bodily impairment, infirmity, illness or death, air, noise, and water pollution, and soil contamination; destruction or disruption of man-made or natural resources; destruction or diminution of aesthetic values; destruction or disruption of community cohesion or a community's economic vitality; destruction or disruption of the availability of public and private facilities and services; vibration; adverse employment effects; displacement of persons; businesses, farms, or non-profit organizations; increased traffic congestion, isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community. [14]

ii. *Evaluate adverse effects and consider alternatives and mitigation measures*

A policy, program, or activity will have a disproportionately high and adverse effect on minority or low-income populations, that program, policy, or activity may only be carried out if all the following are true:

a) Further mitigation measures or alternatives that would reduce the disproportionately high and adverse effects are not practicable. In determining whether a mitigation measure or an alternative is practicable, the social, economic and environmental effects of avoiding or mitigating the adverse effects must be considered.[15]
b) There is a substantial need for the program, policy, or activity, based on the overall public interest.
c) Alternatives that would have less adverse effects on protected populations either (a) would have other adverse social, economic, environmental or human health impacts that are severe; or (b) would involve increased costs of extraordinary magnitude.[16]

FCOG has not undertaken this analysis and it cannot meet these elements because mitigation and alternatives certainly exist and the public interest would require transportation policies that overcome historical disadvantage.

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[13] U.S. Department of Transportation, Updated Environmental Justice Order 5610.2(a)(amended 5/2/2012), pp. 14-15, App. Sec 1(f)

[14] U.S. Department of Transportation, Updated Environmental Justice Order 5610.2(a)(amended 5/2/2012), pp. 14

[15] Id. at 11

[16] Id at 12

iii. *Elicit public participation from affected groups*

Steps should be taken by the MPO to identify early in the development of any activity, program, or policy, the risk of adverse effects and disproportionately high impact on minority or low-income populations. Environmental justice populations must be given meaningful opportunities for participation in all stages of the planning process. They, more than populations who will not suffer adverse effects, must be engaged in the process. Meaningful engagement requires access to information related to the human health and environmental impacts of the proposed programs.[17]

The Department of Transportation outlines the following steps for an MPO to identify the risks of disproportionate adverse impacts on environmental justice populations:

1) Identify and evaluate environmental, public health, and interrelated social and economic effects of DOT-funded programs, policies and activities
2) Propose measures to avoid, minimize, and/or mitigate disproportionately high and adverse environmental and public health effects and interrelated social and economic effects, and provide offsetting benefits and opportunities to enhance communities, neighborhoods, and individuals affected by DOT-funded programs, policies and activities, where permitted by law and consistent with the Executive Order on Environmental Justice
3) Consider alternatives to proposed programs, policies, and activities, where such alternatives would result in avoiding and/or minimizing disproportionately high and adverse human health or environmental impacts, consistent with the Executive Order, and
4) Elicit public involvement opportunities and consider the results thereof, including soliciting input from affected minority and low-income populations in considering alternatives.[18]

b. The indicators FCOG has identified for completing its Environmental Justice Analysis fail to meet the legal requirement to assess human health and environmental effects of the RTP

The EJ Subcommittee was asked to select one environmental justice performance indicator that, along with nine (9) other indicators, will be used for project evaluation and ranking in the 2018 RTP/SCS process. EJ Subcommittee members were given a list of six (6) indicators from which to choose and were told that creating a new indicator outside of this list was not an option. The indicators were defined by FCOG as follows:

a) Accessibility: The ease of reaching destinations as measured by the percent of commuters who can get to work within a given period of time. Will be measured by calculating average travel times during peak morning commute to desired destinations.

[17] Id at 9
[18] Id.

b) Mobility: The ability to move throughout the region within a reasonable amount of time. Will be measured by calculating average travel times on highways and transit during the evening peak travel time.
c) Access to Community Resources: Combination of Accessibility and Mobility.
d) Transit Investment Effectiveness: Measures maximized return on transit investments. Estimated by dividing the new added average number of daily passenger miles traveled served by RTP transit projects in the full project list by the total $1,000 of investment inside and outside the EJ TAZs.[19]
e) Distribution of Investments: Ensuring equitable distribution of transportation investment benefits. Compares the ratio of person-miles traveled on roadway & transit projects in an area to the total investment in roads and transit in that area.
f) Reliability: Compares percentage of on-time arrivals. Calculating vehicle miles traveled on congested highways or in transit vehicles.[20]

FCOG staff further informed the EJ Subcommittee that these six (6) indicators would be the sole information considered in the EJ Analysis to evaluate disproportionate adverse effects of RTP policies, programs, and activities on EJ Communities.

Executive Order 12898 requires to complete an Environmental Justice Analysis that goes beyond these six indicators, and considers "the totality of significant individual or cumulative human health or environmental effects."[21] The FCOG indicators measure some of the *benefits* of the proposed RTP scenario, such as accessibility and travel time, but they do not evaluate any of the adverse *impact* that EJ communities will experience as a result of its implementation.[22] Adverse impact might include increased noise and particulate matter exposure (from highway expansion or road construction), disruption of community stability (such as through construction of projects that divide neighborhoods), increased poverty and further segregated neighborhoods (if transit centers are not placed in low-income neighborhoods) and overall negative effects on resident health.

The legal definition of adverse effects includes:

> interrelated social and economic effects, which may include, but are not limited to: bodily impairment, infirmity, illness or death, air, noise, and water pollution, and soil contamination; destruction or disruption of man-made or natural resources; destruction or diminution of aesthetic values; destruction or disruption of community cohesion or a

[19] "TAZ" refers to Transportation Analysis Zone, and is the unit of geography most commonly used in conventional transportation planning modeling software.
[20] These definitions are from FCOG's RTP Roundtable Agenda dated June 28, 2017 but reflect the same definitions given to EJ Subcommittee members during their meetings
[21] U.S. Department of Transportation, Updated Environmental Justice Order 5610.2(a)(amended 5/2/2012), pp. 14
[22] *See* Karner, Alex and Niemeer, Deb. "*Civil Rights Guidance and Equity Analysis Methods for Regional Transportation Plans a Critical Review of Literature and Practice*" J. of Transp. Geog. 33 (2013) 126-134 at p128 for distinction between benefits and impacts in an equity analysis.

> community's economic vitality; destruction or disruption of the availability of public and private facilities and services; vibration; adverse employment effects; displacement of persons; businesses, farms, or non-profit organizations; increased traffic congestion, isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community.[23]

A more comprehensive analysis is required to fully evaluate the adverse effects that an RTP scenario will have on EJ communities. FCOG staff have agreed to provide a narrative description of the current conditions for EJ communities in the EJ Analysis, using data pulled from CalEnviroScreen 3.0. This is a good start, and is a necessary component of an EJ Analysis, however, a description of current conditions, while necessary, is not sufficient. The EJ Analysis must evaluate the potential social and economic, health, aesthetic, and environmental effects of the chosen scenario and how they differ in EJ communities compared to non-EJ communities.

c. FCOG must not rely solely on modeling capabilities to conduct the Environmental Justice analysis

FCOG is using what is considered the 'traditional approach' most commonly utilized in regional transportation agency practice to determine equity.[24] This three-step approach focuses on (1) defining target populations based on their overall proportion within traffic analysis zones ("TAZs"), (2) defining equity metrics such as transportation system benefits and impacts, and (3) modeling based on the target population and metrics to determine whether the results demonstrate equity. Ordinarily, models do this by determining "whether forecasted changes in metrics from the base year to the forecast year using a travel-demand model are similar to the target population compared to the non-target population."[25]

The traditional approach relies heavily on modeling to make determinations of equity, and FCOG staff have indicated that the FCOG 2018 RTP EJ Analysis will use this model. This model, however, is insufficient to meet FCOG's EJ analysis requirements. FCOG staff stated that it lacks activity-based modeling software and that identifying additional methods for completing the analysis would be too time and labor intensive. The legal requirements however must be met.

i. *The current modeling approach uses only six indicators*

The proposed modeling is based on only the above six indicators and that would be insufficient to meet FCOG's equity analysis obligations. The EJ Analysis must consider the totality of significant individual or cumulative human health and environmental effects on environmental justice populations.

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[23] U.S. Department of Transportation, Updated Environmental Justice Order 5610.2(a)(amended 5/2/2012), pp. 14

[24] *See* Karner, Alex and Niemeer, Deb. "*Civil Rights Guidance and Equity Analysis Methods for Regional Transportation Plans a Critical Review of Literature and Practice*" J. of Transp. Geog. 33 (2013) 126-134 at p128

[25] Id.

ii. *The traditional model blurs adverse impacts on protected groups*

Traditional transportation models such as the TAZ model utilized by FCOG fail to accurately reflect the travel behavior of protected groups and disadvantaged communities, which prevents an equity analysis from adequately analyzing the impact that a proposed scenario will have on minority communities. [26] A traditional EJ Analysis using the TAZ model evaluates an RTP scenario based on its impact on TAZs that meet a predetermined threshold for greater concentration of low-income and minority populations, (referred to by FCOG as EJ TAZs), but, as planners Karner and Niemeer illustrate, "the use of geographic units as a proxy for a group unit creates an ecological flaw, wherein group performance (i.e. that of low-income people) will be inferred from the performance for groups of areal units (e.g. all units with >30% low-income people.)" The travel behavior of minorities in Fresno will be inferred from the travel behavior of *all people* living in an EJ TAZ that has a large minority population, including non-minority individuals.

This model fails to accurately predict the impact that a proposed scenario would have on minority communities in Fresno because differences in the benefits and impacts of transportation planning by race and income can vary substantially even within the same TAZ. Differences in benefits and impacts between races within the same TAZ "may be larger than differences between groups of areal units meant to represent minority populations."[27] Evaluating the impact on entire geographic areas masks the specific impact on protected groups.

iii. *Modeling is unable to evaluate all adverse effects that must be addressed*

MPOs must look beyond modeling to conduct their EJ Analysis because many of the social, economic, and environmental impacts of RTP scenarios do not easily translate into traditional modeling. Modeling is useful for evaluating GHG and air pollution emissions and specific conditions such as congestion, but it is not effective for modeling impacts such as destruction or diminution of asthma rates, savings to families, or a community's economic vitality. They too are included in the adverse impacts that MPOs must consider when conducting their equity analysis under Executive Order 12898. These effects can be identified through a qualitative analysis involving robust public participation.

iv. *There are other approaches that would allow FCOG to comply with its obligations*

FCOG must look beyond reliance on modeling software and conduct a meaningful evaluation of the status of transportation inequity in the Fresno regional area, then evaluate whether the selected RTP scenario will improve equitable outcomes for minority communities or further entrench inequality. RTP scenarios should be evaluated on the future equal distribution between EJ and non-EJ communities of the benefits and burdens of the chosen scenario, and also should be judged on whether the scenario

[26] Id at 129
[27] Id.

redresses historical injustices by targeting investments to specific locations where maximum equity impact is needed.[28]

The 2017 RTP Guidelines support this interpretation and suggest that MPOs utilize a practice like the U.S. Department of Housing and Community Development (HUD) rule on Affirmatively Furthering Fair Housing (AFFH) when conducting their equity analysis. AFFH evaluates neighborhood-level transportation and transit access as well as environmental health, and economic and educational opportunities.[29] The AFFH process begins with an assessment of "the elements and factors that cause, increase, contribute to, maintain, or perpetuate segregation, racially or ethnically concentrated areas of poverty, significant disparities in access to opportunity, and disproportionate housing needs."[30] A community-driven process is outlined that should be used to tailor investments to improve equitable access to opportunity:

1. Identify, with robust community engagement, current patterns and conditions of segregation, racially concentrated poverty, disparities in access to opportunity, and disproportionate housing needs, utilizing data HUD provides and other relevant regional data;
2. Identify key contributing factors of the patterns and conditions identified;
3. Prioritize the most significant contributing factors and set goals that will meaningfully address the high priority factors, with "metrics and milestones" for each goal;
4. Tailor near-term actions and investments consistent with those goals; and
5. Measure progress over the near term. [31]

This approach can result in a comprehensive EJ Analysis aimed at reversing inequitable conditions. It also aligns with the DOT guidance instructing local transportation agencies to "identify impediments to accessing opportunity; and to "coordinate efforts to address" issues of segregation and opportunity as part of an integration of transportation and fair housing obligations.[32] It better positions an MPO for meeting its AFFH obligations, which are outlined in more detail below.

III. FCOG Must Integrate Fair Housing and SB 375 Considerations Into the 2018 RTP

Affirmatively Furthering Fair Housing (AFFH) obligations arise from the 1968 federal Fair Housing Act, which requires that agencies

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[28] Id, citing *Martens, K., Golub, A., Robinson, G., 2012.* A justice-theoretic approach to the distribution of transportation benefits: implications for transportation planning practice in the United States. Transportation Research Part A: Policy and Practice 46 (4) 684-695.

[29] 2017 RTP Guidelines, pg. 320-321

[30] 24 C.F.R. §5.154 (a)

[31] 2017 RTP Guidelines, pg. 321 citing 24 C.F.R. §5.154 (d) (2), (3), (4), (5), and (7) (emphasis in original RTP Guidelines)

[32] Tri-Agency Letter issued on June 3, 2016 available at http://www2.ed.gov/documents/press-releases/06032016-dear-colleagues-letter.pdf

> tak[e] 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.[33]

AFFH requires local jurisdictions to prepare an Assessment of Fair Housing (AFH), which must "address the elements and factors that cause, increase, contribute to, maintain, or perpetuate segregation, racially or ethnically concentrated areas of poverty, significant disparities in access to opportunity, and disproportionate housing needs." The process requires robust public engagement and follows the steps outlined in section II, above.[34]

Transportation is a factor that can contribute to or maintain segregation and racially and ethnically concentrated areas of poverty. Transportation planning decisions affect residents' access to high paying jobs that allow families to transition out of poverty, access to educational institutions, and access to critical services such as medical care, banking, and commercial areas. Transportation planning decisions can also contribute to, or reverse, disparities in access to opportunity and healthy communities. Decisions to expand highways or plan industrial truck routes near low-income communities contributes to health disparities by increasing resident exposure to emissions, where a decision to place bike routes and rapid transit routes in a previously under-served community will increase use of active transit and increase connectivity, thus improving quality of life for residents and reducing segregation.

The Secretaries of HUD, the US Department of Education, and the US Department of Transportation issued a letter on June 3, 2016 that encouraged MPOs to integrate the principles and goals of AFFH into their decision-making. Specifically, the letter states

> Today, our agencies are calling on local education, transportation, and housing leaders to work together on issues at the intersection of our respective missions in helping to guarantee full access of opportunity across the country. Our goals are to identify impediments to accessing opportunity; to coordinate efforts to address these issues and to provide broad-reaching benefits; and to ensure that every child and family is provided with transportation, housing, and education tools that promote economic mobility.[35]

MPOs should incorporate AFFH policies and practices into regional transportation plans wherever possible, and approach planning with an eye toward the goals of decreased segregation, increased access to fair housing for minority communities and equitable land use planning.

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[33] 24 CFR s 5.152

[34] 24 CFR s 5.154(d)(2)

[35] Tri-Agency Letter issued on June 3, 2016 available at http://www2.ed.gov/documents/press-releases/06032016-dear-colleagues-letter.pdf

State law also requires MPOs to consider and integrate land use planning and housing needs into their RTPs. SB 375 integrates regional housing and transportation planning and pairs these processes with broader statewide goals of reducing greenhouse gas emissions. SB 375 mandates that, among other things, MPOs must develop a Sustainable Communities Strategy which will:

1. Identify the general location of uses, residential densities, and building intensities within the region.
2. Identify areas within the region sufficient to house the population of the region, including all economic segments of the population, over the course of the planning period of the RTP, taking into account net migration into the region, population growth, household formation, and employment growth.
3. Identify areas within the region sufficient to house an eight-year (8) projection of the RHNA needs pursuant to §65584.
4. Consider the State housing goals specified in §65580 and §65581.[36]

The goals listed in Cal Gov't Code §65580 and §65581 that FCOG must consider include that:

1. The availability of housing is of vital statewide importance, and the early attainment of decent housing and a suitable living environment for every Californian, including farmworkers, is a priority of the highest order.[37]
2. The provision of housing affordable to low- and moderate-income households requires the cooperation of all levels of government.[38]
3. Local and state governments have a responsibility to use the powers vested in them to facilitate the improvement and development of housing to make adequate provision for the housing needs of all economic segments of the community.[39]

Fair housing policies and principles should be integrated into the equity analysis and the policy and action elements of the 2018 RTP draft. FCOG staff, however, recommended that the Roundtable, "not incorporate…access to affordable housing for residents of all income levels" as a core value of the RTP/SCS." [40]

Successfully integrating AFFH and SB 375 obligations into the 2018 RTP requires actions and policies that increase investment into racially and ethnically segregated areas of poverty to reverse historic patterns of segregation. This includes prioritizing policies that both increase accessibility and connectivity for EJ residents to jobs, services, and neighborhoods of opportunity, and encourage

[36] Cal. Gov't Code § 65080

[37] Cal Gov't Code §65580 (a)

[38] Cal Gov't Code §65580 (c)

[39] Cal Gov't Code §65580 (d)

[40] Marked-up copy letter submitted by Leadership Counsel for Justice and Accountability, Cultiva La Salud, Safe Routes to School National Partnership, ClimatePlan, and Sequoia Riverlands Trust dated June 26, 2017. The marked-up copy shows both FCOG recommendations as well as RTP Roundtable actions on those recommendations.

investment in the EJ communities. FCOG must develop these policies with robust participation from residents in EJ communities pursuant to their public participation obligations under Title VI.

IV. Conclusion

Fresno COG must take effective steps to comply with its civil rights and environmental justice obligations under state and federal law, including, but not limited to Government Code §11135, and Title VI. We appreciate the opportunity to provide feedback.

Sincerely,

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