

CONTRACT FOR SERVICES

between

METROPOLITAN TRANSPORTATION COMMISSION

and

ASSOCIATION OF BAY AREA GOVERNMENTS

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CONTRACT FOR SERVICES

THIS CONTRACT FOR SERVICES (this “Agreement”) is made and entered into as of the 30 day of May, 2017, by and between the Metropolitan Transportation Commission (herein called “MTC”), a regional transportation planning agency established pursuant to California Government Code § 66500 and the Association of Bay Area Governments, (herein called “ABAG”), a Council of Governments established by agreement among its members pursuant to the Joint Exercise of Powers Act, California Government Code Sections 6500, *et seq.*

RECITALS

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”).

ABAG was created in 1961 and serves as the Council of Governments for the 101 cities/towns and nine counties that make up the region with powers and responsibilities granted to it under the laws of the State of California.

In November 2015 MTC and ABAG agreed to jointly retain Management Partners to conduct a merger study and to propose a merger implementation plan.

At the June 2016 meeting of the ABAG Executive Board, it adopted Resolution 07-16 stating its support for merger options 4 and 7 and their respective implementation action plans as presented by Management Partners, with the ABAG Executive Board acknowledging moving forward with merger option 7.

On May 25, 2016 MTC adopted Resolution No. 4245 approving an implementation plan dated May 17, 2016 for merger option 7.

ABAG and MTC have concluded that this Agreement is the preferred means for ABAG and MTC to jointly pursue their respective missions and to carry out their respective responsibilities for the benefit of the San Francisco Bay region.

TERMS AND CONDITIONS

1. DEFINITIONS

ABAG is a joint powers agency that serves as the region's Council of Governments with the statutory responsibilities and powers granted by the California Legislature including, but not limited to, (a) responsibility for preparation of portions of the region's sustainable communities strategy and (b) authority to adopt the regional housing need allocation (RHNA) plan. The ABAG Executive Board and/or its standing committees and Local Collaboration Program governing boards are referenced from time to time in this Agreement in order to represent the interests of ABAG.

ABAG Legacy Employees means the individuals identified in Section [5] of this Agreement, each of whom, as of the Effective Date, is currently an employee of ABAG and is expected, in accordance with the Employee Transition Plan, to accept an offer of employment at MTC.

ABAG Retiree means a current CalPERS annuitant who has retired from ABAG and any person who retires from ABAG.

Effective Date means the effective date of this Agreement as set forth above.

Employee Transition Plan means the plan for transitioning ABAG Legacy Employees to employment at MTC as described in Exhibit [B] to this Agreement.

Enterprise Board means the governing board of a LCP.

Local Collaboration Program (LCP) means, individually or collectively as the context may require, each of the following entities created by ABAG in collaboration with local governments to implement a regional program:

Bay Area Regional Energy Network (BayREN);

San Francisco Estuary Partnership (SFEP);

San Francisco Bay Trail (BayTrail) and Water Trail (Water Trail);

ABAG Finance Authority for Nonprofit Corporations (FAN);

ABAG Finance Authority (ABAG FA);

ABAG PLAN Corporation (PLAN);

ABAG Publicly Owned Energy Resources (POWER);

Shared Agency Risk Pool (SHARP); and

San Francisco Bay Restoration Authority (SFBRA).

MTC is a regional transportation planning agency established pursuant to California Government Code § 66500 and 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.

MTC ICAP Rate means the indirect cost allocation plan, as approved by the appropriate MTC oversight agency.

Operating Budget and Work Plan means each annual operating budget and work plan for ABAG prepared and submitted by MTC in accordance with Section [4] of this Agreement and approved by the ABAG Executive Board and, to the extent applicable, each LCP governing body. Each operating budget and work plan will describe, in detail, the scope of work to be performed by MTC and the compensation to be paid to MTC for services rendered.

Transitioned Employee means each ABAG Legacy Employee who, after cessation of his or her employment at ABAG, voluntarily accepts an offer of employment at MTC and becomes an employee of MTC.

2. PRESERVATION OF RESPONSIBILITIES AND MISSIONS OF ABAG AND THE LCPs

The parties agree to use their best efforts to preserve, serve and secure the statutory powers and responsibilities of ABAG and the mission of ABAG as the region's Council of Governments following the Effective Date, and similarly to preserve, serve and secure the respective goals and missions of the LCPs. The activities and responsibilities described in this section should be approached in a manner that acknowledges that cities and counties are important partners in regional planning and that regional land use planning must be coordinated with local land use planning in order to succeed in building high quality neighborhoods.

A list of ABAG's statutory responsibilities is attached as Exhibit [A] and may be revised to reflect changes to those responsibilities and powers made by the California Legislature without formal amendment of this contract. To ensure that the services provided under this Agreement serve the goals and missions of ABAG and the LCPs, the parties agree as follows:

2.1 The Executive Director of MTC will perform the following duties and functions with respect to ABAG and the LCPs:

- (a) attend all regular meetings of the ABAG Executive Board and key committees (Administrative Committee, Finance and Personnel Committee, Legislation and Government Operations Committee, Regional Planning Committee) unless excused in advance by the President of such board or chair of the committee, or the attendance of another MTC senior manager is mutually agreed upon;
- (b) attend meetings of the LCP governing boards at which Operating Budgets and Work Plans are adopted by and for the LCPs; and
- (c) ensure that the approved Operating Budgets and Work Plans for ABAG and for each LCP will be implemented as approved, or as modified by ABAG or the LCP, as applicable;
- (d) attend the ABAG General Assembly(ies).

2.2 The Executive Director, the Deputy Executive Director for Local Government Services, the Deputy Executive Director of Policy, and other members of the MTC senior executive team will perform the following duties and functions on behalf of ABAG and the LCPs with the help of other appropriate MTC staff as needed:

(a) keep local elected officials, government officials and stakeholders informed on key issues of concern to the Council of Governments including land use, housing, economic development, social equity, resilience, transportation, open space, energy efficiency, RHNA, Plan Bay Area, and ABAG's Local Collaboration Programs in part, by:

- (i) meeting regularly with City Managers and Planning Directors at the county level;
- (ii) meeting with elected officials at regular countywide meetings of mayors and city council members;
- (iii) meeting with ABAG delegates at the county level on a regular basis; and
- (iv) conducting a robust stakeholder engagement process.

(b) serve as the primary links between ABAG's Executive Board, Committees and Local Collaboration Programs (LCP) and the MTC executive team and staff regarding issues such as Plan Bay Area, RHNA, housing, land use and LCP programs.

(c) work with appropriate MTC staff to help coordinate the work of MTC staff and ABAG Executive Board related to creating the Annual Budget & Work Plan for ABAG and its Local Collaboration Programs.

2.3 The members of ABAG and LCP's and the members of the policy bodies of ABAG and of the LCPs will continue to have access to, and ability to interact with, the MTC staff who provide services to them, that is commensurate with their respective roles as policymakers and staff.

2.4 ABAG shall provide written reports to the Commission regarding the quality and manner in which ABAG services, programs and work products are delivered, observations on the potential reasons for any deficiencies and suggestions for improvements. The Commission will respond to such reports within 60 calendar days and take them into account when reviewing MTC's satisfactory execution of its duties under the contract.

3. SERVICES

3.1 Standard of Professional Care

In the performance of services under this Agreement, MTC will exercise professional care, skill, efficiency, and judgment commensurate with that of consultants with expertise in providing such services.

3.2 Operating Budgets and Work Plans

Except as otherwise identified in this Agreement or the applicable Operating Budget and Work Plan, MTC will assume responsibility for and perform all services and functions necessary to perform

ABAG's annual Work Plan. MTC and ABAG will develop, present, seek approval for, and implement Operating Budgets and Work Plans as provided in Section [4].

3.3 Financial Services

All ABAG finance and accounting functions, including the treasury function, will be assigned to MTC to be completed within the period from the execution date to a year thereafter, in such fashion to close out the transition of all legacy systems in an orderly manner for MTC finance.

ABAG and MTC will develop a transition plan for all ABAG financial systems, including but not limited to: (1) treasury; (2) general ledger, including accounts payable and receivable; (3) budget; and (4) payroll. The transition will occur and MTC will be responsible for all financial systems on or about July 1, 2017.

MTC rules for administration, personnel, payroll, employee relations, purchasing, contracting and other business operations shall apply to the services provided here under, to the extent to which they are compatible with ABAG policies. Notwithstanding the foregoing, ABAG contracts exceeding \$50,000 or such other amount dictated by the ABAG Executive Board, shall be approved by the ABAG Executive Board.

MTC will provide necessary financial reports prior to each ABAG Finance and Personnel Committee meeting, provided, however that such reports shall not be required more often than on a monthly basis.

3.4 Legal Services

The MTC Legal Department will provide general legal support services to ABAG and the LCPs.

- (a) Potential Legal Conflicts of Interest. If ABAG, a LCP, or MTC determines in good faith that an actual or potential conflict of interest would exist if the MTC Legal Department were to provide legal services on a specific matter, then, unless the actual or potential conflict of interest is waived by the affected entities, then the affected entity whose matter gave rise to the actual or potential conflict of interest will obtain separate legal counsel. MTC shall not withhold consent or resources to hire outside counsel for ABAG in the event a legal conflict of interest; provided that ABAG independently obtains such separate outside counsel.
- (b) Obtaining Outside Specialized Legal Services. ABAG or a LCP may request that the MTC Legal Department retain outside legal counsel to provide specialized legal services. The MTC Legal Department shall promptly respond to any such request in writing by either (i) agreeing to engage outside legal counsel and commencing to work with ABAG or the LCP, as applicable, to retain such counsel on terms and conditions acceptable to MTC, the MTC Legal Department, and the requesting party or (ii) declining to engage outside legal counsel and providing a brief explanation of the reason(s) such request is being denied.
- (c) Nothing in this Agreement prevents or impairs the ability of ABAG or the LCP to directly retain outside legal counsel, at its own respective expense.

3.5 Progress Reports

MTC will provide to the ABAG Executive Board and to the governing bodies of the LCPs quarterly progress reports in form and substance reasonably acceptable to those bodies, detailing the services provided by MTC in the preceding fiscal quarter as well as major activities anticipated in the coming quarter.

4. OPERATING BUDGETS AND WORK PLANS; STAFFING

4.1 Development and Approval

No later than January 1 of each year, the program managers of each program that is implemented, in whole or in part, for ABAG and of each program implemented for the LCPs will develop a schedule for the development of the Budget and Work Program for their respective program for the next fiscal year. Each schedule will take into account the processes and timelines for the applicable MTC, ABAG and LCP policy bodies to approve a Budget and Work Plan.

Each Budget and Work Program will include all of the following that is applicable to that program for that year:

- (a) description of programmatic activities for that fiscal year;
- (b) proposals for expansion of a current programmatic activity;
- (c) proposals for a new program (see section 4.2 regarding funding new programs);
- (d) description of programmatic activities that will be discontinued in that fiscal year;
- (e) a budget showing the revenue(s) needed to support the proposed Work Plan for that budget year;
- (f) identification of the source of the revenue(s) described in subsection (e) and
- (g) any contingency plan(s) needed to address programmatic uncertainties or budgetary shortfalls.

Each Budget and Work Plan that is approved by all the applicable MTC, ABAG and LCP policy bodies will be implemented in accordance with section 4.2. The Deputy Executive Director for Local Government Services will be responsible for securing the approval of the LCP policy bodies.

If a Budget and Work Plan is not approved by all the applicable MTC, ABAG and LCP policy bodies, the prior year's Budget and Work Plan will remain in effect until the new Budget and Work Plan is approved. The parties may at their discretion use the dispute resolution procedures contained in Section 13 to resolve any differences on proposed new Budget and Work Plans.

Following consultation with ABAG and the FAN Executive Committee, MTC will administer the current FAN portfolio in runout mode such that there will be no new debt issuance under the FAN name. During the FAN runout mode, MTC will evaluate the current FAN debt portfolio for refinancing opportunities and make recommendations to the FAN Executive Committee to authorize refinancing of

debt issues that meet credit and economic conditions developed and approved by the FAN Executive Committee. The consolidated staff working for MTC will, no later than October 31, 2017, create a successor ABAG-affiliated conduit financing authority, which shall be a new legal entity with a new name and a new governing body (the ABAG Executive Board or its designee), to continue to meet the conduit financing needs of the region and of ABAG's member jurisdictions.

4.2 Revenues

(a) The ABAG Executive Board and the LCP governing bodies will collaborate and agree on annual work plans and budgets that identify existing revenues needed to support the current work plans and obligations set forth in Section 4.1. As part of this annual process, the ABAG Executive Board and the LCP governing bodies will make best efforts and adopt strategies to identify and secure any additional revenues that may be needed to support the anticipated work plans and obligations set forth in Section 4.1 for that fiscal year. With regard to any new programs proposed by ABAG, if that program is one that solely supports ABAG's services, programs and mission, ABAG will be responsible for securing the funding for that program. If a new program is one that is jointly proposed by ABAG and MTC, the two agencies will agree on how to jointly fund the program.

(b) Throughout the term of this Agreement, MTC will provide continued financial support for ABAG's and MTC's statutory responsibilities, joint planning responsibilities and integrated work plan.

4.3 MTC Staffing

The MTC employees identified as part of the Budget approval process (which shall contain an organization chart) will be responsible, commencing as of July 1, 2017, for providing the services under this Agreement, both to ABAG and to the LCPs. Except as provided in section 6, MTC may remove, replace or add to the list of MTC employees below at any time as needed in the judgment of MTC.

5. **COMPENSATION AND METHOD OF PAYMENT**

5.1 Compensation

For the first fiscal year in which services under this Agreement commence, ABAG will pay to MTC compensation equal to the amounts scheduled to be paid under pre-existing adopted work plans and budgets for ABAG in that fiscal year.

For all subsequent fiscal years, ABAG will compensate MTC based upon amounts specified in each of the approved Operating Budget and Work Plan for such fiscal year.

Compensation structures may include, subject to budget discussions between MTC and ABAG:

- (a) total or partial cost recovery by MTC, based upon a breakdown of personnel costs, direct costs, and indirect costs;
- (b) total funding by MTC of select entities or programs;
- (c) subsidy of select entities and programs by MTC;
- (d) subsidy of select entities and programs by ABAG; and/or

- (e) subsidy of programs by one or more LCP.

5.2 Overhead and Administrative Costs

The overhead and administrative rate applied to work performed by MTC staff will be the MTC ICAP Rate except for the San Francisco Estuary Partnership (SFEP) and as the parties may otherwise agree in the applicable Budget and Work Plan or under section 5.1.

5.3 Payment Procedure and Method

ABAG will compensate MTC promptly in accordance with the payment schedule set forth in each Operating Budget and Work Plan, without netting or set-off except as agreed to in writing, in advance, by MTC in its sole discretion.

Payment to MTC will be made by wire transfer.

6. EMPLOYMENT OF ABAG LEGACY PERSONNEL

ABAG Legacy Employees are expected to become employees of MTC in accordance with the Employee Transition Plan. Each Transitioned Employee's general duties and responsibilities will be equivalent to his or her prior duties and responsibilities as an ABAG employee. ABAG agrees to terminate all employees (including but not limited to ABAG Legacy Employees) to be employed by MTC immediately prior to MTC's offer of employment to such employees. ABAG and MTC executive and human resources personnel shall coordinate the timing of such termination and offer of employment so as to effectuate a seamless and sequential termination and offer of employment with the least amount of lag time between the two events.

ABAG represents and warrants that: (a) there are no current open disciplinary actions related to employees proposed to transition to MTC and (b) the information regarding employee benefits, including its CalPERS account, retiree medical benefits, and sick account accruals provided by ABAG and inserted in the Transition Plan is complete and accurate.

Exhibit B1 identifies ABAG Legacy Employees.

6.1 Pension Obligations and Other Employee Benefits

Most ABAG Legacy Employees are currently represented by the Service Employees' International Union (SEIU), Local 1021, and are part of the California Public Employees' Retirement System (CalPERS). ABAG and MTC will cooperate and coordinate their discussions with SEIU Local 1021 and CalPERS to facilitate the transition of ABAG Legacy Employees from ABAG employment to MTC employment.

The parties hereby agree with respect to any and all Transitioned Employees that ABAG shall have no direct control over any such Transitioned Employees. Such Transitioned Employees shall be treated for all purposes as common law employees of MTC and shall have the same benefits and be subject to the same employment policies as existing MTC employees, provided however that certain accommodations shall be made on a case by case basis with regard to accrued sick time and vacation time as individual Transitioned Employee cases warrant.

ABAG agrees that it will not at any time during the term of this Agreement take any action to terminate its existing contractual relationship with CalPERS and will take all steps necessary to maintain its existing contractual relationship with CalPERS, including but not limited to making annual payments to CalPERS as required by under such contractual arrangements.

In the event CalPERS should make a determination contrary to the intent of this Agreement in respect to the common law status of the Transitioned Employees, MTC and ABAG agree to make each other whole such that the final financial consequences to each party of the CalPERS determination shall reflect the financial assumptions made at the time this Agreement was executed.

6.2 Make-Whole Provisions Regarding CalPERS Liabilities

Notwithstanding anything to the contrary in this Agreement, in the event that CalPERS makes a determination contrary to the intent of this Agreement with respect to the status of Transitioned Employees as common law employees of MTC ("Adverse Determination"), MTC agrees to make ABAG and Transitioned Employees whole, and ABAG agrees to make MTC whole, as set forth in this Section 6.2, such that the final financial consequences of the Adverse Determination shall reflect the financial assumptions made at the time this Agreement is executed.

(a) Adverse Impact on ABAG

If, as a result of an Adverse Determination, ABAG incurs a payment obligation to CalPERS with respect to service credit accrued by Transitioned Employees on or after July 1, 2017 while employed by MTC, irrespective of CalPERS' determination regarding the common law employment status of Transitioned Employees, MTC shall do the following:

(i) Provide funds to ABAG, in the manner set forth in Section 6.2(a)(ii), in an amount equal to ABAG's ongoing CalPERS liabilities with respect to pension benefits accrued by Transitioned Employees as of July 1, 2017 until the termination of their employment by MTC. The determination of any amounts due under this provision shall be made by a state-recognized actuarial entity with CalPERS expertise, selected by mutual agreement of MTC and ABAG. Such amount shall be calculated, at least annually, by reference to the normal cost and unfunded actuarial accrued liability in the annual CalPERS actuarial valuation report for ABAG, and shall include any administrative fees assessed by CalPERS on ABAG. MTC's obligations under this Section 6.2(a)(i) shall continue until ABAG no longer has an obligation to fund CalPERS liabilities with respect to service credit accrued by Transitioned Employees on or after July 1, 2017.

(ii) Upon an Adverse Determination, establish a trust under Internal Revenue Code Section 115 ("115 Trust"), for the limited purpose of prefunding pension liabilities, and shall contribute to the 115 Trust the amounts due under Section 6.2(a)(i). The 115 Trust shall be funded by MTC according to a schedule agreed upon by the parties, but no less than annually. The 115 Trust shall be held in ABAG's name in order to allow ABAG to control disbursement of funds from the 115 Trust to CalPERS in satisfaction of ABAG's CalPERS liabilities with respect to service credit accrued by Transitioned Employees on or after July 1, 2017. MTC shall have control over the investment of the 115 Trust assets.

(iii) During ABAG's continued receipt of the funds described in Section 6.2(a)(i) from MTC, the Transitioned Employees shall have sole recourse to ABAG, and ABAG will indemnify and

hold MTC harmless from any claims of such Transitioned Employees related to CalPERS retirement benefits. ABAG's indemnification obligations described in the preceding sentence shall cease in the event that MTC fails to make a scheduled funding payment under Section 6.2(a)(ii) and such failure is not corrected within 90 days of the scheduled payment date.

(b) Adverse Impact on Transitioned Employees.

If, as a result of an Adverse Determination, any Transitioned Employee does not or will not receive the CalPERS retirement benefits that he or she would receive as common law employees of MTC exclusively, MTC and ABAG will attempt to equalize retirement benefits for Transitioned Employees, such that the total CalPERS retirement benefits they will receive for service credit accrued on or after July 1, 2017 while employed by MTC are no less than what they would receive for the same service credit if CalPERS were to determine that they are common law employees exclusively of MTC. Should full equalization of benefits not be achieved after reasonable efforts by ABAG and MTC, MTC shall do the following:

(i) Make payments, no less frequently than annually, directly to each Transitioned Employee upon their retirement, in an amount equal to the difference between:

(1) The annual retirement benefit allowance that the Transitioned Employee would have received from CalPERS for service credit accrued on or after July 1, 2017 as a common law employee of MTC exclusively, and

(2) The annual retirement benefit allowance that the Transitioned Employee actually receives from CalPERS for service credit accrued on or after July 1, 2017 while employed by MTC, irrespective of CalPERS' determination regarding the common law employment status of Transitioned Employees.

The determination of any amounts due to Transitioned Employees under this provision shall be made by a state-recognized actuarial entity with CalPERS expertise, selected by mutual agreement of MTC and ABAG.

(ii) The Transitioned Employees shall have sole recourse to MTC with respect to payments under Section 6.2(b)(i), and MTC will indemnify and hold ABAG harmless from any claims related to such payments.

(c) Adverse Impact on MTC.

If, as a result of an Adverse Determination, MTC experiences adverse financial impact, such that the final financial consequences of the Adverse Determination do not reflect the financial assumptions made at the time this Agreement is executed with respect to CalPERS pension liabilities, ABAG shall make MTC whole by depositing within one fiscal year the amount determined applicable by a state-recognized actuarial entity with CalPERS expertise, selected by mutual agreement of MTC and ABAG.

(d) Administration of Corrections.

MTC will administer any corrective action required by CalPERS related to the Adverse Determination, including, but not limited to, reversal of credited service and compensation reported to CalPERS by MTC, except to the extent that the corrective action pertains to ABAG reports to CalPERS.

6.3 Changes in Employment Status

During the first fiscal year after the Effective Date, prior to making any employment change (including but not limited to termination, reassignment, or promotion) with respect to any Transitioned Employee, MTC will provide the ABAG Executive Board with 30 days prior written notice of the intended change before any action is taken. No Transitioned Employee may be terminated, reassigned, or promoted during such period without prior written notice to the ABAG Executive Board and the affected LCP, if applicable.

6.4 Employee Transition Plan

MTC will follow the terms of the Employee Transition Plan set forth in Exhibit [B], which sets forth various one-time provisions applicable to Transitioned Employees.

6.5 Plan for Staff Consolidation

Transitioned Employees will transition to MTC by July 1, 2017.

6.6 LCP Staffing and Officers

ABAG agrees to make best efforts to work with the LCPs to formally modify any relevant agreements to allow staffing at the LCPs to be contracted to MTC. In those instances in which one or more former ABAG staff members serve in “dual capacities,” sitting as officers of LCPs by virtue of their former positions within ABAG, all reasonable efforts will be made to formally modify relevant agreements or otherwise put legal arrangements in place such that MTC staff, will serve as officers of such LCPs.

6.7 SFEP Staff

The current existing staff, with the exception of the three staff performing permit work for the Regional Water Quality Control Board, will move the location of their employment from 1515 Clay Street, Suite 1400, Oakland, CA to 375 Beale Street, San Francisco, CA, at such time as the space at 375 Beale Street is ready for occupancy. MTC will pay for the costs of moving the SFEP staff to 375 Beale Street.

6.8 Pension and Medical Benefits

- (a) ABAG will retain sole financial responsibility for meeting its annual obligation for outstanding CalPERS pension obligations and retiree medical benefits, and will make meeting such obligations its highest budgetary priority permitted by law.
- (b) In the event of need to fund the obligation referenced in (a), the first priority for use of excess revenues from ABAG’s new financial services joint powers authority will be to meet the obligations referenced in subsection (a).

- (c) In the event that the ABAG dues and revenues described in subsection (b) are insufficient and ABAG is unable to meet the obligations referenced in subsection (a), MTC will use its best efforts to assist ABAG in raising new revenues required to make these payments; however in no event shall MTC be responsible for nor assume the obligation to make such payments under subsection (a) above.

7. RESPONSIBILITIES OF MTC PERSONNEL

7.1 Personnel

Attached as Exhibit [C] is the MTC organization chart identifying all of the employees of the consolidated staff as of July 1, 2017. This organization chart will be updated annually or as changes are made so that the ABAG policy bodies and LCP governing boards have up to date information on people staffing their programs.

8. GOVERNANCE STUDY

MTC and ABAG agree to conduct a governance study on the ABAG LCPs and to present the findings to the ABAG Executive Board and appropriate LCP Boards for consideration. The objective of the governance study will be to increase accountability to the ABAG Executive Board and efficiency in the operation of the LCPs.

9. RELEASE OF CLAIMS

ABAG, the LCPs, and MTC mutually agree to indemnify and hold each other harmless for any breach of this Agreement, and agree to release any and all claims between or amongst each other arising out of this agreement.

10. INSURANCE AND RISK ALLOCATION

10.1 Engagement of Consultant(s)

MTC and ABAG will jointly engage a professional risk manager and an insurance broker (who may be the same party) to develop a proposed allocation of legal risk (claims from third parties) between and among MTC, ABAG and the LCPs during the term of the Agreement. The process for selecting and engaging such party or parties will be as follows:

- (a) Not more than 60 days after the Effective Date, MTC will initiate, by procurement procedures employed by MTC in the ordinary course of business, a request for proposals/qualifications (the "Solicitation") for the services described above and to assist and advise MTC in procuring and implementing the policies and practices set forth in subsection 10.2.
- (b) MTC staff will review responses to the Solicitation and evaluate them based on factors such as responsiveness, qualifications/reputation, and cost, and will select one or more preferred providers.

- (c) MTC staff will present the choice of the selected provider(s) to the MTC Administration Committee and the ABAG Finance and Personnel Committee for approval.

10.2 Insurance Policies

Upon retention of the consultant retained pursuant to subsection 10.1, MTC will work with the consultant to undertake the following:

- (a) ABAG, the LCPs, and MTC will be insured under one blanket comprehensive general liability policy, professional errors and omissions policy (if applicable) and crime and fidelity policy. ABAG, the LCPs, and MTC will be insured under separate public officials and directors and officers errors and omissions policy
- (b) The allocation of the costs of deductibles under the policy described in the immediately preceding paragraph will be determined on a case by case bases under criteria and processes to be agreed upon by the parties after the Effective Date;
- (c) MTC will be insured under a separate employment practices policy; and
- (d) The costs of any uninsured claims made against either of the parties will be allocated on a case by case basis under criteria and processes to be agreed upon by the parties after the Effective Date.

10.3 Business and Programmatic Risks

The parties agree that existing business and programmatic risks will remain with the entity responsible for the relevant business or program.

11. NOTICES

All notices or other communications to either party by the other will be deemed given when made in writing and delivered, mailed, emailed, or faxed to such party at their respective addresses as follows:

To MTC:	Attention: Alix Bockelman Metropolitan Transportation Commission 375 Beale Street, Suite 800 San Francisco, CA 94105 Email: ABockelman@mtc.ca.gov
To ABAG:	Attention: ABAG President ABAG Vice President Chair, ABAG Finance Committee ABAG Administrative Committee members address: home address for each person Email: email address for each person cc: MTC Deputy Dir. for Local Gov't Services

12. DURATION OF AGREEMENT

This agreement and the services hereunder will continue unless terminated in accordance with the terms herein.

13. DISPUTE RESOLUTION

- (a) ABAG and MTC shall use good faith efforts to resolve all disputes informally. In the event such efforts are unsuccessful, either party may request that MTC provide a written determination as to the proposed resolution of the dispute. Within 30 calendar days of the request, the MTC Administration Committee shall provide a written determination as to the dispute, including the basis for its decision.

Upon the ABAG Administrative Committee's written acceptance of the MTC Administration Committee's determination, the Agreement may be modified and the determination implemented.

If the MTC Administration Committee's determination is not accepted by the ABAG Administrative Committee, the matter shall promptly be referred to the joint MTC board and the ABAG Executive Board for consideration.

If the joint MTC board and ABAG Executive Board cannot agree, they shall retain a facilitator to assist them in reaching a joint resolution.

- (b) For disputes described in subsection (c), if the joint MTC board and ABAG Executive Board cannot agree, said dispute shall be referred to binding arbitration using a JAMS binding arbitration panel of three (3) individuals with Governmental/Public Agency expertise selected in accordance with JAMS Rule 15 and using JAMS' Expedited Procedures without right of appeal.
- (c) Binding arbitration, as described in subsection (b), may only be used for disputes that meet the following criteria:
 - (i) limited to the interpretation of this Agreement and
 - (ii) do not arise out of, or have potential impacts on, the exercise of policy prerogatives, statutory powers or responsibilities, of either or both ABAG and/or MTC.

14. TERMINATION

14.1 Termination for Cause

If (i) MTC does not deliver the work products specified in this Agreement in accordance with the mutually agreed upon delivery schedule or fails to perform in the manner called for in the Agreement, as set forth in Section 3 of this Agreement, or (ii) if MTC or ABAG fail to comply with any other material provision of the Agreement, then (A) in the first instance under (i) ABAG may terminate this Agreement for default and (B) in the second instance under (ii) MTC may respectively terminate for ABAG's failure or ABAG may respectively terminate for MTC's failure.

Termination shall be effected by serving a thirty (30) day advance written notice of termination on the affected party, setting forth in detail the manner in which the affected party is in default. If the affected party does not cure the breach or describe to the complaining party's satisfaction a plan for curing the breach within the thirty (30) day period, commencing on the date of receipt of the notice ("Cure Period"), the complaining party may terminate the Agreement for default, subject to the procedures set forth in Section 13, which shall first require dispute resolution as set forth in Section 13(a), and if unsuccessful, arbitration as set forth in Section 13(b). The final decision in arbitration shall determine whether and when termination shall occur. In the case of (i), if MTC is working diligently to cure the alleged failure of performance, the parties will extend the Cure Period by mutual agreement. The Cure Period may be extended a maximum of six (6) thirty day periods.

If MTC's failure to perform resulted from unforeseeable causes beyond the control of MTC, such as a strike, fire, flood, earthquake or other event that is not the fault of, or is beyond the control of MTC, ABAG, after setting up a new delivery or performance schedule, shall allow MTC to continue work.

14.2 Notice of Termination

Notice will be given by Certified Mail or Personal Service to the address specified in Section 11.

14.3 Payment for Services Rendered Following Notice of Termination

MTC will be compensated for all work performed up to and including the date of termination of this Agreement, notwithstanding the delivery of any notice under this Section 14, provided that MTC will not be compensated for any work that is under dispute and identified in the notice provided under section 14.1.

15. CHOICE OF LAW

All questions pertaining to the validity and interpretation of the Agreement will be determined in accordance with the laws of the State of California applicable to agreements made and to be performed within the State.

16. PARTIAL INVALIDITY

If any term or condition of this Agreement is found to be illegal or unenforceable, such term or condition will be deemed stricken and the remaining terms and conditions will remain valid and in full force and effect.

17. BENEFIT OF AGREEMENT

The Agreement will bind and benefit the parties hereto and their heirs, successors, and permitted assigns.

18. ENTIRE AGREEMENT; MODIFICATION

This Agreement, including any attachments, constitutes the complete agreement between the parties and supersedes any prior written or oral communications. This Agreement may be modified or amended only by written instrument executed by both ABAG and MTC. In the event of a conflict

between the terms and conditions of this Agreement and the attachments, the terms of this Agreement will prevail.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the day and year first written above.

METROPOLITAN TRANSPORTATION
COMMISSION

ASSOCIATION OF BAY AREA
GOVERNMENTS



Jake Mackenzie, Chair



Julie Pierce, President

EXHIBIT A: ABAG STATUTORY RESPONSIBILITIES

EXHIBIT A: ABAG STATUTORY RESPONSIBILITIES

ASSOCIATION OF BAY AREA GOVERNMENTS¹ Statutory Roles and Responsibilities

1. Joint Exercise of Powers Act (Government Code (GC) Secs. 6500 – 6539)
 - GC Sec. 6502: If authorized by their legislative or other governing bodies, two or more public agencies by agreement may jointly exercise any power common to the contracting parties.
 - ABAG Joint Powers Agreement (attachment A), Section 1: members join for purposes articulated in the ABAG Bylaws
 - ABAG Bylaws (attachment B), Article IV: enumerates the powers that ABAG's members jointly exercise through ABAG
2. Metropolitan Transportation Commission Act (GC Secs. 66500 - 66536.2)
 - GC Sec. 66503(c): ABAG appointment to MTC
 - GC Sec. 66509(c): MTC shall consider the regional plans prepared and adopted by ABAG
 - GC Sec. 66521(D): MTC shall negotiate equitable agreements with, among others, ABAG for the contribution of funds or services for the general support of the activities of MTC
 - GC Sec. 66531(c)(3): county transportation plans may consider projections of economic and population growth from ABAG
3. San Francisco Bay Conservation And Development Commission Act (GC Secs. 66600 – 66694)
 - GC Sec. 66620(i): 4 ABAG appointments to BCDC
 - GC Sec. 66631: BCDC shall cooperate with ABAG and make maximum use of its data and information
4. San Francisco Bay Area Water Trail Act (GC Secs. 66690 – 66694)
 - GC Sec. 66694(b): BCDC shall collaborate with ABAG and the State Coastal Conservancy in developing the Water Trail.
5. SB 375
 - GC Sec. 65080(b)(2)(B) – (C)(i):
(B) Each metropolitan planning organization shall prepare a sustainable communities strategy, subject to the requirements of Part 450 of Title 23 of, and Part 93 of Title 40 of, the Code of Federal Regulations, including the requirement to utilize the most recent planning assumptions considering local general plans and other factors. The sustainable communities strategy shall (i) identify the general location of uses, residential densities, and building intensities within the region, (ii) identify areas within the region sufficient to house all the population of the region, including all economic segments of the population, over the course of the planning period of the regional transportation plan taking into account net migration into the region, population growth, household formation and employment

¹ Created pursuant to Joint Powers Act, GC Sections 6500, *et seq.*

growth, (iii) identify areas within the region sufficient to house an eight-year projection of the regional housing need for the region pursuant to Section 65584, (iv) identify a transportation network to service the transportation needs of the region, (v) gather and consider the best practically available scientific information regarding resource areas and farmland in the region as defined in subdivisions (a) and (b) of Section 65080.01, (vi) consider the state housing goals specified in Sections 65580 and 65581, (vii) set forth a forecasted development pattern for the region, which, when integrated with the transportation network, and other transportation measures and policies, will reduce the greenhouse gas emissions from automobiles and light trucks to achieve, if there is a feasible way to do so, the greenhouse gas emission reduction targets approved by the state board, and (viii) allow the regional transportation plan to comply with Section 176 of the federal Clean Air Act (42 U.S.C. Sec. 7506).

(C) (i) Within the jurisdiction of the Metropolitan Transportation Commission, as defined by Section 66502, the Association of Bay Area Governments shall be responsible for clauses (i), (ii), (iii), (v), and (vi) of subparagraph (B), the Metropolitan Transportation Commission shall be responsible for clauses (iv) and (viii) of subparagraph (B); and the Association of Bay Area Governments and the Metropolitan Transportation Commission shall jointly be responsible for clause (vii) of subparagraph (B).

6. Housing Elements [GC 65580 - 65589.8]
 - GC Secs. 65584 – 65584.1: Regional Housing Needs Allocation process
7. Joint Policy Committee (BARC) [GC Sec. 66536 – 66536.2]
 - Statute mandating the creation of the Joint Policy Committee, now the Bay Area Regional Collaborative
8. San Francisco Bay Area Water Emergency Transportation Response and Disaster Recovery Act [GC Secs 66540 - 66540.69]
 - GC Sec. 66540.32: In developing the plans described in subdivisions (a) and (b), the authority shall cooperate to the fullest extent possible with the Metropolitan Transportation Commission, the Office of Emergency Services, the Association of Bay Area Governments, and the San Francisco Bay Conservation and Development Commission. To avoid duplication of work, the authority shall make maximum use of data and information available from the planning programs of the Metropolitan Transportation Commission, the Office of Emergency Services, the Association of Bay Area Governments, the San Francisco Bay Conservation and Development Commission, the cities and counties in the San Francisco Bay area, and other public and private planning agencies
9. San Francisco Bay Restoration Authority Act [GC Secs. 66700 - 66706]
 - GC Sec. 66703(b): ABAG appoints members of the Governing Board of the Authority.
 - GC Sec. 66704(m): The Authority may use staff provided by ABAG.
10. State Coastal Conservancy [Public Resources Code (PRC) Secs. 31000 - 31410]

- PRC Secs. 31163(d)(3): To advance the preparation of the plan, the State Coastal Conservancy shall help coordinate a collaborative partnership with [BCDC], the Association of Bay Area Governments . . .

11. San Francisco Bay Area Bikeway System [PRC Secs. 5850 - 5851]

- PRC Secs. 5850: The Association of Bay Area Governments shall develop and adopt a plan and implementation program, including a financing plan, for a continuous recreational corridor which will extend around the perimeter of San Francisco and San Pablo Bays (now known as the Bay Trail).

12. Hazardous Waste Control [Health & Safety Code (H&SC)Secs. 25100 - 25259]

- H&SC Sec. 25135.3: The Association of Bay Area Governments, the Southern California Association of Governments, the Sacramento Area Council of Governments, and the Association of Monterey Bay Area Governments may, at the discretion of their governing boards, prepare a regional hazardous waste management plan to serve as a resource document.

13. Bay Area Air Quality Management District [H&SC Secs. 40200 - 40276]

- H&SC Sec. 40233(a)(2): Notwithstanding any other provision of law, [BAAQMD] shall adopt, implement, and enforce transportation control measures for the attainment of state or federal ambient air quality standards, in accordance with all of the following procedures . . . The Metropolitan Transportation Commission, in cooperation with [BAAQMD], the Association of Bay Area Governments, local entities, and employers, shall develop and adopt a plan to control emissions from transportation sources . . .

**ATTACHMENT
A**

AGREEMENT
WITH THE
ASSOCIATION OF BAY AREA GOVERNMENTS

THIS AGREEMENT, made and entered into by and between the _____ of _____ and those county and city governments within the counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma, other than the _____ of _____, who, either before or after this date, become signatories hereto: witnesseth:

WHEREAS, there is a demonstrated need for the establishment of an association of county and city governments within the San Francisco Bay Area to provide a forum for discussion and study of metropolitan area problems of mutual interest and concern to the counties and cities, and to facilitate the development of policy and action recommendations for the solution of such problems; and

WHEREAS, Title 1, Division 7, Chapter 5 of the Government Code of the State of California authorizes the joint exercise by agreement of two or more public agencies of any power common to them; and

WHEREAS, the parties hereto possess in common the power to study, discuss and recommend policies for the solution of metropolitan area problems of direct concern to the performance of their constitutional and statutory functions and to join associations and expend public funds for these purposes.

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions herein agreed, the parties hereto agree as follows:

1. Purpose of Agreement. The purpose of this Agreement shall be to provide for the participation by the _____ of _____, as a member of the

Association of Bay Area Governments (hereinafter referred to as the Association), jointly with the other county and city governments which become parties hereto in accordance with the Bylaws of said Association, which are attached hereto, and incorporated herein as part of this Agreement; provided, however, that notwithstanding the provisions of Article IX of the Bylaws, the budget for operations during the period ending July 1, 1961, shall be prepared and adopted by the Executive Committee in an amount not to exceed \$55,000; and assessments therefor shall be imposed by the Executive Committee, such assessments not to exceed the amounts that would have been paid by each member if all eligible jurisdictions had become members of the Association.

2. Agency to Administer the Agreement. The Association as constituted by this Agreement is designated as the agency to administer this Agreement.

3. Powers of Association. The Association shall have the power, in its own name, to make and enter into contracts; to employ agents and employees; to acquire, hold and dispose of property; and to incur debts, liabilities or obligations necessary for the accomplishment of the purposes of this Agreement. The exercise by the Association of the power to sue or be sued in its own name shall be subject to the restrictions on the exercise of such power applicable to the County of Alameda.

4. Contributions and Payments. Contributions in the form of yearly membership assessments shall be made annually by the parties to this Agreement from the treasuries or other available public funds of the parties for the purpose of defraying the costs of providing the annual benefits accruing directly to each party from this Agreement. All such payments of public funds shall be paid to and disbursed by the Association, which shall be strictly accountable for all funds and responsible for reporting to the parties hereto concerning all receipts and disbursements.

5. Amendment. This Agreement may be amended at any time by the written agreement of all parties to it, or by amendment of the Bylaws in the manner provided therein.

6. Duration of Agreement. This Agreement shall continue in effect until it is rescinded or terminated in the manner provided in the Bylaws; provided that the termination of the Agreement or withdrawal from membership in the Association by individual counties or cities shall not operate to terminate this Agreement.

7. Disposition of Property upon Termination. Upon termination of this Agreement, any property acquired by the Association under this Agreement shall be distributed among the parties hereto in accordance with the respective contributions of each of said parties to the cost of said property.

8. Disposition of Funds upon Termination. Upon termination of this Agreement, any money in possession of the Association after the payment of all costs, expenses and charges validly incurred under this Agreement shall be returned to the parties in proportion to their contribution determined as of the time of termination.

9. Execution of Agreement. This Agreement shall be effective upon its execution by five (5) counties and forty-two (42) cities.

10. EXECUTED BY THE _____ of _____
this _____ day of _____, 19____.

BY _____

ATTEST _____

**ATTACHMENT
B**

**BYLAWS OF
THE
ASSOCIATION OF BAY AREA GOVERNMENTS
As Amended April 23, 2009**

ARTICLE I. PURPOSE

The Association of Bay Area Governments (hereinafter "Association") is hereby created as a separate entity established by agreement among its members pursuant to the Joint Exercise of Powers Act, California Government Code Sections 6500, et seq. (hereinafter "Act"). The Association is organized for the purposes of establishing a permanent forum for discussion and study of regional and subregional problems of interest and concern to the counties and cities of the San Francisco Bay Area, developing policies and actions, and providing services and undertaking actions addressing such problems.

ARTICLE II. DEFINITIONS

A. "Agreement" means the Agreement with the Association of Bay Area Governments entered into under the Act by the Association Members.

B. "Association" means the Association of Bay Area Governments as established by the Agreement and these Bylaws.

C. "Executive Board" means the Association's President, Vice President and Immediate Past President and the body of representatives which meet from time to time as provided in these Bylaws to govern the affairs of the Association between meetings of the General Assembly.

D. "General Assembly" means the body of the delegates of the Members of the Association as set forth in these Bylaws.

E. City, county, or city and county members of the Association may be referred to as "Members."

F. "Delegate" means a delegate of a Member of the Association to the General Assembly, or the alternate acting in the delegate's absence.

G. "Representative" means a representative to the Executive Board, or the alternate acting in the representative's absence.

H. "Regional Plan" means the comprehensive plan for the San Francisco Bay Region adopted and amended from time to time by the Association.

I. "Regional Problem" means an issue concerning the public health, safety or welfare of substantially all of the Association's Members, a solution to which may require intergovernmental cooperation or assistance of the Association.

J. "Subregional Problem" means an issue concerning the public health, safety or welfare of one or more of the Association's Members, a solution to which may require intergovernmental cooperation or assistance of the Association.

ARTICLE III. MEMBERSHIP

A. MEMBERS

(1) The counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma, the City and County of San Francisco, and within the area of such counties all cities and incorporated

towns (hereinafter referred to as "cities") now existing or formed in the future are eligible for membership in the Association.

(2) All eligible cities and counties become Members of the Association upon execution of the Agreement and payment of the annual assessment and annual membership fee.

B. COOPERATING MEMBERS

(1) Subject to the approval of the Executive Board or the Executive Director as set forth in Article III.B(4), any governmental entity, public agency, or non-profit organization not eligible for membership under Article III.A of these Bylaws may elect to join the Association as a Cooperating Member.

(2) Cooperating Members shall be entitled to attend all meetings of the General Assembly and of the Executive Board, but shall not be entitled to vote or participate in debate. No Cooperating Member shall be considered a "contracting party" as that term is used in the Act.

(3) Cooperating Members shall be entitled to receive data, studies, planning documents, special services, and other written materials and services of the Association subject to policies adopted by the Executive Board.

(4) (a) The Executive Director of the Association may approve the admission of any governmental entity or public agency electing to join the Association as a Cooperating Member pursuant to this Article III.B.

(b) The Executive Board of the Association may approve the admission of any non-profit organization electing to join the Association as a Cooperating Member pursuant to this Article III.B.

ARTICLE IV. POWERS

A. GENERAL

The Association may exercise in its own name the following powers when the exercise of these powers is necessary to, in furtherance of, or in support of the Association, the exercise of any other powers provided for in these Bylaws or the Agreement, or any other authorized activity undertaken by the Association: make and enter into contracts, memoranda of understanding, and other agreements; employ and appoint employees and agents; acquire, hold, protect, dispose of, construct, operate, and maintain real and personal property; incur debts, liabilities, obligations, and encumber or hypothecate real or personal property; sue and be sued; and, accept grants, gifts, donations, and other monies.

B. INFORMATION GATHERING

The Association may request, collect, store, correlate, transfer, and otherwise manage information and data in any manner necessary to, in furtherance of, or in support of the exercise of any other power under this Article or any other authorized activity undertaken by the Association.

C. STUDIES

The Association may perform studies to identify and/or analyze regional or subregional problems, the purpose and subject matter of such studies to be determined as provided in these Bylaws.

D. REGIONAL PLANNING

The Association shall have the power to perform regional or subregional planning without limitation as to subject matter:

- (1) that it is eligible or authorized to do; or,
- (2) that it is required to do under State or Federal authority; or,
- (3) that is authorized under other provisions of these Bylaws or as a result of the Association's studies of regional or subregional problems.

E. POLICIES AND ACTIONS

- (1) The Association may develop and adopt policies and/or actions.
- (2) The Association may advocate and otherwise act to advance its positions, studies, plans, and policies both within and outside the region and may accept delegations of authority from Federal, State, regional, or local bodies to this end.

F. INTERAGENCY COOPERATION

- (1) The Association may appoint representatives, in its own name, to other agencies, Boards, commissions, or official bodies to which it is required or eligible to make appointments.
- (2) The Association may perform and participate in governmental coordination and respond to efforts at such coordination.
- (3) In the exercise of its powers under Article IV.F(1) and (2), the Association may request or transmit information or studies; exercise any voting or veto power given to it; participate in grant applications, administration, and disbursements; and, do any other acts necessary to or in support of the exercise of such powers.

G. INFORMATION, SERVICES, AND ASSISTANCE

- (1) The Association may provide information, assistance, services, studies, plans, recommendations, and reports or such other information, assistance, and services requested by specific Members or nonmembers. Information, services, and assistance may include, without limitation, preparing or making of grant applications on behalf of or in conjunction with Members, training programs for local government staff, technical assistance on particular projects, or review of particular projects. The Association may provide information, assistance and services in conjunction with other entities and may organize and/or participate in committees, task forces, and subsidiary entities necessary to or in support of this or its other powers.
- (2) The Association may charge reasonable fees for information, services, and assistance that it provides.

H. POWER TO FINANCE PROPERTY FOR MEMBERS.

The Association shall have the power to finance and acquire, by lease purchase, installment sale or other financing agreements, both real and personal property necessary or convenient for the operation of the Members and Cooperating Members, and to sell or lease such property to such members pursuant to installment sale or lease purchase agreements between the Association and the members acquiring such property.

I. SELF-INSURANCE POOLS

Pursuant to Government Code Sections 989-991.2 and Labor Code Section 3700, as may be amended from time to time, ABAG shall have the power to provide insurance for some or all of its Members through self-insurance or the purchase of insurance, excess insurance or reinsurance against public liability, errors and omissions, inverse condemnation or workers' compensation; and, further, shall have such other reasonable and necessary powers, which are necessary or convenient to further, support or implement the self-insurance program,

including without limitation, financing self-insurance reserve funds through the issuance of certificates of participation, or other instruments of indebtedness.

J. OTHER POWERS

The Association may exercise other reasonable and necessary powers in furtherance or support of any purpose of the Association or power granted by the Act, the Agreement, or the General Assembly or the Executive Board as provided for in these Bylaws.

ARTICLE V. RESTRICTIONS ON POWERS

Pursuant to Articles 1 and 5 of the Agreement and to the extent required by Government Code Section 6509, the Association shall be restricted in the exercise of its powers in the same manner as the City and County of San Francisco is restricted in its exercise of similar powers; provided that, if the City and County of San Francisco shall cease to be a Member of the Association, then the Association shall be restricted in the exercise of its powers in the same manner as the County of Alameda.

ARTICLE VI. GENERAL ASSEMBLY

A. MEMBERSHIP

(1) Each Member city and Member county shall have one seat in the General Assembly. San Francisco shall be counted as both a city and a county for purposes of membership in the General Assembly.

(2) The mayor or member of the governing body of each Member city and the chairperson of the board of supervisors or member of the governing body of each Member county, or their respective alternates, shall be delegates to the General Assembly.

(3) Each city council and board of supervisors may designate an alternate who shall be either a member of such body or the chief executive officer of the Member; provided that, the mayor of the City and County of San Francisco may designate as an alternate (a) any officer of the City and County of San Francisco who may be either an elected or principal appointed official of the City and County of San Francisco or (b) the chief executive officer of the City County of San Francisco.

(4) An alternate appointed pursuant to Article VI.A(3) may act in the absence of the delegate.

B. MEETINGS

(1) The time, date, and location of the annual meeting of the General Assembly shall be determined by the Executive Board, provided it is no later than June 30.

(2) Notice of the annual meeting of the General Assembly shall be given to the delegates of each Member city and Member county at least thirty (30) days prior to the meeting. An agenda for the meeting shall accompany the notice.

(3) Special meetings of the General Assembly may be called by the Executive Board upon its own motion. A special meeting shall be called by the Executive Board upon written request of fifteen (15) Member cities and three (3) Member counties.

(4) Ten-day written notice of special meetings shall be given to the delegates of each Member city and Member county. An agenda specifying the subject of a special meeting shall accompany the notice.

C. POWERS AND FUNCTIONS

The powers and functions of the General Assembly shall include:

- (1) Exercising as appropriate all of the powers of the Association as set forth in these Bylaws or the Agreement. The General Assembly shall have the power to limit the Executive Board's exercise of any power or authority set aside to the Executive Board under these Bylaws.
- (2) Any delegate may at any meeting of the General Assembly propose a subject or subjects for study by the Association. The General Assembly may take action upon such proposals and, if requested by any delegate, determine whether a study will be made of the subject or subjects so proposed or may refer such subject or subjects to the Executive Board.
- (3) Any delegate may at any meeting of the General Assembly request review by the General Assembly of any action of the Executive Board which has been taken between meetings of the General Assembly.
- (4) The budgetary duties and responsibilities set forth in Article XI.

ARTICLE VII. EXECUTIVE BOARD

A. EXECUTIVE BOARD

There shall be an Executive Board of the Association which shall be organized and shall be responsible for functions as hereinafter set forth:

(1) Voting Membership. The voting membership of the Executive Board shall consist of a maximum of 38 voting members (representatives and ex officio members). The representative shall be either a councilmember of a Member city or a supervisor of a Member county of the Association, or be eligible to be Executive Board representative or alternate representative from the City and County of San Francisco under Article VII.A(1)(e), if that jurisdiction is an Association member. Representatives to the Executive Board shall be selected as follows:

(a) Alameda County. Two representatives of the county to be appointed by the Board of Supervisors; two representatives of Member cities within the county to be appointed by the mayors of Member cities meeting in conference, and three representatives to be appointed by the City Council of the City of Oakland.

(b) Contra Costa County. Two representatives of the county to be appointed by the Board of Supervisors; two representatives of Member cities within the county to be appointed by the mayors of Member cities meeting in conference.

(c) Marin County. One representative of the county to be appointed by the Board of Supervisors; and one representative of Member cities within the county to be appointed by the mayors of Member cities meeting in conference.

(d) Napa County. One representative of the county to be appointed by the Board of Supervisors; and one representative of Member cities within the county to be appointed by the mayors of Member cities meeting in conference.

(e) San Francisco City and County. The Mayor and one other elective officer or member of the Mayor's staff of the City and County appointed by the Mayor; two representatives of the City and County appointed by the Board of Supervisors, and a fifth representative to be appointed alternately by the Mayor and the Board of Supervisors, with two-year appointments beginning in years evenly divisible by four to be made by the Mayor and with two-year appointments made in even-numbered years not evenly divisible by four to be made by the Board of Supervisors. When such fifth representative is selected by the Mayor, the representative may be an elective or appointive officer or member of the Mayor's staff of the City and County.

(f) San Mateo County. Two representatives of the county to be appointed by the Board of Supervisors; two representatives of Member cities within the county to be appointed by the mayors of Member cities meeting in conference.

(g) Santa Clara County. Two representatives of the county to be appointed by the Board of Supervisors; two representatives of Member cities within the county to be appointed by the mayors of Member cities meeting in conference, and three representatives to be appointed by the City Council of the City of San Jose.

(h) Solano County. One representative of the county to be appointed by the Board of Supervisors; and one representative of Member cities within the county to be appointed by the mayors of Member cities meeting in conference.

(i) Sonoma County. One representative of the county to be appointed by the Board of Supervisors; and one representative of Member cities within the county to be appointed by the mayors of Member cities meeting in conference.

(j) President, Vice President and Immediate Past President. The President, Vice President and Immediate Past President of the Association shall be ex-officio voting members of the Executive Board, but shall not be representatives or alternates.

(k) Alternates. Each of the appointing bodies named in Article VII.A(1)(a)-(i) may designate an alternate for each of their representatives to act in the representative's absence. Appointments of alternates shall be made in the same manner, with the same qualifications and for the same term as representatives.

(2) Advisory Membership. The Association shall maintain effective communication and coordination with agencies of the State of California and the United States of America. To that end, the Executive Board shall invite, following nomination by the Association's President, such representatives of state and federal governments as it deems appropriate and desirable as advisory, non-voting members of the Executive Board. Such members shall serve at the pleasure of the Executive Board. No advisory member shall be considered a "contracting party" as that term is used in the Act.

(3) Terms of Office. Representatives shall serve for terms of two years. Appointments of representatives to the Executive Board shall become effective biennially on July 1.

(4) Staggered Terms. The terms of the representatives to the Executive Board shall be staggered so that the terms of approximately one-half of the representatives expire each year. The terms of the representatives of the cities in the counties of Alameda, Marin, Napa, San Francisco (mayor and representative), and Santa Clara, and the representatives of the counties of Contra Costa, San Mateo, Solano, and Sonoma shall expire in the even-numbered years; the terms of the representatives of the cities in the counties of Contra Costa, San Mateo, Solano, and Sonoma, and the representatives of the counties of Alameda, Marin, Napa, San Francisco (representatives of the Board of Supervisors), and Santa Clara shall expire in the odd-numbered years.

(5) Officers. The President and the Vice President of the Association shall be Chairperson and Vice Chairperson, respectively, of the Executive Board.

(6) Duties.

(a) The Executive Board shall have the budgetary duties and responsibilities set forth in Article XI.

(b) The Executive Board shall submit a full report of its activities at the General Assembly's annual meeting.

(c) The Executive Board shall have the authority to appoint, fix the salary of, and remove an Executive Director of the Association and shall have the authority to create and discontinue positions in the office of the Executive Director and fix salaries.

(d) Subject to any constraint or limitation imposed by the General Assembly, the Executive Board shall exercise all powers of the Association between meetings of the General Assembly; provided that, the Executive Board shall not amend these Bylaws, nor shall it exercise the budgetary powers reserved to the General Assembly under Article XI of the these Bylaws.

(e) The Executive Board shall be responsible for carrying out policy decisions made by the General Assembly.

(f) Recommendations from committees for policy actions shall be made to the Executive Board. Unless otherwise directed by the General Assembly, the Executive Board may take action on such recommendations.

(7) Per Diem. Each voting member of the Executive Board, or of a standing and/or joint committee, and where expressly designated by the Executive Board, individuals participating in special committees, task forces or other meetings, shall receive a per diem of \$150 for each meeting attended. The per diem shall be paid for a maximum of forty-eight (48) meetings per year. Per diem may also be received by a Board or committee member representing the Association before an agency or body of the State or Federal government.

B. MEETINGS

The Executive Board shall meet at least four times each year. Additional meetings shall be held upon the call of the Chairperson or upon the call of five voting members of the Executive Board.

C. ADMINISTRATIVE COMMITTEE

There shall be an Administrative Committee of the Executive Board of the Association whose composition shall be determined by the Executive Board and which shall, subject to any constraint or limitation imposed by the Executive Board or the General Assembly, exercise all powers of the Executive Board between meetings of the Executive Board; provided that, the Administrative committee shall not:

- (1) Amend the Agreement or Bylaws;
- (2) Exercise the budgetary duties of the Executive Board set forth in Article XII;
- (3) Appoint, fix the salary of, or remove an Executive Director of the Association;
- (4) Exercise the powers of appointment of officers as set forth in Article IX.

The Administrative Committee shall meet upon the call of the President or Vice President and in compliance with the Ralph M. Brown Act. Further, the Administrative Committee shall submit a full report of its activities to the Executive Board at the first meeting immediately following the Administrative Committee meeting.

ARTICLE VIII. VOTING

A. Voting in the General Assembly shall be conducted in the following manner:

(1) A quorum of the General Assembly shall consist of a majority of the city delegates and a majority of the county delegates.

(2) Each county delegate and each city delegate shall have one vote. Votes shall be tabulated separately for county delegates and for city delegates. The affirmative votes of a majority of a quorum of county

delegates and of a majority of a quorum of city delegates are required for action by the General Assembly, except as provided for in Article XIV.

B. Voting in General Assembly meetings may be either by voice or roll call vote. A roll call vote shall be conducted upon the demand of five delegates present, or at the discretion of the presiding officer.

C. Voting in the Executive Board shall be conducted in the following manner:

(1) A majority of the voting members of the Executive Board shall constitute a quorum.

(2) The affirmative votes of a majority of the quorum are required for action by the Executive Board with the exceptions set out below.

(3) In order to recommend the annual budget to the General Assembly, the affirmative vote of not less than a majority of the voting members of the Executive Board is required.

(4) In order to appoint or remove the Executive Director, the affirmative vote of not less than a majority of the voting members of the Executive Board is required.

D. Except as the Executive Board may otherwise provide, all other committees of the Association may act upon the affirmative vote of a majority of the committee members present.

ARTICLE IX. OFFICERS, ELECTIONS AND VACANCIES

A. Officers of the Association shall be:

(1) The President, who shall serve as Chairperson of the Executive Board and General Assembly.

(2) The Vice President, who shall serve as Vice Chairperson of the Executive Board and General Assembly.

(3) The Immediate Past President.

(4) An Executive Director and a Legal Counsel to be appointed by and serve at the pleasure of the Executive Board.

B. The President and Vice President of the Association shall be elected biennially by secret ballot of supervisors, mayors and city councilmembers of member jurisdictions. Nominations for the offices of the President and Vice President shall be by petition of at least fifteen (15) mayors, councilmembers or supervisors. A plurality vote shall be required for election to any office. All other election procedures shall be determined by the Executive Board, provided that these procedures shall be disseminated to all member jurisdictions at least thirty (30) days prior to the date determined and designated for counting of secret ballots. If, at the close of nominations, only one candidate is nominated for President or for Vice President, the election procedures may waive the ballot requirement and provide, instead, that the nominee be declared elected to that office.

C. The President and Vice President shall be either a councilmember of a Member city or a supervisor of a Member county of the Association, or a General Assembly delegate or alternate or Executive Board representative or alternate representative from the City and County of San Francisco if that jurisdiction is an Association member.

D. The terms of office of the President and Vice President shall be determined as follows:

(1) Except as otherwise provided in this section, the term of office of the President, Vice President and Immediate Past President is two (2) years.

(2) If the President vacates his/her office as required by Article IX.C. or any other reason, the Vice President shall assume the office of President for the balance of the original term. If the balance of the original term is less than five hundred forty-eight (548) calendar days, then the new President may choose to run for an additional one (1) year term as President. The new President shall notify the Executive Board no later than September 1 of the year in which the original term ends whether he/she shall run for an additional one (1) year term. The President's election to run for an additional one (1) year term shall also modify the term of office of the Vice President to conform to that of the office of the President.

(3) Article IX.B. shall govern the special elections for one (1) year terms in all other respects.

(4) In the event that the President is disabled or for any other reason temporarily unable to act, the Vice President shall act in place and perform the duties of President until return or recovery from disability.

(5) In the event of a vacancy in the office of Vice President due to the Vice President's permanently serving as President, vacating the office as required by Article IX.C., or for any other reason, the Executive Board shall fill the office of Vice President by appointment for the unexpired portion of the Vice President's term. In the event of a simultaneous vacancy in the offices of President and Vice President due to their vacating the respective offices as required by Article IX.C., or any other reason, the Executive Board shall fill both offices by appointment for the unexpired portion of the respective terms. In either event, the procedures of Article IX.I shall govern the process of filling said vacant office.

E. A newly elected President and Vice President shall take office on January 1 of the year following certification of the election results.

F. The President, subject to the advice and consent of the Executive Board, shall appoint committees and determine the committees' structure, charge, size and membership. Committees may be established to consider any matter within the jurisdiction of the Association. Committees shall operate according to the policies adopted by the Executive Board, and shall submit their reports and recommendations to the Executive Board. Committees shall meet on the call of their chairpersons, who shall be (1) an elected official or the elective or appointive officer of the City and County of San Francisco appointed by the Mayor of the City and County of San Francisco to the Executive Board or General Assembly, and (2) a member of such committee; and who shall be elected by the members of each committee. At the initial meeting of each committee, and annually thereafter at the first committee meeting following January 1 of each year, the committees shall elect their chairpersons and such other officers as may be specified. Committee chairpersons shall be subject to confirmation by the Executive Board. Unless otherwise authorized by the Executive Board, committees of the Association shall be advisory.

G. Each delegate or alternate to the General Assembly and each representative or alternate to the Executive Board shall cease to be such immediately upon ceasing to hold the elective or appointive office which is required of a delegate or representative or their alternates under VI.A or VII.A(1).

H. In the event that any delegate or alternate to the General Assembly or any representative or alternate to the Executive Board shall for any reason cease to hold the elective or appointive office which is required of a delegate or representative or their alternates under Article VI.A or VII.A(1), the vacancy created thereby shall be filled for the unexpired term, in the same manner and with the same qualifications as the original appointment.

I. The Executive Board shall fill the office of Vice President or President pursuant to Article IX.D., at the first meeting of the Executive Board held after the occurrence of the event which causes the office(s) to be vacated. The meeting shall be chaired by the President, or if said office is vacant, by the Immediate Past President. Nominations for the vacant office(s) may be made from the floor. All nominations require a second. The office(s) may be filled only if a nominee receives a majority vote of the members of the Executive Board constituting the quorum for that meeting. If no nominee receives a majority vote on the first ballot, the two nominees receiving the highest number of votes shall be voted upon again until one of them receives a majority vote. If the selection process results in a tie, or no nominee receives a majority vote after three rounds of balloting, the acting Chairperson of the Executive Board may, at his or her discretion, decide the matter by lot between the two nominees then remaining.

ARTICLE X. EXECUTIVE DIRECTOR

The Executive Director shall be the Chief Administrative Officer of the Association. The powers and duties of the Executive Director are:

- A.** To appoint and remove all employees of the Association.
- B.** To perform the budgetary duties and responsibilities of the Executive Director as set forth in Article XI.
- C.** To serve as Secretary-Treasurer of the Association and of the Executive Board.
- D.** To perform such other and additional duties as the Executive Board may require.

ARTICLE XI. FINANCES

A. FISCAL YEAR

The fiscal year of the Association shall commence on July 1.

B. BUDGET

(1) At least forty-five (45) days prior to the annual meeting of the General Assembly the Executive Director shall submit to the Executive Board, for the next fiscal year of the Association, a proposed general budget and summary work program. The proposed general budget shall include annual membership fee and assessment schedules and a summary of revenue and expenditures, actual or projected, for the preceding, current, and next fiscal years.

(2) The Executive Board shall review the proposed general budget and summary work program, amend them as necessary, and submit them to the General Assembly for review and adoption at the annual meeting of the Assembly.

(3) The General Assembly shall adopt a summary work plan and general budget, including yearly membership assessment and annual membership fee.

(4) The Executive Board shall adopt a detailed budget and work program on or before July 1 of each year, and thereafter monitor their execution and amend them as necessary. The work program shall give effect to any priorities set forth in the general budget and summary work program, unless financially infeasible.

(5) The Executive Director shall manage all expenditures, subject to control of the Executive Board. The Executive Board shall have power to transfer funds within the total detailed budget to meet unanticipated needs or changed situations. Such action shall be reported to the General Assembly at its next meeting.

C. YEARLY MEMBERSHIP ASSESSMENT

The amount of each Member's assessment shall be determined in accordance with the formula set out in Paragraph D following. Any Member city or county whose annual assessment and annual membership fee has not been paid by the time of the annual meeting of the General Assembly shall not be entitled to vote at such meeting.

D. METHOD OF ASSESSMENT

The annual assessment for members of the Association shall be based upon population as determined by the State Controller in making the most recent allocations to counties and cities pursuant to California Revenue and Taxation Code Section 11005, except that, beginning in 1987-88, in the case of newly incorporated cities, until such time as an official census is conducted and population is established therewith, the population as estimated by the Executive Director shall be used for assessment purposes.

- (1) The General Assembly shall adopt a per capita rate or rates of assessment for each fiscal year.
- (2) For purposes of assessment San Francisco shall be considered as both a city and a county.

E. ANNUAL AUDIT

The Executive Board shall cause an annual audit of the financial affairs of the Association to be made by a certified public accountant at the end of each fiscal year. The Executive Board shall employ a certified public accountant of its choosing. The audit report shall be made available to Association member counties and cities.

F. ANNUAL MEMBERSHIP FEE

The membership fee shall be uniform for all members of the Association and shall not be less than \$10.00 per month or \$120.00 per year.

G. DATE OF PAYMENT

Unless a Member has withdrawn as provided in Article XIII of these Bylaws, the Member's annual assessment and annual membership fee shall be due and payable to the Association on July 1 of the fiscal year for which it is levied.

ARTICLE XII. STATUTORY AUTHORITY

The Association is an agency established by a joint powers agreement among the Members pursuant to Title 1, Division 7, Chapter 5, of the Government Code of the State of California. The Association is an entity separate and apart from its Members. The debts, liabilities and obligations of the Association shall not be debts, liabilities or obligations of the Association's Members.

ARTICLE XIII. WITHDRAWAL

Any member county or city may, at any time up to 30 days prior to the beginning of the Association's fiscal year, withdraw from the Association effective the next fiscal year; provided that the intent to withdraw must be stated in the form of a resolution executed by the legislative body of the jurisdiction wishing to withdraw. The resolution must be given to the Executive Director at least 30 days prior to the effective date of the withdrawal.

ARTICLE XIV. AMENDMENTS

Amendments to these Bylaws may be proposed by a delegate or by the Executive Board. If proposed by a delegate, the amendment shall be submitted to the Executive Board at least 45 days prior to an annual meeting of the General Assembly. Each proposed amendment shall be considered by the Executive Board and a copy thereof, with the recommendations of the Executive Board and its reasons therefor, forwarded to the delegate of each Member jurisdiction at least 30 days prior to the meeting at which such proposed amendment will be voted upon.

A majority vote of the county delegates present and a majority vote of the city delegates present are required to adopt an amendment to these Bylaws. If within 60 days after the adoption of any amendment, one-third or more of the delegates protest such amendment, it shall automatically be up for reconsideration and vote as in the first instance.

ARTICLE XV. EFFECTIVE DATE

These Bylaws shall go into effect immediately upon the effective date of the Agreement.

EXHIBIT B: EMPLOYEE TRANSITION PLAN

Employment Offer Specifics for MTC/ABAG Staff Consolidation	
	<p><u>Position Design and Organizational Placement</u></p> <p>Exhibit B1 details the positions transitioning to MTC including the ABAG Legacy Employee being offered the position, position title, section, classification, and grade level.</p>
	<p><u>Employment Offers</u></p> <ul style="list-style-type: none"> • The specific salary being offered <ul style="list-style-type: none"> ○ Salaries will be at least equivalent to ABAG salaries plus a minimum 7% increase to address any per payroll net differences due to MTC benefit cost-share costs ○ MTC shall adjust recommended step offers (within the same classification) to ensure that MTC step offers are more in line with ABAG steps in relation to one another, provided that no one receives more than a 15 % raise as a result of this step adjustment (staff may receive more than 15 % to get to the recommended classification). This will not map the top of ABAG class with the top of MTC class, but will ensure that merit and tenure steps at ABAG are recognized relative to one another. • Accrued but unused ABAG sick leave benefit hours which will be kept as a personal sick leave benefit bank with MTC. This personal sick leave balance is not eligible for donation to MTC's catastrophic leave bank. • Full time or Part time status <ul style="list-style-type: none"> ○ Annual salary equivalents determined by annual hours worked prorated appropriately for less than Full time employment • 9/80 alternate work schedule confirmation • ABAG service tenure
	<p><u>Other Special Considerations</u></p> <ul style="list-style-type: none"> • No probationary period • Waive background checks • Waive submittal of resume or application • ABAG service tenure will be considered in addition to MTC tenure for purposes of calculating vacation accrual rate, service recognition events, and any layoff/reinstatement actions (as needed per EDMM 295). • MTC agrees to evaluate the current ABAG class (P3) that are transitioning to MTC as Associates (VIIIa) for eligibility to be reclassified to MTC Seniors (VIIIb) by December 31, 2017.

Employment Offer Specifics for MTC/ABAG Staff Consolidation	
	<p>Performance Evaluation Program</p> <p>To provide continuous performance evaluations and salary merit increases acknowledging tenure at ABAG, ABAG and MTC will do the following:</p> <ul style="list-style-type: none"> • ABAG will ensure all employees are caught up on performance reviews and their salaries are at the correct level before transitioning to MTC. • MTC will include all Transitioned Employees in the annual performance evaluation cycle for 2017. The first performance year being evaluated is September 1, 2016 through August 31, 2017. • Transitioned Employees will have a mid-cycle performance evaluation in March of 2018 to confirm the performance rating for the 2017 performance evaluation cycle with the merit increase level effective on July 1, 2018 for individuals not at the top of their salary range. <p>To address the two career ladder classifications with years of service eligibility requirements (Assistant Grade VII to Associate Grade VIIIa and Associate Grade VIIIa to Senior VIIIb), the eligibility for reclassification consideration of staff transitioning will be as follows:</p> <ul style="list-style-type: none"> • For those transitioning as Assistant Grade VII, eligibility consideration for Associate Grade VIIIa will be after 1 year if ABAG tenure is greater than or equal to 2 years; and • For those transitioning as Associate Grade VIIIa, eligibility consideration for Senior Grade VIIIb will be after 1 year if ABAG tenure as a P3 is greater than 5 years or at the time that ABAG plus MTC service years as a P3 or Associate equivalent is greater than or equal to 5 years.
Benefit Program Customization for MTC/ABAG Staff Consolidation	
	<p>Provide MTC vacation accrual based on ABAG service tenure. Exhibit B2 is MTC's vacation leave accrual table.</p>
	<p>Three additional paid Personal Leave days will be available from July 1 through December 31, 2017. Along with the regular two Personal Leave days granted per standard MTC policy to individuals hired between May and August, Transitioned Employees will receive five paid Personal Leave days at the point of hire. These first five Personal Leave days must be used by December 31, 2017 or be forfeited, with no exceptions.</p> <p>In addition, Transitioned Employees may use vacation time benefits immediately upon accrual and may take additional time upaid as needed within the first year up to two weeks or 80 hours total.</p> <p>Requests for other additional time off subject to supervisor approval.</p>

Employment Offer Specifics for MTC/ABAG Staff Consolidation	
	Recognize and keep on the books actual sick leave accrual from ABAG. There would be two accounts, ABAG sick accrual and the new accrual once an MTC employee. The MTC accrual would be subject to the payout of up to 240 hours and the ABAG accrual would not. ABAG sick accrual would not count toward CalPERS service credit, once an MTC employee.
	<p>Confirm that CalPERS pension Classic Plan eligible employees go into MTC's classic plan and New Plan eligible employees go into MTC's new plan.</p> <ul style="list-style-type: none"> Cannot make any custom arrangements with plan enrollment as is set by employer contract with CalPERS and regulated by CA Public Employees' Retirement Law

Summary of Benefits: MTC Full-Time Regular Represented and Confidential Employee Positions (Except as otherwise noted and excluding executive employees)	
Fiscal Years 2014-2015, 2015-2016, 2016-2017 and 2017-2018	
<u>SALARY TABLES</u>	Salary administration is regulated per compensation policy and the MTC Employee Handbook.
Salary Adjustments	<p>Effective July 1, 2014, salary tables shall be adjusted by 2.6%.</p> <p>Each following July 1 during this MOU period, salary tables shall be adjusted as follows:</p> <p>July 1, 2015 – 2.6% July 1, 2016 – 2.6% July 1, 2017 – 2.6%</p>
Merit Program	Pay step adjustments within range subject to policy guidelines.
<u>PAID LEAVE BENEFITS</u>	Use of all paid leave benefits is regulated per leave policy and the MTC Employee Handbook unless otherwise stated in this document.
Holidays	Eleven (11) days per year for full time employees. No minimum service required for eligibility.
Funeral Leave	Up to three 3 days (24 hours), on the basis of need, in the case of the death of a defined family member or member of employee's household. No minimum service required for eligibility. This benefit has no cash value and is not payable upon employment separation.

Summary of Benefits: MTC Full-Time Regular Represented and Confidential Employee Positions (Except as otherwise noted and excluding executive employees)	
Personal Leave Days	<p>Up to 3 personal leave days (24 hours) are granted at the beginning of each calendar year. The number of personal leave days granted to new employees is prorated as follows:</p> <p style="text-align: center;">January through April – 3 days May through August – 2 days September through November – 1 day December – 0 days</p> <p>In the event that Personal Leave Days are accrued but unused at the end of a calendar year, the employee will receive an amount to start the new calendar year at a maximum of three days. Personal Leave Days are not payable upon employment separation.</p> <p>Transitioned Employees will receive three additional Personal Leave Days at hire on July 1, 2017. These additional days will be available for use through December 31, 2017 only.</p>
Vacation Leave Benefits	<p><u>Accrual of Vacation Leave Benefits</u></p> <ul style="list-style-type: none"> ○ One day (8 hours) per month worked starting with the first day of employment. Prorated for new hires based on first working day of employment within the month. ○ Addition of one more day (8 more hours) each additional year worked up to a maximum of 13 additional days (104 hours) for a total annual benefit of 25 days (200 hours) a year is reached. ○ Transitioned Employees will start accruing based on their service tenure with ABAG (example, an eight year ABAG employee starts accruing at MTC's eight year rate). ○ Accrued to a cap of 62.5 days (500 hours). Once the cap (500 hours) is reached, all vacation accrual stops until such time that the vacation balance falls below the cap (500 hours). If the vacation accrual is larger than the difference between the vacation balance and the 500 hour cap, individuals will receive only a fraction of their bi-weekly vacation accrual for that pay period bringing their vacation balance to 500 hours. ○ Employees working an average of 40 hours over a two-week pay period, but less than 72 hours over a two-week pay period will receive prorated benefits. ○ All vacation leave benefits are accrued and available for use with each bi-weekly pay period

Summary of Benefits: MTC Full-Time Regular Represented and Confidential Employee Positions (Except as otherwise noted and excluding executive employees)	
	<p><u>Annual Vacation Cash Out Option</u> Once a twelve month period, employees may cash-out accrued but unused vacation leave over 320 hours up to cap of 500 hours. Payment will be made at the employee's current hourly rate and is considered taxable earnings. Payment is subject to any and all applicable deductions.</p>
	<p><u>Payment Upon Separation</u> Accrued but unused vacation time off benefits up to the maximum accrual of 62.50 days or 500 hours are payable upon employment separation at the hourly rate earned by the employee at the time of employment separation. Payment will be in one lump sum and is subject to any and all applicable deductions.</p> <p><u>Use of Benefit</u> Transitioned employees may use accrued vacation time off benefits per policy immediately upon accrual and may request additional unpaid time off for vacations above accrued benefit levels up to two-weeks or 80 hours of vacation total within the first year of employment.</p>
Sick Leave Benefits	<p><u>Accrual of Sick Time Off Benefits</u></p> <ul style="list-style-type: none"> ○ One day (8 hours) per month worked starting with the first day of employment. Prorated for new hires based on first working day of employment within the month. ○ Employees working an average of 40 hours over a two-week pay period, but less than 72 hours over a two-week pay period will receive prorated benefits. ○ Sick time off benefit is accrued without a cap. <p><u>Payment Upon Separation</u> Accrued but unused sick time off benefits up to a maximum of 30 days or 240 hours are payable upon employment separation at the hourly rate paid the employee at the time of employment separation. Payment will be in one lump sum and is subject to any and all applicable deductions.</p> <p><u>Personal Sick Leave Bank</u> Transitioned employees will have a personal sick leave benefit bank totalling their accrued but unused sick leave hours upon separation from ABAG employment. This bank is available for use until exhausted. This bank is not eligible for payout upon employment separation from MTC or for donation to MTC's catastrophic leave bank.</p> <p><u>Use of Benefit</u> Employees may use accrued sick leave benefits per policy as soon as they are earned.</p>

Summary of Benefits: MTC Full-Time Regular Represented and Confidential Employee Positions (Except as otherwise noted and excluding executive employees)	
<u>INTRODUCTION PERIOD</u>	The Introduction period is regulated per applicable policy and the MTC Employee Handbook.
	The initial six months of employment is considered to be an introduction period during which time a new employee's work and conduct are observed and evaluated, orientation and training provided as necessary, and issues with performance addressed directly and promptly in an effort to ensure the employee's success.
<u>INSURANCE</u>	Scope, limitations, and annual insurance premium costs are set forth in actual insurance company policies and provided each year during open enrollment.
Group Dental Insurance	Agency pays total premium for employee's coverage. The cost to Employees for coverage for one dependent is \$6.30 per month, and \$19.13 per month for two or more dependents. The Agency contributes the remainder of the premium. MTC will deduct employee dependent premium payments from earned wages pre-tax as allowable by law.
Group Dental Insurance Cash-in-Lieu	Employees have the option of receiving the equivalent dollar amount of the Employee Only premium in cash upon signing a waiver of coverage and providing proof of being covered under a comparable dental plan. The amount is subject to federal and state tax withholding. Dental cash-in-lieu through December 31, 2017 is \$72.63.
Group Medical Insurance	<p>Employees agree to contribute towards medical premiums by paying five percent (5%) of the premium for each coverage line. The employer will cover ninety-five (95%) percent of premium for each coverage line.</p> <p>Total cost per month to the employee is dependent on the coverage line they select.</p> <p>Employee contributions will be capped as follows:</p> <p>\$75.00 for Employee Only \$125.00 for Employee Plus One \$175.00 for Employee Plus Family</p> <p>MTC will deduct employee medical insurance premium payments from earned wages pre-tax as allowable by law.</p>
Group Medical Insurance Cash-in-Lieu	Employees have the option of receiving cash-in-lieu of enrolling in the health insurance plan upon the signing of a waiver of coverage and providing proof of being covered under a comparable medical plan. The amount of cash-in-lieu will be equal to the second most costly Employee Only premium total minus the Employee contribution amount for that premium. Cash-in-lieu payments are subject to federal and state tax withholding. Medical cash-in-lieu through December 31, 2017 is \$973.61.

Summary of Benefits: MTC Full-Time Regular Represented and Confidential Employee Positions (Except as otherwise noted and excluding executive employees)	
Vision Care Insurance	Agency pays total premium for Employee Only coverage. Employees may enroll dependents at their sole cost for \$7.51 for one dependent and \$26.70 for two or more per month. MTC will deduct dependent premium payments from earned wages pre-tax as allowable by law.
Domestic Partner Coverage	MTC provides group medical insurance, group dental insurance, and group vision coverage for an eligible domestic partner and dependents subject to CalPERS regulations regarding domestic partner coverage. The maximum amount of the Agency contributions shall be the same as that specified under "Group Dental Insurance" and "Group Medical Insurance" provisions referenced above.
Life and Related Insurance	Agency pays premiums for Employee life insurance policy; life insurance benefit is equal to one times annual salary or a minimum of \$55,000, whichever is greater. Agency pays additional premium for employee for Accidental Death and Dismemberment policy equal to the group term life insurance coverage. Agency pays premium for qualified dependents (as defined in current policy) for \$2,000 life coverage per dependent.
Group Voluntary Life and Related Insurance	In addition, Employee may elect to purchase, at his/her expense, supplemental Group Voluntary Life Insurance.
Short-Term and Long-Term Disability	<p>Agency pays monthly premium for short-term disability coverage for qualifying employee medical disabilities to cover loss of wages. There is a 14-day waiting period with an additional 11 weeks of paid benefits (total 12 week benefit program). Coverage level is 66 2/3% of salary up to a maximum of \$2,500 a week. Benefits paid are taxable.</p> <p>Agency pays monthly premium for long-term disability coverage for qualifying employee medical disabilities to cover loss of wages. There is a 90-day waiting period (designed to pick up at the end of the 12-weeks of short-term disability coverage). Coverage level is 67% of monthly salary up to a maximum of \$15,000 per month. Benefits paid are taxable.</p>
Travel Insurance	Agency pays annual premium. Each employee is covered with a policy of \$100,000 for loss of life while traveling on MTC business.
<u>RETIREMENT</u>	

Summary of Benefits: MTC Full-Time Regular Represented and Confidential Employee Positions (Except as otherwise noted and excluding executive employees)	
1 st Tier Retirement Formula (Classic Plan)	<p>The retirement benefit formula is calculated, pursuant to contract with PERS, at 2.5% at age 55.</p> <p>The Agency and employee agree to equally share any annual employer contribution rate change with employees assuming 50% of the annual employer rate change up to an employee total contribution rate capped at 8%.</p>
	<p>Effective, June 30, 2014, the Agency total contribution rate is 22.395% and the shared contributions are as follows:</p> <ul style="list-style-type: none"> (a) Employee pays 5.210% of salary (b) Agency pays 17.185% of salary
	<p>Effective July 1, 2014, the Agency total contribution rate will be 25.185% and the shared contributions will be:</p> <ul style="list-style-type: none"> (a) Employee pays 5.602% (b) Agency pays 19.583% <p>July 1, 2015, July 1, 2016, and July 1, 2017, the shared contribution rates will change based on the change in the Employer contribution rate shown in the Annual PERS Actuarial Valuation Report for periods ending June 2013, June 2014, and June 2015, and per any additional CalPERS contribution rate changes announced at the time of the report or separately due to valuation methodology changes.</p> <p>As of July 1, 2016 and through June 30, 2017, the employee contribution rate for the Classic plan is 6.38% of salary.</p>
Other Contracted Benefits (Classic Plan)	In accordance with Agency's PERS contract amendment effective August 1, 2000, Agency has contracted for the following optional provisions:
	3% Maximum Cost-of-Living Allowance; Section 21573 – Third Level 1959 Survivor Benefits; Section 21583 – Second Election 1959 Survivor Benefits; Section 21548 – Pre-retirement Optional Settlement 2 Death Benefit; and Section 20903 – Two years Additional Service Credit.

Summary of Benefits: MTC Full-Time Regular Represented and Confidential Employee Positions (Except as otherwise noted and excluding executive employees)	
2 nd Tier Retirement Formula (New Plan)	<p>The retirement benefit formula is calculated, pursuant to contract with PERS, at 2.0% at 62.</p> <p>As of June 30, 2014, the Agency total contribution rate is 22.395% and the shared contributions are as follows:</p> <ul style="list-style-type: none"> (a) Employee pays 6.50% of salary (b) Agency pays 15.895% of salary <p>Effective July 1, 2014, the Agency total contribution rate will be 25.185% and the shared contributions will be:</p> <ul style="list-style-type: none"> (c) Employee pays 6.50% of salary (d) Agency pays 18.685% of salary <p>Effective July 1 of each year during this MOU period, the employee rate will be 50% of the plan "Normal Costs" per pension regulation. CalPERS will provide documentation of each fiscal year's plan Normal Costs directly to the employer in the annual valuation report each October prior to the effective July1 date.</p> <p>As of July 1, 2016 and through June 30, 2017, the employee contribution rate for the PEPRA plan is 6.50% of salary.</p>
Other Contracted Benefits (New Plan)	Plan provisions are determined by pension reform and California PERL. However, this New Plan also includes the same employer selected plan provisions as the Agency's Classic Plan:
	3% Maximum Cost-of-Living Allowance; Section 21573 – Third Level 1959 Survivor Benefits; Section 21583 – Second Election 1959 Survivor Benefits; Section 21548 – Pre-retirement Optional Settlement 2 Death Benefit; and Section 20903 – Two years Additional Service Credit.
Retiree Medical	Retiree and eligible dependents are entitled to the same medical benefits provided to regular MTC employees and at the same co-pay amounts (and per CalPERS' PEMCHA Equal Method Plan). If eligible, a retired MTC employee must apply for Medicare. His/her PERS health coverage is then provided as a supplement.
Retiree Dental and Vision	MTC shall provide retiree group insurance plans for dental and vision coverage. The cost of premiums will be the sole responsibility of the retiree. Eligibility for this program will follow CalPERS retiree medical eligibility rules and requirements.
<u>TRANSIT PARKING PROGRAM</u>	MTC shall provide a Transit/Parking Program providing commuting benefits as follows. Employees may elect to participate in only one option at a time.

Summary of Benefits: MTC Full-Time Regular Represented and Confidential Employee Positions (Except as otherwise noted and excluding executive employees)	
	<p><u>Public Transit Option</u></p> <p>MTC provides a subsidy in accordance with IRS Fringe Benefit regulation for employees for legitimate and applicable transit ticket purchases. Purchases must be made through authorized MTC provided third-party transit administrator(s) only and must be for a monthly amount needed and used by each employee each month, per IRS regulation.</p>
	<p>Effective July 1, 2014, MTC's monthly subsidy will increase to up to \$214 per month.</p> <p>MTC will provide this subsidy tax-free per IRS fringe benefit allowances. As of January 2014, the allowable tax free level for fare purchase is \$130, and for eligible parking is \$250. As of January 2016, the allowable tax free level for fare purchase and parking is \$255 monthly. Any subsidy above the IRS limits is taxable income.</p> <p>Six months after relocation to MTC's new San Francisco office, MTC reviewed the transit subsidy level to determine if it was sufficient to serve the majority of employee transit costs. Based on this review and in consultation with employees, the transit subsidy level was increased to \$255 monthly on December 21, 2016.</p>
	<p><u>Employer Provided Parking Option</u></p> <p>While MTC is still located at 101 8th Street, employees may select to contribute \$18.50 per month pre-tax for parking in the MTC leased employee parking lot in lieu of receiving the monthly transit subsidy. This option is based on availability of parking spaces in the lot.</p> <p>After moving the office to San Francisco, this option will change as follows:</p> <ul style="list-style-type: none"> (a) MTC will maintain rental of the Caltrans owned parking lot; (b) Parking spaces in this lot will be available to eligible employees to park at this lot and purchase transit to commute to San Francisco. (c) The cost of monthly parking in this lot will equal the cost of monthly parking at the BART Lake Merritt station as of July 1, 2014 (estimated to be \$84.00 per month) and will remain at this level for the period of the MOU.

Summary of Benefits: MTC Full-Time Regular Represented and Confidential Employee Positions (Except as otherwise noted and excluding executive employees)	
	<p><u>Carpool Option</u> While MTC is still located at 101 8th Street, employees in a verified carpool with two or more persons, at least one passenger working at MTC, will receive one free parking space in the MTC leased employee parking lot in lieu of the monthly transit/parking subsidy. This option is based on availability of parking spaces in the lot.</p> <p>After moving the office to San Francisco, parking in this lot will be administered as explained above, however, expanding the carpool rules for eligible passengers to include someone who works at MTC, ABAG, or the Air District. Carpool participants will be using transit to get to San Francisco.</p>
	<p><u>Bicycle Commuter Option</u> For any employee regularly using a bicycle for a substantial portion of the travel between the employee's residence and place of employment for qualifying bicycle commuting months as described in IRS Publication 15-B, \$20 per month tax-free subsidy paid by MTC.</p>
	<p><u>Cash-in-Lieu Option</u> Employees may elect to receive \$20.00 per month cash-in-lieu if not selecting another Transit/Parking Program. Cash-in-lieu payments are subject to federal and state tax withholding.</p>
<u>OTHER ELECTIVE DEDUCTIONS</u>	
Dependent Care Assistant Plan (DCAP)	MTC's Dependent Care Assistance Plan (DCAP) is a totally employee-funded program, except for the costs incurred by Agency to administer the program. Employees may elect pre-tax payroll deductions up to the limits set by the Internal Revenue Service for the reimbursement of eligible childcare and dependent care expenses, in accordance with IRS regulations. See actual plan for details and limitations.
Health Care Flexible Spending Account	MTC's Health Care Flexible Spending Account is a totally employee-funded program, except for the costs incurred by the agency to administer the program. Employees may elect pre-tax payroll deductions up to a limit equivalent to the Federal Health Care Flexible Spending Account for the reimbursement of eligible healthcare costs that are not covered under the employee's health insurance. See actual plan for details and limitations.
Deferred Compensation Plan	Employee may elect to participate in the 457 Deferred compensation program(s) and make pre-tax contributions subject to IRS regulations and program limitations. The Agency will administer the pre-tax deductions and submittal of employee contributions.
<u>PROFESSIONAL DEVELOPMENT</u>	

Summary of Benefits: MTC Full-Time Regular Represented and Confidential Employee Positions (Except as otherwise noted and excluding executive employees)	
Professional Development	Subject to approval by the Section Director and appropriations in the annual training and travel budget, employees may participate in Agency sponsored Professional Development, defined as any training, materials, testing, licensing, membership, conferences, classes, tuition, etc. that are determined to be appropriate to the employee's professional development.
Computer Purchase Program	MTC will assist in the purchase of a personal computer and peripheral equipment, up to a maximum of \$5,000 for regular fulltime employees who have completed their probation and are scheduled to work 72 hours or more per pay period. The total cost of each purchase shall be repaid by participating employee through bi-weekly payroll deduction, up to a maximum of a 2-yr period or 52 pay periods. See actual plan for details and limitations.
<u>MANDATORY PROVISIONS</u>	As required by statute.
Workers' Compensation	Standard
Unemployment Insurance	Standard

Exhibit B1: ABAG Legacy Employees

Gillian Adams	Jerry Lahr
Halimah Anderson	Christy Leffall
Adrien Baudrimont	Shijia " Bobby " Lu
Duane Bay	Darcie Luce
Ofelia Bello	Gertruda Luermann
Jennifer Berg	Michelle McDaniels William
Charles "Ben" Botkin	Karen McDowell
Joshua Bradt	Roslyn Morris-Singh
Dana Brechwald	James Muller
JoAnna Bullock	Donghui " Lucy " Ng
Frederick Castro	Heidi Nutters
Ada Chan	Aksel Olsen
Waltraud "Wally" Charles	Fred Parkinson
Kimberly Chase	Bradford Paul
Hsiu-Wen " Cindy " Chen	Leslie Perry
Rebecca Darr	Courtney Ruby
Natasha Dunn	Nai Finh "John" Saelee
Christina Fong	Behrouz Samar
Maureen Gaffney	Ravindar Selvanayagam
Deborah Gaines	Mark Shorett
Michael Germeraad	Michael Smith
Susan Glendening	Jill Stallman
Athena Honore	Caitlin Sweeney
Lee Huo	Laura Thompson
Michael Hurtado	Atti Williams
Celia Imperial	Hing Wong
Ryan Jacoby	Edna Yeh
Johnny Jaramillo	Leah Zippert
Cynthia Kroll	
Moti Kumar	

EXHIBIT B2: MTC VACATION ACCRUAL CHART

TENURE	ANNUAL DAYS	ANNUAL HOURS	PER PAYROLL HOURS (26 PAYROLLS PER YEAR)
Year 1 *	13	104	4.00
Year 2	14	112	4.31
Year 3	15	120	4.62
Year 4	16	128	4.93
Year 5	17	136	5.24
Year 6	18	144	5.54
Year 7	19	152	5.85
Year 8	20	160	6.16
Year 9	21	168	6.47
Year 10	22	176	6.77
Year 11	23	184	7.08
Year 12	24	192	7.39
Year 13 +	25	200	7.70

EXHIBIT C: MTC Organization Chart

Metropolitan Transportation Commission

EXHIBIT C: MTC ORGANIZATION CHART

Staffing Organization

Proposed – July 1, 2017

AS OF 5.31.17

