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October 1, 2015

Via E-Mail and FedEx

Chair Jack Dale and Members of the
Board of Directors
SANDAG
401B Street, Suite 800
San Diego, CA 92101

Re: Comments on San Diego Forward: The Regional Plan and
Environmental Impact Report

Dear Chair Jack Dale and Members of the Board:

We submit this letter on behalf of the Cleveland National Forest Foundation (“CNFF”) to provide comments on the draft 2015 Regional Transportation Plan/Sustainable Communities Strategy (“2015 RTP/SCS” or “Plan”) and the accompanying environmental impact report (“EIR”). As SANDAG is well aware, CNFF commented extensively on the prior plan – the 2050 RTP/SCS – because the organization had grave concerns that the Plan’s auto-centric approach to transportation would set the region on a course that is inconsistent with the State’s climate change goals. Instead of reducing automobile travel, that Plan would have increased vehicle miles traveled (“VMT”) by 50 percent between 2010 and 2050. Because the 2050 RTP did not prioritize transit over highways, it was incapable of reducing greenhouse gas (“GHG”) emissions over the life of the Plan. These concerns were echoed by numerous other environmental organizations, the California Attorney General and ultimately by California courts.¹

¹ SANDAG’s RTP/SCS was challenged in a lawsuit brought by state and local environmental groups and the state Attorney General. *Cleveland National Forest Foundation et al. v. San Diego Association of Governments*, California Supreme Court, Case No. S223603. Plaintiffs allege that SANDAG violated CEQA by failing, among other things, to disclose that the RTP/SCS’s upwards emissions trajectory is inconsistent

Rather than take heed of these valid criticisms, and diligently work to improve its Plan, SANDAG's current draft Plan proposes to keep every single roadway project that was included in the 2050 RTP/SCS. Making matters worse, the draft 2015 Plan includes *even less* funding for transit than the prior RTP. Not surprisingly, if implemented, the proposed 2015 RTP/SCS would once again result in VMT that is far too high to be compatible with California's climate change goals.

Recognizing the magnitude of change the region must undertake to achieve the state's climate change goals, the 2015 RTP/SCS EIR includes alternatives that would significantly reduce VMT and GHG emissions. Yet rather than seriously consider even one of these environmentally superior alternatives, the EIR finds that each one is infeasible. We cannot help but conclude that SANDAG continues to view SB 375 as a mere bureaucratic hurdle and has very little interest in making the changes necessary to stave off dangerous climate change.

Adoption of the RTP/SCS and certification of the EIR would not just constitute bad planning; it would violate state law. The EIR for the 2015 RTP/SCS does correct several deficiencies contained in the EIR for the 2050 RTP/SCS, as requested in CNFF's lawsuit against the prior EIR and as required by the Court of Appeal. However, our review of the EIR reveals serious new violations of the California Environmental Quality Act ("CEQA"), Public Resources Code section 21000 *et seq.*, and CEQA Guidelines ("Guidelines"), California Code of Regulations, title 14 section 15000 *et seq.* For the reasons set forth below and in the attached report prepared by Smart Mobility Inc., we request that SANDAG substantively revise its RTP/SCS and prepare an EIR that complies with CEQA and the CEQA Guidelines.

I. The 2015 RTP/SCS Takes the Region in a Dangerous Direction Environmentally.

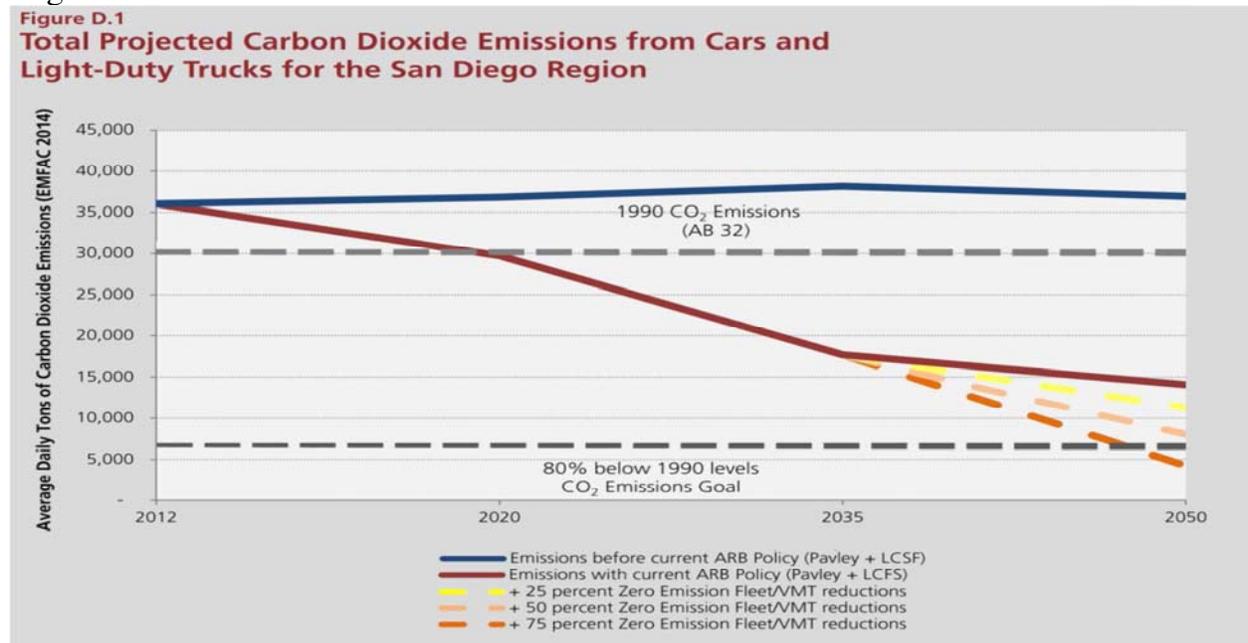
Metropolitan planning organizations ("MPO") around the state are using SB 375 and their RTP/SCSs to explore a variety of transportation scenarios that will, together with land use strategies, enable their regions to achieve their GHG reduction goals.² Southern California Association of Governments ("SCAG's") approach to its forthcoming RTP/SCS, for example, is to define the region's transportation needs, evaluate transportation funding trade-offs, and then assess how various transportation

with the state's targets for reducing greenhouse gases. SANDAG disputes this contention, and the matter is now before the California Supreme Court.

² SCAG 2016/2040 RTP SCS Development Process, attached as Exhibit 1.

network scenarios achieve performance targets. Based on stakeholder and public input, SCAG will then adopt a preferred transportation scenario. The Metropolitan Transportation Commission (“MTC”) is also planning substantive changes for transportation in the Bay Area. It has set a goal of increasing non-auto mode share by 10 percent and decreasing automobile VMT per capita by 10 percent. *See Plan Bay Area 2040 – Project Update, Call for Projects and Needs Assessment Guidance – Performance Targets, April 29, 2015, attached as Exhibit 2.*

In marked contrast to these thoughtful approaches to regional transportation – approaches specifically contemplated by SB 375 – SANDAG has proposed the identical roadway network that it has endorsed since at least 2007.³ This “business as usual” approach to meeting the region’s transportation needs makes a mockery of SB 375 and takes the region in a dangerous direction. By not making every effort to explore transportation scenarios that dramatically reduce VMT, SANDAG’s Plan will dig an even deeper GHG emissions hole, making compliance with state GHG goals nothing more than an illusory promise. As the following figure clearly shows, there is a tremendous gap between the RTP’s forecasted GHG emission levels and the California emissions target.



Source: 2015 RTP/SCS Appendix D: 2012 Greenhouse Gas Inventory for San Diego County and Projections, pg. 39

³ According to the Smart Mobility Report, both the 2007 and 2011 RTPs contain identical roadway projects as the proposed 2015 RTP. Smart Mobility Report at 1.

The San Diego region, like every other region in California, is at a critical juncture. Local jurisdictions are looking to SANDAG to *lead* the region in a sustainable direction and certainly not to be an obstacle to their progress. The City of San Diego, for example, has set an ambitious goal in its climate action plan to cut GHG emissions in half by 2035, in part by getting people who live near high-quality transit stations to walk, bike or take transit to work. *See* “New Climate For Transportation: How the City of San Diego and SANDAG Must Improve Transportation to Meet Climate Goals,” Climate Action Committee” attached as Exhibit 3. Yet, according to the Climate Action Campaign, “[i]t is mathematically impossible for the city of San Diego to achieve its transit and active transportation goals with the transportation network SANDAG is currently planning.” Indeed, “[t]he RTP/SCS projects transit, walking and bicycling levels far smaller in the city of San Diego than what is called for in the City’s climate action plan.” *Id.* *See also*, “City’s Bold Action Plan Could Be Nullified Before it Even Passes,” A. Keatts, Voice of San Diego, September 23, 2015, attached as Exhibit 4.

San Diego County has also committed to substantially reduce GHG emissions consistent with the Executive Order S-3-05 trajectory. *See Sierra Club v. County of San Diego (2014) 231 Cal.App.4th 1152*. Thus, the only way that the City and County of San Diego, along with many other local jurisdictions, will be able to achieve their goals is if SANDAG focuses the vast majority of the region’s funding on transit and active transportation.⁴

A. A Plan that Expands Highway Capacity Has No Place in the Region’s Future.

Numerous factors have combined over the last decade to eliminate the need for additional highway capacity. First, the region’s jurisdictions have changed their land use plans significantly, resulting in development patterns that concentrate future growth in urbanized areas, reduce sprawl, and preserve more land for open space and natural habitats. As the RTP/SCS explains, “our region has made great strides in planning for more compact, higher density, and walkable developments situated near transit and in the incorporated areas of the region.” RTP at 34. We have entered an era when Americans simply prefer to drive less. Baby boomers are getting older and driving less; millennials are less interested in driving; and there is a trend toward living near urban areas. *See*

⁴ Because the draft RTP/SCS is not on a trajectory to meet 2050 GHG goals, it is inconsistent with the City’s Climate Action Plan and the County’s General Plan. These inconsistencies constitute significant impacts under CEQA. CEQA Guidelines Appendix G (X)(b).

“Five Reasons Why Peak Driving is Here to Stay,” August 25, 2014, Irvin Dawid, Planetizen, attached as Exhibit 5. Largely as a result of these changed land use and travel patterns, regional VMT has leveled off. As the Smart Mobility Report explains, in the eight years since SANDAG published its 2007 RTP, VMT has decreased in most of the United States including the San Diego region. *See* Smart Mobility’s Comments on RTP/SCS and EIR (“Smart Mobility Report”) at 2, attached as Exhibit 6.

Looking forward, changes in vehicle technology will further reduce the need for additional highway capacity. As the RTP/SCS itself acknowledges, “by 2025, driverless cars are expected to begin replacing conventional cars. Autonomous vehicle technologies will transform public transit as well, increasing efficiency and accessibility while reducing congestion.” 2015 RTP/SCS at 68. According to Smart Mobility, it is estimated that driverless cars – together with the crash avoidance systems and vehicle-to-vehicle communication that will accompany such cars – will increase roadway capacity by 273 percent. Smart Mobility Report at 7.

We can find no logical explanation as to why SANDAG stubbornly refuses to abandon its mid-twentieth century approach to transportation. Even agencies that have traditionally been auto-centric are moving toward multi-modal forms of transportation. Caltrans recently drafted a new mission and vision statement, along with goals and objectives, that take into account per capita VMT and multimodal system integration. Consistent with its new vision, Caltrans has endorsed livable, multimodal street design that supports bicycles and pedestrians as well as automobiles. *See* “A Follow-Up to The California Department of Transportation: State Smart Transportation Initiative (“SSTI”) Assessment and Recommendations,” SSTI, December 2014, at 3, 4, attached as Exhibit 7.

Similarly, Los Angeles is making every attempt to become America’s next great mass-transit city. Thanks to a visionary mayor, Los Angeles has chosen a bold path to invest in the kind of infrastructure that supports continued population growth, and to transform the built environment to match the new infrastructure. *See* “L.A.’s Transit Revolution”, Matthew Yglesias, Slate, September 17, 2012, attached as Exhibit 8. Mr. Yglesias explains,

Los Angeles continues, like almost all American cities, to be primarily automobile oriented. But the policy shift is having a real impact on the ground. The most recent American Community Survey showed a 10.7 percent increase in the share of the metro area’s population that relies on mass transit to get to work, matched with a 3.6 percent increase in driving.

And that's before several of the key Metro projects have been completed or the waning of the recession can drive new transit-oriented development. *Id.*

The actions that Caltrans and Los Angeles are taking demonstrate that it is long past time to change the way we travel in California. Notably, it took a scathing report on Caltrans to move that agency in a sustainable direction. In 2014, the SSTI wrote,

Caltrans today is significantly out of step with best practice in the transportation field and with the state of California's policy expectations. It is in need of modernization—both in the way it sees its job and how it approaches that job—and of a culture change that will foster needed adaptation and innovation. Caltrans is in need of both modernization and organizational culture change. *See Exhibit 7 at iv [SSTI Report].*

Unfortunately, this same criticism could describe SANDAG's current approach to transportation. Ironically, while Caltrans is making significant strides to meet California's policy around sustainable goals, SANDAG has yet to markedly change its auto-centric attitude. SANDAG is in need of both modernization and organizational culture change.

Perhaps one of the best examples of SANDAG's failure to embrace a sustainable transportation future is "Destination Lindbergh." Included in the 2050 RTP/SCS, Destination Lindbergh was a comprehensive planning process designed to improve intermodal access to the Airport. *See 2050 RTP Destination Lindbergh, SANDAG attached as Exhibit 9. See also, Destination Lindbergh Power Point, attached as Exhibit 10.*

Destination Lindbergh began in 2008, when SANDAG along with the City of San Diego and the Airport Authority undertook an exhaustive two year study to determine local and long-distance intermodal transit needs and specifically evaluated the feasibility of the Airport serving as a regional transportation hub. Destination Lindbergh at 1. The study determined that up to 20 percent transit mode share could serve passengers to the Airport. Destination Lindbergh Power Point at 4. The study was included as an appendix to the 2050 RTP yet inexplicably none of the transit-related projects are included in the current RTP's constrained project list. Instead, while SANDAG has failed to capitalize on this critical transit opportunity, the Airport

Authority has begun construction of a 1,700-space parking garage which SANDAG is serving with freeway and road access.

It is abundantly clear that implementation of Destination Lindbergh would have advanced the goals of both the Urban Area Transit Strategy (“UATS”) and the City of San Diego’s climate action plan and therefore should have been included as an essential part of the 2015 RTP/SCS.

B. There Continues To Be a Disturbing Disconnect Between SANDAG’s Words and Its Actions.

A cursory review of SANDAG’s 2015 RTP/SCS suggests the optimistic conclusion that the agency is on the right track. Initially, the Plan’s EIR explains that the RTP’s transit investments were guided by its UATS. DEIR at 2-14. According to SANDAG, “the overarching goal of the UATS was to create a world-class transit system for the San Diego region in 2050, with the aim of significantly increasing the attractiveness of transit, walking, and biking in the most urbanized areas of the region.” *See* 2015 RTP/SCS Technical Appendix U-17. The 2015 RTP/SCS also reports good news as regards land use. As discussed previously, the document now clearly acknowledges that local jurisdictions are concentrating growth in urbanized areas, reducing sprawl, and preserving open space and natural habitat. RTP/SCS at 30. The RTP/SCS explains,

These were seismic shifts in thinking about how to grow, and with them came new perspectives about how our region should invest in public transit, roads and highways, and other transportation infrastructure. It was becoming clear that people needed more options for getting around than just the car. *Id.*

The reality of the 2015 RTP/SCS paints a decidedly less rosy picture. Regional transit mode share is projected to be a mere 3.7 percent in 2050. *See* DEIR at 4.15-30, Table 4.15-13. The fact that less than four percent of the region’s residents will be travelling by transit in 2050 is a far cry from a “seismic shift.” A Plan that is expected to cost \$200 billion of the taxpayer dollars to achieve a nominal increase in transit does a great disservice to the region’s residents.

II. There Are Feasible Transit-First Options for the Region.

SANDAG is correct in one respect: people need more options for getting around than just a car. In order to achieve the region's climate change goals, SANDAG must immediately shift all planned roadway spending to other travel modes, and especially to transit investments. For many years, the region has over-invested in highways while under-investing in transit. Consequently, the region has an extensive highway system but a poor transit network, one that fails to serve many of its residents at all and under-serves the rest.

The only way that SANDAG can reach its overarching goal of creating a "world-class transit system" is to begin forthwith to build a transit system with better coverage and better service region-wide. This is a large undertaking that will take years to complete, but the longer SANDAG delays in taking the first steps, the more it sets the region behind. Delay now makes progress increasingly difficult to achieve in the future. CNFF's 50-10 Plan includes the following key components⁵:

- A comprehensive, integrated transit system that would be constructed in phases. While San Diego ultimately needs a comprehensive regional transit system throughout the region, the 50-10 Plan would begin by building out a complete transit network within the urban core (including the Sprinter, Coaster and Blue Line corridors), where existing and future higher density land uses would best complement the expanded transit services.
- A "transit system" that is well integrated. Random, fragmented transit routes that are scattered haphazardly throughout the region are ineffective. Without a comprehensive, well-integrated transit system, public transportation will never be able to become a truly viable alternative to the automobile in meeting the region's transportation mobility needs.
- Halt to any further increase in road capacity. SANDAG must focus all investments in the first decade on transit in the region's core.

⁵ See "The 50-10 Transit Plan: A World Class Transit System for the San Diego Region," Smart Mobility, Inc., attached as Exhibit 11 and "The 50-10 Transit Plan: Quantifying the Benefits," Smart Mobility, Inc., attached as Exhibit 12.

- Modification of the *TransNet* program to re-prioritize transit over highway projects.

III. The RTP/SCS EIR Is Legally Inadequate.

CNFF appreciates the strides that SANDAG has made with respect to analyzing the environmental impacts that would be expected to result from the 2015 RTP/SCS. SANDAG has corrected numerous errors identified by the Court of Appeal in connection with the EIR for the prior RTP, the 2050 RTP/SCS. For example, the EIR now analyzes impacts to all agricultural parcels, regardless of parcel size. Further, in response to CNFF's prior claims and the Court's holding that SANDAG's prior EIR failed to provide adequate information regarding air quality impacts, the 2015 RTP/SCS EIR now provides baseline data regarding existing air quality conditions, health risks and location of sensitive receptors. It also conducts a health risk assessment using EMFAC modeling and analyzes cancer and non-cancer risks due to toxic air contaminants near the freeways, providing a more complete analysis and mapping as requested in CNFF's lawsuit.

With respect to GHGs, in response to CNFF's litigation, the 2015 RTP/SCS EIR now analyzes the consistency of the Plan's long-term GHG emissions trajectory with the emissions trajectory set forth in Executive Order S-3-05. It also includes an analysis of the Plan's consistency with Executive Order B-30-15.

The 2015 RTP EIR also contains a more robust discussion of mitigation for GHG and air quality impacts, including many measures suggested by the Court of Appeal (e.g., encouraging parking management measures and coordinating low-carbon transportation with smart growth). The new EIR likewise recommends adoption of more mitigation, and with more defined standards, than the prior EIR. Finally, in response to the CNFF litigation, the new EIR analyzes a wider range of alternatives, including a variety of alternatives that are designed to reduce VMT by implementing more transit early in the Plan's deployment, not constructing all of the freeway and road projects, and locating even more dense development in urban, transit-friendly areas. SANDAG also takes an important step by describing the ways in which the region might meet the 2050 GHG emissions reductions goal. Although the EIR's analysis is based on implementation of current GHG regulations, policies, and programs, the document includes an "alternative scenario." DEIR at 4.8-38. This scenario identifies strategies such as moving toward 100 percent renewable electricity, 100 percent zero emission vehicle passenger fleet, and 90 percent landfill waste diversion. According to the EIR, with implementation of these strategies, regional emissions would be reduced to 77

percent below 1990 emissions, but would still fall short of the 80 percent below 1990 emissions reference point based on EO-S-3-05. *Id.*

Unfortunately, the EIR's analysis still violates CEQA because it provides no evidence to support its rejection of the environmentally superior alternative and fails to provide an adequate analysis of the various alternatives.

A. The EIR Lacks the Evidentiary Basis To Reject the Environmentally Superior Alternative.

The EIR identifies several "Type 5" alternatives that contain no additional roadway capacity and that would result in lower VMT and GHG emissions than the proposed Plan. The EIR identifies Alternative 5D as the environmentally superior alternative. Alternative 5D would complete all public transit projects, including all revenue unconstrained transit projects by 2025; eliminate the Plan's investments in highways and managed lanes; convert existing general purpose lanes to managed lanes to accommodate "Rapid"⁶ routes; complete all active transportation projects by 2025; substantially increase land use densities; implement a policy change to substantially increase the cost of operating an automobile; and double parking prices at those locations that currently charge for parking. DEIR at 6-19 – 6-26. This alternative would increase VMT by about 7.2 million miles per year, or 9 percent, by 2050, compared to an increase of about 15.7 million miles per year, or 20 percent, by 2050 under the proposed Plan. *Id.* at 6-27.

The EIR lists several reasons why this alternative—and all of the other Type 5 alternatives—is infeasible. Yet, the EIR provides no facts or substantive analysis to support its claims. As explained below, there is ample evidence that these alternatives, or variations on these alternatives, are feasible.

⁶ *Rapid* transit services refer to both bus rapid transit (BRT) that operates on Managed Lanes and *Rapid* bus that provides higher-speed alternatives to local bus services in high-volume arterial corridors and utilizes a range of lower-capital cost signal priority treatments, transit-only lanes, and limited station stops to achieve faster travel times. DEIR at 2-5.

1. The EIR Incorrectly Concludes that Alternative 5D Is Infeasible Because It Would Require Road Pricing Policy or Legislative Changes.

The EIR asserts that Alternative 5D is infeasible because it would require road pricing policy changes to be implemented by the State of California (VMT or fuel fee or tax), or require a major change in State legislation to allow implementation by regional or local agencies such as SANDAG, cities, or the County. DEIR at 6-26. Even if this alternative would require legislative changes, such changes do not render the alternative per se infeasible. “[T]he mere fact that an alternative may require a legislative enactment does not necessarily justify its exclusion from the EIR . . . it may not be appropriate, for example, to disregard an otherwise reasonable alternative which requires some form of implementing legislation.” *Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 573. Rather than reject this alternative because it may involve legislative and/or policy changes, the EIR should have described the specific action that SANDAG could take to facilitate such changes. For example, SANDAG could certainly lobby the State legislature to allow MPOs to implement more extensive road pricing policies.

SANDAG could also commit to working with the state to set up a road pricing pilot program. There is precedent for such an approach. To develop a new way to fund Oregon's roads and highways, the Oregon Legislature convened an independent body of state legislators, transportation commissioners, local government officials and citizens to establish a road pricing program. *See* “User Fee Task Force,” Oregon.GOV, attached as Exhibit 13. The Oregon task force examined the challenges and benefits of a mileage-based road user charge system and conducted two pilot projects to gather driver feedback on different options. With input from the task force, the 2013 Oregon Legislature approved the Road Usage Charge Program to be operational July 1, 2015. *Id.* Similar to the efforts in Oregon, SANDAG could work with the state of California to implement a demonstration pilot program to explore the opportunities and constraints associated with a user based mileage fee.

In conclusion, it is debatable that Alternative 5D, or any other “Type 5” alternative would require extensive policy or legislative changes. And, even if they would, this is not a sufficient reason to reject an alternative.

2. The EIR Incorrectly Concludes that Alternative 5D Is Infeasible Because It Would Require Changes in Land Use and Parking Policies and State and Federal Priorities.

The EIR then states that Alternative 5D is infeasible because it would require major changes in land use policies, parking policies, and transit funding and that state and federal budgets and priorities would have to change. DEIR at 6-26. Here too, the EIR provides no detail about the specific land use and parking policies that would have to change or why such changes would be infeasible. Far from being infeasible, as discussed below, many local jurisdictions are well on their way to increasing land use densities. It has also become quite common for cities to increase parking costs, or otherwise manage parking to reduce vehicular travel. See “Parking Management: Strategies, Evaluation and Planning,” Victoria Transport Policy Institute, attached as Exhibit 14. We can find no logical explanation for SANDAG to suggest that changes to land use and parking policies are infeasible, especially since it is about to adopt a Transit Oriented Districts Program that addresses the importance of, and provides strategies for, increasing land use densities and parking management. See Transit Oriented Districts Strategy for the San Diego Region, September 2015, attached as Exhibit 15. Moreover, the RTP/SCS EIR itself identifies parking strategies as a method for reducing VMT (at 4.15-25) and SANDAG has adopted a Parking Management Toolbox which provides local jurisdictions a framework for evaluating, implementing, managing, and maintaining parking management strategies. See SANDAG’s Regional Parking Management Toolbox attached as Exhibit 16.

Far from being infeasible, promoting compact development patterns and managing parking are now routine standard strategies for reducing VMT and GHG emissions. If SANDAG sees revisions to land use and parking policies as tools to achieve objectives such as supporting economic vitality, increasing safety, increasing accessibility and mobility, and promoting environmental protection, it should *lead* the region in this direction.

Nor can SANDAG suggest that the state and federal government are somehow holding SANDAG back from adopting Alternative 5D. California continues to lead the nation on climate change policy. California’s governors have issued Executive Orders such as S-3-05 and B-30-15. The State Legislature has passed numerous climate change laws including AB 32 and SB 375. The State has published ample material on climate change and makes available a Climate Change Portal which is a virtual research and information website for climate change mitigation and adaptation resources. See

Climate Change Portal webpage, attached as Exhibit 17.⁷ In addition, the 2015-16 budget would allocate \$1 billion from Cap-and-Trade revenues for programs including transit and sustainable communities' implementation. See "Cap-and-Trade," League of California Cities, attached as Exhibit 18. It is for this reason that the program has expanded public transit, clean vehicle technology, the development of clean and fast high-speed rail, and responsible growth policies to encourage housing Californians near transit and job centers.

Nor can SANDAG look to the federal government's priorities to suggest that Alternative 5D is infeasible. President Obama's Executive Order 13693 demonstrates the Federal government's commitment to curbing GHG emissions. E-O-13693 calls for cutting Federal GHG emissions by 40 percent over the next decade from 2008 levels. See "Executive Order—Planning for Federal Sustainability in the Next Decade," attached as Exhibit 19. Furthermore, President Obama's 2016 budget proposal places sustainable transportation infrastructure front and center. See "Transportation and infrastructure take center stage in President Obama's 2016 budget proposal," A. Dodds, Smart Growth America, February 3, 2015, attached as Exhibit 20. While the proposed budget reauthorization includes funding for highway spending, it would increase transit funding by 75 percent to \$18.2 billion, including \$10.2 million for the transit oriented development planning grant program. The budget proposal would establish a rail account and a multimodal account within the Highway Trust Fund, and allocate \$4.7 billion and \$1.25 billion to each, respectively. It would provide \$2.45 billion to maintain passenger rail assets, and would create a multimodal freight program funded at \$1 billion. *Id.*

In conclusion, there is ample support from local jurisdictions as well as the state and federal government for transit first alternatives such as Alternative 5D. SANDAG lacks the evidentiary basis to reject such alternatives.

3. The EIR Incorrectly Concludes that Alternative 5D Is Infeasible Because It Is Not Fiscally Constrained.

The EIR also asserts that Alternative 5D is infeasible because it includes transit projects that are not fiscally constrained. We understand that federal laws require RTPs to be fiscally constrained. Yet, there is no reason that SANDAG could not have crafted this alternative in a manner that eliminates the specific transit projects that are considered to be in the fiscally unconstrained category.

⁷ California Climate Change Portal available at <http://www.climatechange.ca.gov/>; accessed September 25, 2015.

Another approach, however, is to seek additional funding sources so that the transit projects that are currently in the unconstrained category could be implemented. While the RTP discusses the constraints to augmenting revenue sources for transportation, it only gives lip service to additional funding options such as mileage-based user fees, toll pricing, an increase to the fuel tax, an increase to vehicle weight fees, an increase to other vehicle-related fees, and opportunities for more public-private partnerships. RTP/SCS at 115. SANDAG should delve into each of these potential revenue sources and identify a role that it could play in helping to bring these funding sources to fruition. For example, as discussed above, SANDAG could take a proactive role in promoting a user based mileage fee that would replace or supplement the current gas tax.

Another obvious source of funding for transit and active transportation is *TransNet*. The SANDAG Board has the authority to change the *TransNet* expenditure plan by a 2/3 vote, which could shift funding more dramatically from highways to transit.⁸ SANDAG should consider adopting an alternative that allocates all of the *TransNet* funding to the region's unconstrained transit projects. Such an alternative would educate the public and decision-makers as to whether sufficient funding exists within the *TransNet* pool of monies to fund the constrained *and* the unconstrained transit projects.

There are numerous sources of funding that SANDAG could tap to fund unconstrained transit projects. Consequently, SANDAG lacks the evidentiary support that Alternative 5D is infeasible because it includes transit projects that are not fiscally constrained.

4. The EIR Incorrectly Concludes that Alternative 5D Is Infeasible Because It Would Not Be Consistent With Local General Plans or SB 375.

The EIR states that Alternative 5D is infeasible because it would not be consistent with current local general plans and would conflict with SB 375. We do not dispute that SB 375 requires that the land use patterns included in an RTP/SCS be based on current planning assumptions, but as SANDAG itself recognizes, the region is already directing growth toward the more urbanized areas in west County. Its own Transit

⁸ See *TransNet* Extension and Ordinance, Section 16 (Amendments) available at: <http://www.smartgrowthamerica.org/documents/cs/policy/cs-ca-sandiegocounty-tax.pdf>; accessed September 29, 2015.

Oriented Districts Strategy states that, “During the last decade, more than half of local jurisdictions have updated their land use plans and zoning ordinances, collectively moving the region’s vision of the future toward compact development near transit and greater open space preservation. Focusing housing and job opportunities in existing urbanized areas has replaced previous assumptions of more dispersed development patterns...” *See* Exhibit 15 [SANDAG’s Draft Transit Oriented Districts Strategy].

There is every reason to believe that local jurisdictions will continue to promote compact land use patterns. It is logical that a long term planning document such as an RTP must do some amount of extrapolation from local jurisdictions general plans. The next iteration of general plans, i.e., those that will have a planning horizon more in line with the 2015 RTP/SCS (2035 to 2050) will almost certainly call for even more compact land development patterns than exist today.

The City of Encinitas, for example, is putting together a plan that will increase density and intensity in order to comply with state law that requires affordable housing. To this end, city leaders are targeting 95 sites to be developed as high density transit villages. Until the city approves its plan, it is unable to apply for grant funding from SANDAG and is also on precarious legal grounds and vulnerable to lawsuits from developers and affordable housing advocates. *See* Encinitas Hopes to Comply with State Housing Law by 2016, M. Srikrishman, Voice of San Diego, September 4, 2015, attached as Exhibit 21.

Nor can SANDAG suggest that SB 375 somehow prevents the agency from approving an alternative that calls for increased land use densities. It is not the intent of SB 375 to have regional planning agencies simply compile local land use plans. Instead, SB 375 envisioned that regional agencies would design alternative land use scenarios that would show local jurisdictions how growth might be redistributed, the role that transportation systems play with regard to growth patterns, and the effect that the transportation/land use interaction has on travel patterns and GHG emissions. Clearly, SANDAG understands its obligation to do some amount of land use forecasting. Its own Urban Area Transit Strategy (“UATS”) states that 80 percent of all homes in 2050 are projected to be located within the UATS study boundary. *See* 2015 RTP/SCS Technical Appendix U-17. Consequently, SANDAG cannot reject Alternative 5D because it would not be consistent with local plans. At a minimum, SANDAG should be working with local agencies during their general plan update processes to identify and promote growth opportunities, particularly in transit priority areas.

Inasmuch as SANDAG clearly understands the role that increased land use densities play in reducing VMT and GHG emissions, it must take action to *lead* local

governments in this direction. SANDAG could certainly adopt an alternative that includes a land use scenario that calls for substantial increases in intensity and density in those jurisdictions that are already advocating for compact development patterns, e.g., the cities of San Diego and Encinitas.

5. The EIR Incorrectly Concludes that Alternative 5D and the Other “Type 5” Alternatives Are Infeasible Because They Would Have To Be Constructed by 2025.

Finally, the EIR states that Alternative 5D and the rest of the Type 5 alternatives are infeasible because the revenue constrained and unconstrained transit projects would have to be constructed by 2025. This 10-year time period appears to have been influenced by CNFF’s 50-10 Transit Plan. But, as discussed previously, the 50-10 Transit Plan does not propose to construct all transit over a ten-year period. Instead, it calls for focusing all investment over the next ten years on transit in the region’s urban core, while also including the Sprinter, Coaster and Blue Line corridors.

Not surprisingly, the EIR rejects all of the Type 5 alternatives, claiming it would be too expensive to implement and operate the accelerated capital program of these alternatives. For example, for Alternative 5A, the EIR states that this alternative would require \$42 billion by 2025:

This would require approximately \$38 billion in new capital funds within a 10-year period, approximately eight times more than the anticipated \$4.8 billion in available revenue (see Chapter 3 of the proposed Plan for discussion of available revenues). The cost to operate the transit facilities would expand from approximately \$350 million annually in Fiscal Year 2015, to nearly \$ 1.25 billion annually in Fiscal Year 2025. Total operating costs over the 35 year period (by 2050) would be nearly \$59 billion, more than \$24 billion more than anticipated available revenues of \$34 billion for operations over that timeframe. DEIR at 6-20.

SANDAG cannot identify alternatives that call for an unrealistic amount of transit over a short period of time and then claim that such alternatives are infeasible because they are too expensive.

Moreover, SANDAG’s assertion that the expense of Alternative A renders it infeasible is incorrect. As the Smart Mobility Report explains, Alternative 5A clearly is less expensive than the proposed RTP/SCS. The draft Plan includes roadway expenditures of \$22 billion in 2014 dollars. The lane conversion component of

Alternative 5A might cost 10 percent of that, so about \$20 billion would be available to fund the unconstrained transit projects. This is more than enough to construct the unconstrained transit projects which are projected to cost about \$13 billion (2014 dollars). *See* Smart Mobility Report at 12.

The Type 5 alternatives are clearly feasible; SANDAG should adopt the alternative that provides the greatest VMT and GHG emission reductions.

B. The EIR Does Not Adequately Analyze the Project’s Alternatives.

A fundamental flaw in the EIR’s alternatives analysis is its failure to accurately describe existing transit conditions in the region. As a result, the EIR does not accurately evaluate the potential for any of the Type 5 alternatives to increase transit mode share in the region or to reduce VMT or GHG emissions.

First, the EIR underestimates current transit use in the region. The RTP/SCS identifies the regional transit mode share in 2012 as 1.8 percent. *See* RTP/SCS, Appendix N, Table N.1 at 3. Yet, as the Smart Mobility Report explains, according to the California Household Travel Survey for 2012 (“2012 Survey”), the actual transit mode share for San Diego County residents is 4.4 percent, i.e., over twice as high. Smart Mobility Report at 7. The rate for home-based-work trips is even higher, 6.5 percent. *Id.*

Second, the RTP, and therefore the EIR, substantially downplays how poorly the region’s transit system currently operates. The RTP/SCS identifies an average transit travel time to work of 50 minutes. Yet, it currently takes much, much longer than this to travel to work on transit in the region. The 2012 Survey identifies a mean door-to-door travel time reported for work commuting trips with at least one transit segment as 81 minutes. Smart Mobility Report at 7. Therefore, the RTP and EIR appear to be missing the mark by 31 minutes. By underestimating transit travel times today, SANDAG is likely substantially underestimating the ridership gains that could be achieved by improving transit service.

On a related note, the EIR substantially underestimates the amount of time it currently takes an individual to get to a job or to school via transit. The EIR states that “approximately 86 percent of the population was within 30 minutes of jobs and higher education enrollment using transit as of 2012.” Smart Mobility Report at 8. This statistic does not appear to be accurate. For transit trips to be 30 minutes or less on a door-to-door basis generally requires short walks on both ends, a “one-seat ride” without transfers and frequent service. Such optimal transit situations are uncommon today in the San

Diego region. *Id.* Furthermore, this statistic appears immediately above a table showing that only 77 percent of the population is within 0.5 miles of a transit stop. How can 86 percent of the population be within 30 minutes by transit to jobs if only 77 percent have any reasonable transit access? The EIR's failure to include accurate statistics regarding existing conditions, e.g., proximity to transit service and transit travel-time data undermines the entire alternatives analysis.

A third critical flaw is that the EIR concludes that Alternatives 2 and 3 would result in identical performance metrics implying that the sequencing of transit and roadway projects makes no difference. Smart Mobility Report at 10. Specifically, the EIR determines that total VMT, GHG emissions and air pollution would be equivalent in 2050 whether all transit and highway projects are assumed to be constructed in 2016 or 2049. *See* DEIR at 6-42, 6-43, 6-54, 6-67. This makes no sense. Investing in highways, especially adding capacity in suburban and rural locations, perpetuates decentralized low density development patterns. Sprawl development is highly auto-dependent and trip lengths are considerably longer than commutes in urban environments. Increasing roadway capacity also induces additional travel, which undermines attempts to increase transit ridership. Moreover, making transit investments in urbanized areas sooner will attract developers, employers, retailers and residents to those areas. Consequently, there can be no debate that the RTP's highway projects would result in increased VMT and GHG emissions compared to transit.

SANDAG's failure to accurately depict the varying effect of transit compared to highway development on land use is a particularly frustrating since the 2050 RTP/SCS suffered from this same defect. As we explained,

A fundamental problem in the 2050 RTP is that it takes credit for the benefits of more compact development while assuming that such a future will be achieved regardless of what transportation system is provided – whether auto-oriented, transit-oriented or a mix of the two. In reality, developers, home buyers and renters, and business owners are all strongly influenced by transportation investments. Investments in freeways have encouraged sprawl. This phenomenon has resulted in a vicious cycle whereby sprawl causes high traffic growth leading to more freeway investments leading to more sprawl. The RTP is in error when it assumes that compact development can be achieved with continued investments in suburban freeways. Accordingly, the agency is taking credit for benefits that will

result from compact land use that will not result if the RTP is followed. *See Exhibit 11 [50-10 Plan].*

In sum, the EIR's analysis of the RTP/SCS's alternatives is riddled with flaws. The document must be revised to accurately characterize existing transit conditions and objectively disclose the effects that highway projects have on VMT and GHG emissions. Such an analysis would likely determine that those alternatives that emphasize transit and delay highways would achieve *sustainable* reductions in VMT and GHG emissions.

IV. Conclusion

For the reasons set forth above, we respectfully request that SANDAG revise the draft RTP/SCS to incorporate transportation projects that are truly sustainable. Additionally, we request that no further consideration be given to the RTP/SCS until an EIR is prepared that fully complies with CEQA.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Laurel L. Impett, AICP, Urban Planner



Rachel B. Hooper

cc: Mayor Faulconer, City of San Diego
Mayor Gaspar, City of Encinitas
Duncan McFetridge, CNFF

List of Exhibits

- Exhibit 1 Southern California Association of Governments, *RTP SCS Development Process - 2016/2040*
- Exhibit 2 Metropolitan Transportation Commission, *Plan Bay Area 2040 – Project Update, Call for Projects and Needs Assessment Guidance – Performance Targets*, April 29, 2015
- Exhibit 3 Circulate San Diego, *New Climate For Transportation: How the City of San Diego and SANDAG must improve transportation to meet climate goals*, 2015
- Exhibit 4 Keatts, A., *City’s Bold Action Plan Could Be Nullified Before It Even Passes*, Voice of San Diego, September 23, 2015
- Exhibit 5 Dawid, I., *Five Reasons Why Peak Driving is Here to Stay*, Planetizen, August 25, 2014
- Exhibit 6 Marshall, N., Smart Mobility, *Comments on the 2015 RTP/SCS and DEIR*, September 2015
- Exhibit 7 State Smart Transportation Initiative, *A Follow-Up to the California Department of Transportation: SSTI Assessment and Recommendations*, December 2014
- Exhibit 8 Yglesias, M., *L.A.’s Transit Revolution*, Slate.com, September 17, 2012
- Exhibit 9 Jacobs Consultancy, *Destination Lindbergh*, February 12, 2009
- Exhibit 10 SANDAG, *Destination Lindbergh Power Point*, November 2008
- Exhibit 11 Marshall, N., Smart Mobility, *The 50-10 Transit Plan: A World Class Transit System for the San Diego Region*, July 2011
- Exhibit 12 Marshall, N., Smart Mobility, *The 50-10 Transit Plan: Quantifying the Benefit*, April 2015

- Exhibit 13 Oregon Department of Transportation, *Road User Fee Task Force*, Road Usage Charge Program webpage, Accessed September 25, 2015
- Exhibit 14 Litman, T., *Parking Management: Strategies, Evaluation and Planning*, November 5, 2013
- Exhibit 15 SANDAG, *Transit Oriented Districts: A Strategy for the San Diego Region* (Draft), August 2015
- Exhibit 16 SANDAG, *Regional Parking Management Toolbox*
- Exhibit 17 CA.GOV, *Climate Change Portal*, Accessed September 25, 2015
- Exhibit 18 League of California Cities website, *Cap-and-Trade*, Accessed September 30, 2015
- Exhibit 19 Obama, B., *Executive Order – Planning for Federal Sustainability in the Next Decade*, March 19, 2015
- Exhibit 20 Dodds, A., *Transportation and infrastructure take center stage in President Obama’s 2016 budget proposal*, Smart Growth America, February 3, 2015
- Exhibit 21 Srikrishman, M., *Encinitas Hopes to Comply with State Housing Law By 2016*, Voice of San Diego, September 4, 2015