METROPOLITAN
TRANSPORTATION
COMMISSION

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Memorandum

TO: Commission

DATE: October 23, 2015

FR: Executive Director

W. I. 1121

RE: Functional Consolidation of Planning Departments and Extension of MTC/ABAG Interagency Agreement through FY2015-16: MTC Resolution No. 4210

This item follows up the robust discussion by the Commission at its September 23rd meeting on the proposal to consolidate the MTC and ABAG planning departments into an Integrated Regional Planning Department that supports both the MTC Commission and the ABAG Executive Board.

The attached presentation provides additional information in response to Commissioners' questions and concerns. Among the topics covered are the scope of the proposed integration; financial and pension implications; timeline and critical elements for successful integration; labor relations; ABAG Executive Board authority; and a comprehensive merger study. The presentation also outlines staff's recommendation in light of these considerations.

Consistent with the recommendation included in the presentation, MTC Resolution No. 4210 authorizes the Executive Director to take steps to implement the consolidation of the MTC and ABAG Planning Departments into an Integrated Regional Planning Department, sets forth principles to guide the implementation, revises the multi-year funding framework, and extends the MTC/ABAG Interagency Agreement through the end of FY2015-16.

Steve Heminger

Attachments
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Functional Consolidation of Planning Departments

COMMISSION MEETING

OCTOBER 28, 2015

Efficiency vs. Effectiveness

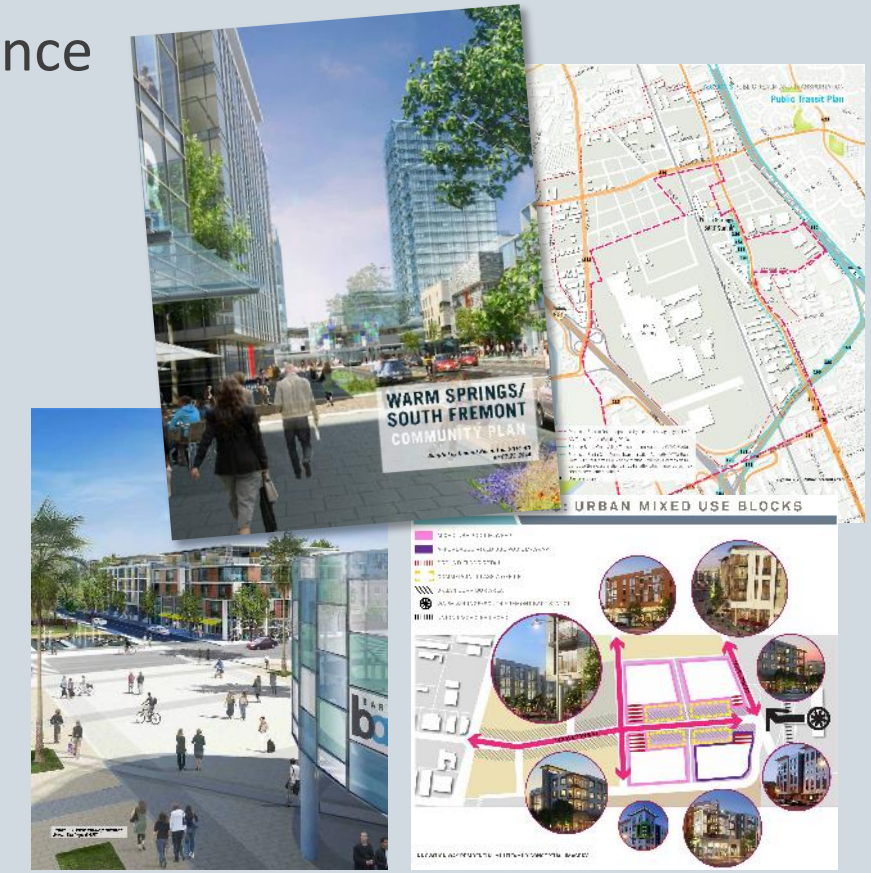
- They are not synonymous, but they are not always at odds
- Regional planning dysfunction in the Bay Area is neither efficient nor effective
- Every hour MTC and ABAG spend "coordinating" with each other is an hour not spent making a better Plan Bay Area

Efficiency vs. Effectiveness

- Senate Bill 375 finding:
  - **"Without improved transportation and land use policy, California will not be able to achieve the goals of AB32."**
- State law integrated transportation and housing *planning*; now we need to integrate the transportation and housing *planners*
- We propose to create an integrated Regional Planning Department serving both MTC and ABAG

Benefits of Integrated Regional Planning

- Creates a “one-stop-shop” for expanded technical assistance and grants focused on serving local governments better
- Uses taxpayer dollars more productively by improving communications between regional agencies and cities
- Bolsters staff resources on policy development and analysis to develop solutions to the region’s challenges
- Enables local elected officials, business leaders, and the public to speak with one voice on the most important state and federal policy issues



Scope of Integration

- Continue to recommend that Bay Trail and Resiliency employees (total of 7) remain at ABAG, and that BATA continue to fund Bay Trail
- Recommend that ABAG retain two (2) planners to perform RHNA function funded by ABAG member dues
- Recommend that MTC retain funds to offer 13 new MTC positions for work on development and implementation of Plan Bay Area

Current and Future MTC Expense Comparison

Expense	In Million $	
	MTC/ABAG Interagency Actual	Consolidated Planning Department
Planners Salaries and Benefits*	$2.1	$2.0
Planners Overhead*	$1.1	$1.1
Other Planning Staff and Overhead Costs	$0.7	N/A
OPEB	Included in benefits above	$0.2
TOTAL	**$3.9**	**$3.3**

* 15 under current agreement; 13 under proposed Integrated Regional Planning Department

ABAG Finances

- ABAG finances are precarious whether integrated planning department is approved or not
- ABAG faces $12 million unfunded pension liability and $5 million under-funded OPEB obligation
- ABAG staff says $3 million unrestricted reserve in FY14 audit will be restated as $9 million deficit in FY15 as a result of booking pension liability
- Are there further revelations to come from embezzlement in FAN subsidiary?

ABAG Overhead: Fairly Allocated?

- MTC absorbs a disproportionate share of distributed overhead
  - MTC planning funds represent 15% of all funds
- MTC funding source absorbs 74% of distributed overhead
  - MTC funds are assessed at 45%
  - Enterprise funds are assessed at 24%

ABAG Overhead: Fairly Allocated?

- The difference represents an enterprise subsidy of nearly $900,000

	Planning & Research	Bay Trail & Other	Agency Management	Total	Enterprise	TOTAL ALL
Revenue	$3,894,000	$1,650,000	$3,047,822	$8,591,822	$18,115,000	**$26,706,822**
Personnel	$2,619,803	$853,798	$4,028,422	$7,502,023	$4,152,736	**11,654,759**
Pass Through	—	—	—	—	12,329,793	**12,329,793**
Other Direct	96,595	412,420	617,228	1,126,243	653,447	**1,779,690**
Overhead	1,177,602	383,782	(1,597,828)	(36,444)	979,024	**942,580**
TOTAL	**$3,894,000**	**$1,650,000**	**$3,047,822**	**$8,591,822**	**$18,115,000**	**$26,706,822**
Rate	44.95%	44.95%			23.58%	

ABAG Pension Liability: Independent Review

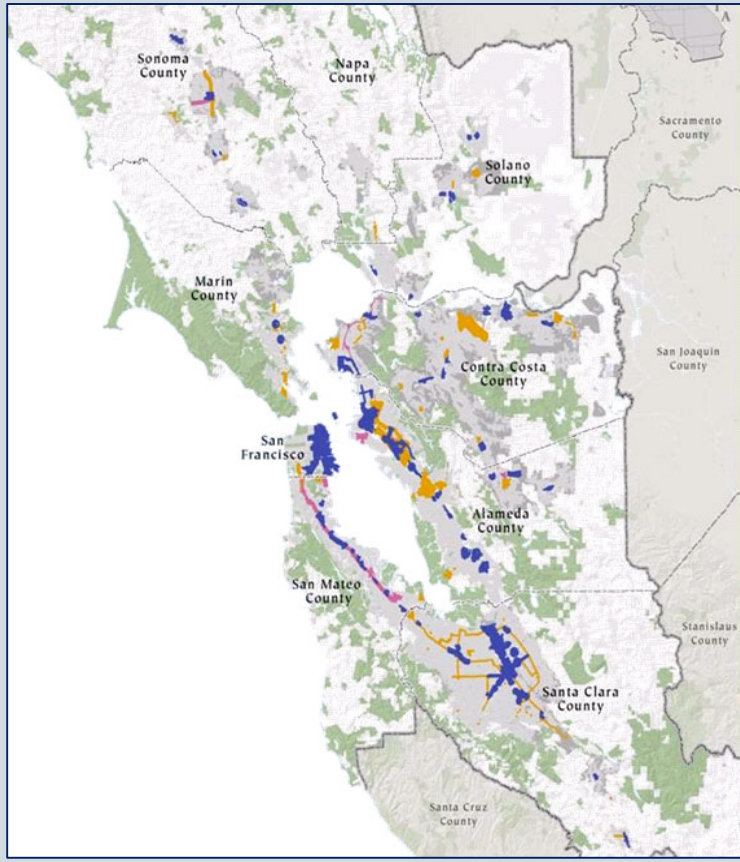
- Staff contacted Milliman Financial Risk Management
- Milliman confirmed ABAG Pension/OPEB findings provided at September meeting
  - Annual pension cost should be reduced by $250,000
  - PERS and OPEB costs will be reduced proportionate to the reduction in payroll and staff
  - Only the unfunded liability will remain
    - The liability is fixed and belongs to ABAG
  - The rates will go up as payroll goes down but the cost will actually be lower

ABAG Budget Impact Under the Proposal

Expense	Change	Net Budget Impact, Million $
15 – Planners' Salaries and Benefits	The cost and revenue for 13 planners are eliminated; 2 remain without commensurate MTC revenue.	$0.3
15 – Planners' Overhead	The overhead cost for the planners previously billed to MTC remains at ABAG but the revenue is eliminated.	$1.1
Other Planning Staff and Overhead Costs	The overhead and direct costs for the other planners and executive staff remain, but the revenue is eliminated.	$0.7
Annual Pension Cost	PERS cost reduced proportionately; ABAG is relieved of the OPEB liability for the 13 planners.	-$0.3
	TOTAL	**$1.8**

Continued ABAG Funding

- Recommend that MTC provide $1.2 million in continued near-term funding to cover ABAG overhead costs
- Funding should be targeted at specific expense (such as pension liability) that can be audited
- ABAG could cover $600,000 remaining annual overhead expense through combination of dues increase, new grants, reallocation of overhead charges, and cost control
- $600,000 = 2% of current ABAG budget



Labor Relations

- MTC currently has employee organization, Committee for Staff Representation (CSR), which is directly elected by staff
- CSR is officially recognized collective bargaining unit for 167 MTC employees
- CSR is similar to employee organizations at BAAQMD and numerous Bay Area municipalities
- Commission-approved MOU in place through June 30, 2018
- CSR also advocates for employees in grievance proceedings and to improve working conditions at 101 8th Street and 375 Beale Street.

Labor Relations

- Successful 2006 transition of SEIU-represented toll accountants from state service to MTC employment
- Maintain neutrality and adhere to MTC employer-employee organization relations resolution which allows consideration of a change in representation six months prior to the end of the third year of an MOU, or January 1, 2017
- "Right of first refusal" retention process will ensure former ABAG planners retain accumulated pension and other benefits with equal or better salary package

Timeline for Planning Department Integration

Approximately eight month process

October 2015	Approve Integrated Regional Planning Department
Fall/Winter 2015	Consultation with local government and interested stakeholders
Early 2016	Meet with ABAG management/employees on transition Finalize job description, classifications, and salary/benefits
March 2016	Offer letters sent to new hires
March/April 2016	MTC HR/Exec team available to answer questions before
May 2016	MTC Budget Revision to add additional positions
June 2016	Hire date

Focus on Successful Integration

- **Ensure fair and attractive employment offers**
  - Independent review by Koff & Associates of MTC/ABAG classifications
  - Preliminary finding of general equivalency based on skills and education
- **Bring in consultant expertise for implementation**
  - Finalize operational design
  - Acknowledge different cultures and expectations
  - Transition of two departments into one cohesive Integrated Regional Planning Department

ABAG Executive Board

- Existing statutory authority would be respected and maintained
- Role in preparing/approving Plan Bay Area and RHNA unchanged
- Annual MTC resolution would identify scope of staffing services, including ability of ABAG Board to commission additional studies and other activities

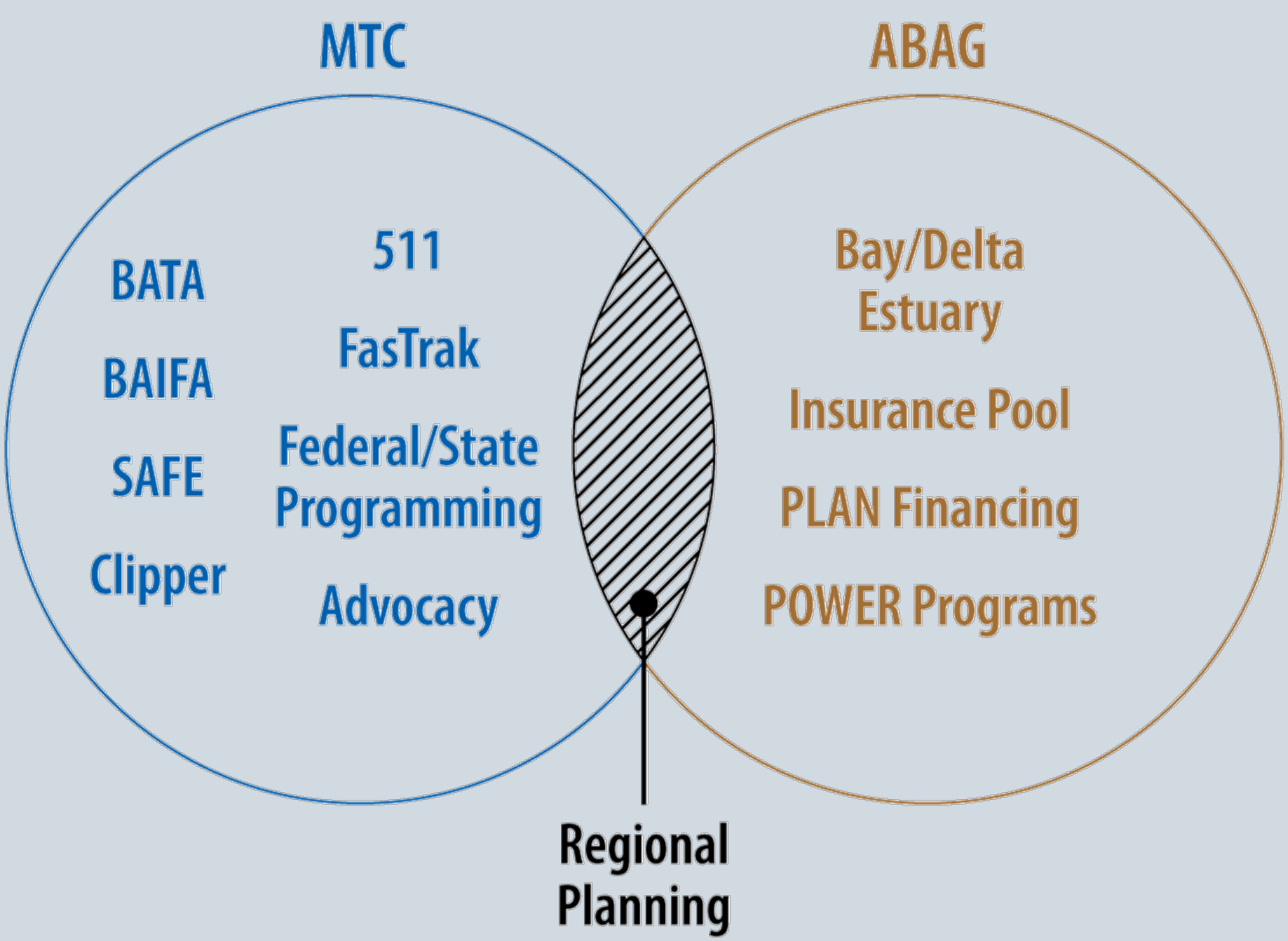
Annual Resolution – Sample Work Elements

- Prepare and present deliverables for implementing and updating the SCS (Plan Bay Area)
- Develop, manage, and monitor progress related to PDA and PCA implementation
- Conduct research, engagement, and information sharing to remove barriers to housing production, increase funding for affordable housing, and promote affordable housing preservation
- Conduct regional research and modeling, including demographic and economic trends
- Present to city and county associations on key regional policy issues
- Certain amount of “task order” hours for unforeseen work

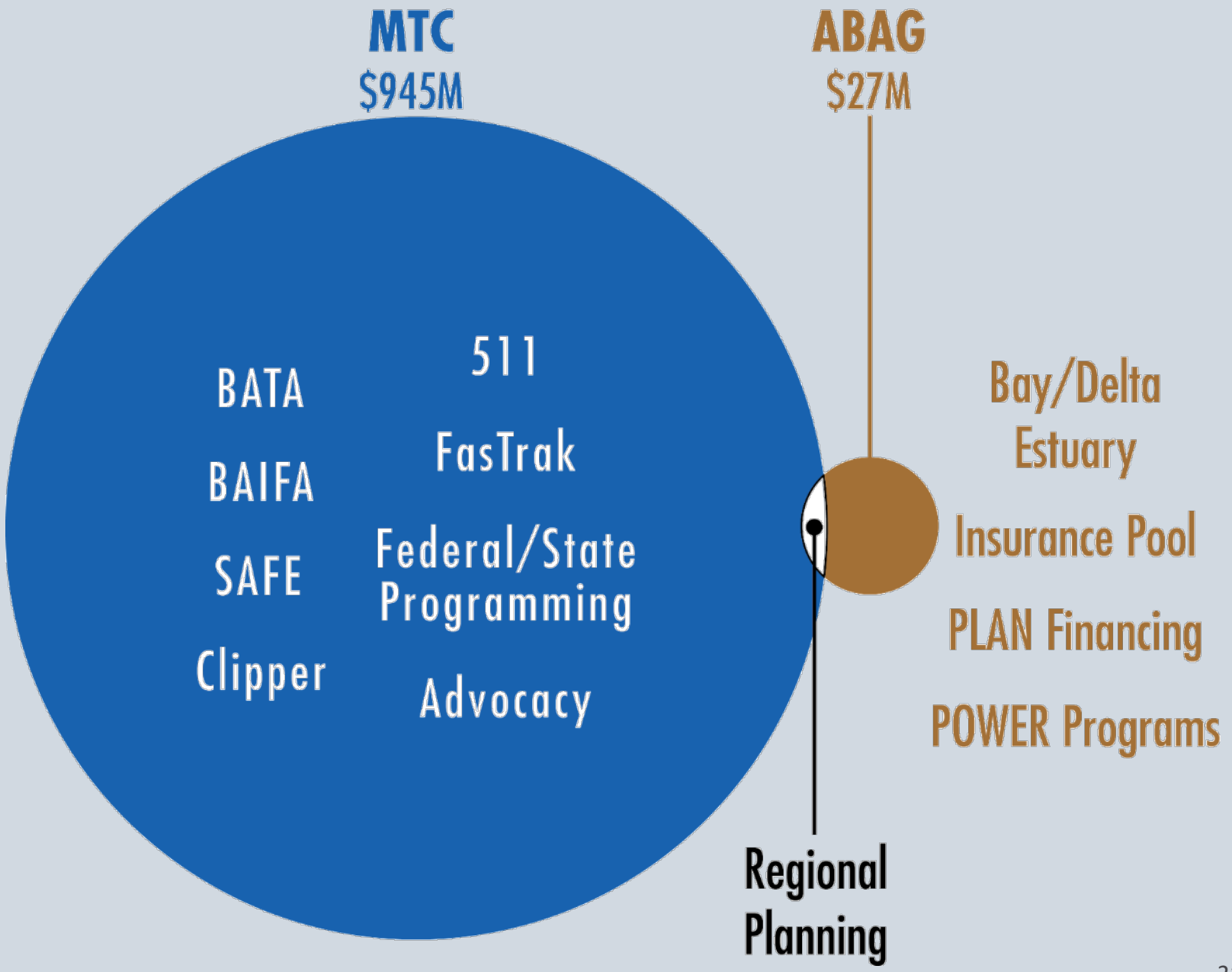
Merger Study

- **Scope:** Policy, management, financial and legal analysis of steps toward further integration, up to and including institutional merger between MTC and ABAG
- **Schedule:** 12 months
- **Budget:** $275, 000, to be paid for by MTC
- **Consultant**: To be selected by MTC
- **Governance to oversee study:** Joint board committee appointed by MTC chairman and ABAG President, with regular meetings subject to Brown Act

Regional Planning Overlap



Regional Planning Overlap
(Budget Adjusted)



MTC Staff Recommendations

1. MTC provides remaining six months of FY 2015-16 planning funds at current levels, with re-opener if new employees hired sooner.
2. MTC retains $2.7 million in planning funds beginning FY 2016-17.
3. MTC offers positions at equal or better compensation to 13 ABAG planners.
4. ABAG retains two planners to perform RHNA and five employees for Bay Trail and resiliency work.

MTC Staff Recommendations (continued)

5. BATA continues to fund Bay Trail at current levels.
6. MTC provides $1.2 million annually in transition funding to ABAG through at least FY 2020-21 (end of multi-year agreement).
7. Adhere to MTC employer-employee organization relations resolution and current MOU with CSR while maintaining neutrality
8. MTC retains consultant to conduct merger study in FY 2016-17.

Date: October 28, 2015
W.I.: 1121

ABSTRACT

MTC Resolution No. 4210

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

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

Date: October 28, 2015
W.I.: 1121

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

METROPOLITAN TRANSPORTATION COMMISSION
RESOLUTION NO. 4210

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

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

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

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

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

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

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

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

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

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

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

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

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

METROPOLITAN TRANSPORTATION COMMISSION

_____

Dave Cortese, Chair

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

Principles for Functional Consolidation of MTC-ABAG Planning Departments

1. MTC shall provide the remaining six months of FY 2015-16 planning funds at current levels, unless the functional consolidation and transition is accomplished sooner, as detailed in Amendment #2 to the MTC/ABAG Interagency Agreement (Attachment C).
2. MTC shall offer positions at equal or better compensation to 13 ABAG planners through a right of first refusal retention process, and together with MTC's planning department, shall create an integrated regional planning department (regional planning department).
3. The regional planning department shall be employed and receive performance reviews through MTC. The regional planning department shall serve both the MTC Commission and the ABAG Executive Board.
4. Creation of the regional planning department shall respect and maintain the existing statutory authority of MTC Commission and ABAG Executive Board. Further, the respective agency roles in preparing/approving the Regional Housing Needs Analysis (RHNA) and Plan Bay Area will be unchanged.
5. After consultation with ABAG, MTC shall annually adopt a resolution identifying the scope of staffing services to support the work of the ABAG Executive Board, including the ability of the ABAG Executive Board to commission additional studies and other activities.
6. ABAG will retain two planners to perform RHNA and five employees for Bay Trail and resiliency work (based on FY2015-16 staffing levels).
7. BATA shall continue to fund Bay Trail activities at current funding levels and the function will remain the responsibility of ABAG.
8. MTC shall provide $1.2 million in transition funding to ABAG through at least FY 2020-21, as detailed in Attachment B. The funding will be directed to ABAG's pension liability or other specific expense to improve the financial stability of the agency, and will be subject to an annual fiscal audit.
9. With the exception of principle #8 above, MTC shall retain the remaining planning funds (that were subject to the MTC/ABAG Interagency Agreement prior to Amendment #2) beginning in FY 2016-17, consistent with the revised MTC/ABAG Funding Framework (Attachment B).

10. In the event that a question concerning representation of MTC employees arises, MTC will adhere to its adopted MTC employer-employee organization relations resolution and current Memorandum of Understanding with the Committee for Staff Representation while maintaining neutrality

11. MTC shall retain a consultant to conduct a merger study of MTC and ABAG in FY 2016-17. The study shall examine the policy, management, financial and legal issues associated with further integration, up to and including institutional merger between MTC and ABAG.

Attachment B

MTC/ABAG Funding Framework

REVISED MTC Funding Commitments

October 2015

	FY2013-14	FY2014-15	FY2015-16	FY2016-17	FY2017-18	FY2018-19	FY2019-20	FY2020-21	Total
Current Framework									
Planning & Research	3,755,000	3,687,000	3,742,000	3,798,000	3,855,000	3,913,000	3,972,000	4,031,000	$ 30,753,000
Tenant Improvements	400,000	400,000	450,000	550,000	600,000	600,000	600,000	600,000	$ 4,200,000
Total	4,155,000	4,087,000	4,192,000	4,348,000	4,455,000	4,513,000	4,572,000	4,631,000	$ 34,953,000
Revised Framework									
Planning & Research	3,755,000	3,687,000	3,742,000[1]	-	-	-	-	-	$ 7,442,000
Transition Cost Support				1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	$ 6,000,000
Tenant Improvements	400,000	400,000	450,000	550,000	600,000	600,000	600,000	600,000	$ 4,200,000
Total	4,155,000	4,087,000	4,192,000	1,750,000	1,800,000	1,800,000	1,800,000	1,800,000	$ 21,384,000
Difference	-	-	-	(2,598,000)	(2,655,000)	(2,713,000)	(2,772,000)	(2,831,000)	(13,569,000)

[1] Unless modified pursuant to Attachment C.

Attachment C

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

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

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

1. Section 3.0 Funding is revised to add subparagraph (e) as follows:

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

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

FUNDING FOR FY 2015-16

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

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

(a) In addition to these amounts, $728,908 (representing $666,908 to be credited towards MTC's funding commitment for FY 2015-16 as described below plus $62,000 to cover the ABAG planner referenced below) in state planning funds may be made available to the region in FY 2015-16 to support ABAG's research, planning and implementation activities ("FY 2015-16 State Planning Funds"). ABAG shall make a good faith effort to invoice in a timely manner for eligible expenses against the FY 2015-16 State Planning Funds. MTC and ABAG agree that $666,908 of the FY 2015-16 State Planning Funds shall be credited toward MTC's funding commitment for FY 2015-16 (which amount together with the $3,075,092 of funding set forth in the table above equals MTC's $3,742,000 for FY 2015-16 per the funding framework), provided that the first $62,000 of FY 2015-16 State Planning funds received by ABAG shall not be credited toward MTC's funding commitment but instead shall be used to cover expenses associated with a new ABAG planner.

(b) If an amount less than the $666,908 of FY 2015-16 State Planning Funds applicable to FY 2015-16 is invoiced and received by ABAG, and credited towards MTC's annual funding commitment in accordance with paragraph (a) above, MTC agrees to cover the difference through such other mechanisms as shall be reflected in an amendment to this Agreement prior to April 30, 2016.

(c) MTC and ABAG shall work cooperatively to develop a plan and identify reasonable parameters for the future fiscal year re-allocation of any unspent portion of the General Fund/TDA Planning funds, subject to the availability of funds and approval of appropriate contract and budget amendments by the Commission for future expenses.

(d) ABAG agrees that any FY 2015-16 State Planning Funds remaining unspent per subparagraphs (a) and (b) above and any State Planning Funds remaining unspent per Section 3, subparagraphs (a) and (b), of the originally executed agreement shall be carried over into ensuing fiscal years' Interagency Agreements for expenditure by ABAG, and as an offset to MTC's funding commitment to ABAG for those fiscal years, with a goal of providing capacity over the term of the eight-year funding framework to meet anticipated agency expenses and to offset potential lower State funding levels.

(e) Notwithstanding the foregoing, ABAG agrees that any amounts for FY 2015-16 State Planning Funds spending during FY 2015-16 in excess of $728,908 amount described in

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

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

Funding for FY 2015-16

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

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

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

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

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

METROPOLITAN TRANSPORTATION COMMISSION	ASSOCIATION OF BAY AREA GOVERNMENTS
Steve Heminger, Executive Director	Ezra Rapport, Executive Director

Attachment 1

The condition is as follows:

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