

October 23, 2012

Alameda County Transportation Commission
1333 Broadway, Suite 300
Oakland, Ca 94612

Dear Chair Green and Commissioners:

RE: OBAG Funding Criteria and Process

The Bay Area Business Coalition is pleased to offer input as you consider criteria necessary for funding efforts by local jurisdictions to plan and develop the Priority Development Areas (PDA) to implement the Sustainable Communities Strategy (SCS). This letter expresses considerations relating to housing and employment which we request you incorporate in the Commission's One Bay Area Grant (OBAG) program to support responsible land use and transportation planning.

During the development of the OBAG program, our Coalition requested analysis of the progress of local jurisdictions identifying and eliminating or reducing local regulatory constraints on the private sector's production of the housing and jobs envisioned in PDAs. In addition, because a fundamental purpose of the OBAG program is to create incentives for the private sector to create the housing and jobs envisioned in the PDAs, we believe the guidelines should support projects in jurisdictions that have adopted effective incentives and removed or mitigated regulatory constraints within their control (as provided in state housing element law) and not be applied in a manner that directly or indirectly incentivizes local jurisdictions to adopt or expand policies that increase the cost or regulatory burden on the private sector's provision of housing and jobs.

ACTC staff have correctly described the difficulties inherent in producing jobs and housing in infill PDAs. This is confirmed by the recently released report: *A Regional Economic Assessment of the San Francisco Bay Area* (Bay Area Council Economic Institute, 2012). The report, which assesses the Bay Area's regional economy and business climate, was publicly presented for the first time at the ABAG General Assembly. Among the study's key findings are that "severe institutional constraints on construction that prevent demand from being met" is a driving factor in the region's "notoriously high" housing costs, and that "if strong demand were met by strong construction—a home for whoever wants one—prices would be much lower." The report observes that "large-scale densification, however, has been curtailed by institutional constraints on construction." These considerations make it all the more imperative to ensure not only that OBAG program does not directly or indirectly lead to more regulatory constraints on construction, but that it play a positive role in reducing them.



In developing the OBAG program, MTC and ABAG require congestion management agencies to favorably consider projects in jurisdictions with affordable housing preservation or creation strategies or policies. Indeed, the regional planning agencies stipulate eligibility for OBAG funding requires that each city must have a certified housing element. These are provisions which can and should be implemented in ways that do not impose new or expanded regulatory burdens on development of jobs and housing. Examples could include assessing and considering the extent to which applicants have successfully implemented the state's Least Cost Zoning Law (Gov. Code Section 65913.1), Density Bonus Law (Section 65915), and Second Dwelling Unit Law (65852.150 and 65852.2).

We urge the Commission to fashion the OBAG funding program to be consistent with and complement state housing law. Priority should be given to jurisdictions that implement their certified housing element conditions such as completing housing element sites, re-zoning within 3 years, removing identified constraints within their control, and making progress on other affordable housing programs. While the housing element certification requirement of the OBAG program developed by the regional agencies is a solid foundation, it should be recognized that certification by the state Department of Housing and Community Development (HCD) is not the end of the housing element process. In some respects, it is the beginning. Certified housing elements contain programs that local governments obligate themselves to pursue and complete during the housing element cycle. These include zoning adequate sites to accommodate the region's RHNA, conserving and improving the existing housing stock, preserving assisted housing developments identified as at-risk of conversion, and identifying and removing or mitigating local policies that act as potential constraints on new development. The OBAG program represents an excellent opportunity to monitor and encourage timely and effective implementation of local housing element programs and conditions. We note that Gov. Code Section 65400 requires each city and county to prepare an annual report on the status and progress in implementing the jurisdiction's housing element using forms and definitions adopted by HCD (see www.hcd.ca.gov/regulations), and suggest that as part of the OBAG program the Commission gather and assess these progress reports and incorporate the results into the grant decision making process.

During the development of the SCS and the OBAG program, our Coalition reminded regional planning agencies of the challenge and importance of including job-producing, commercial development in PDAs. As the criteria for OBAG funding are reviewed, we are compelled to point out that many PDAs in Alameda County (and throughout the Bay Area) may be ineligible for planning support because their proposed projects include employment-intensive activities. For instance, Fremont's Warm Springs project focuses on the creation of high-wage, skilled jobs, promoting innovative technology uses and employment-focused transit-oriented development. Other locations, such as the South Hayward/Mission Boulevard mixed-use TOD project, may not be eligible due to a lack of housing construction in the PDA since 2007 as required by the proposed OBAG criteria.

The objective of the SCS and the OBAG program is to align transportation investments with sustainable land use choices that support greenhouse gas emission reductions, promote access to a range of housing opportunities, and support economic growth. We urge you to adopt clear and simple funding criteria for local jurisdictions which do not impede their ability to plan and implement policies, programs, and projects specific to their community needs for housing and jobs.

Sincerely,



Jim Wunderman
Bay Area Council



John Coleman
Bay Planning Coalition



Paul Campos
BIA Bay Area



Linda Best
Contra Costa Council



Karen Engel
East Bay EDA



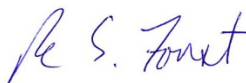
Gregory McConnell
Jobs & Housing Coalition



Cynthia Murray
North Bay Leadership Council



Carl Guardino
Silicon Valley Leadership Group



Rosanne Foust
SAMCEDA



Sandy Person
Solano EDC

Attachments:

- Letter to MTC March 8, 2012 RE: OBAG recommendations