TECHNICAL MEMORANDUM

To: Therese Trivedi, MTC

From: Darin Smith, Michael Nimon, and Walter Kieser

Subject: MTC Workforce Housing Action Plan; EPS #151079

Date: September 11, 2018

As part of the team led by Community Design + Architecture (CD+A), Economic & Planning Systems, Inc. (EPS) has been retained by the Metropolitan Transportation Commission (MTC) to evaluate opportunities to develop publicly owned properties in the nine Bay Area Counties as affordable and workforce housing. Over the past two years, EPS and CD+A (and other consultants on the CD+A team) have worked with a Technical Advisory Committee convened by MTC, which has included representatives of Bay Area cities, transit agencies, non-profit organizations, and others to vet the physical, financial, and organizational opportunities and constraints for developing housing on public land. As part of our scope of work, EPS was tasked with preparing an "Action Plan" that summarizes the challenges of implementing the potential workforce housing development, and offering recommendations regarding steps that can be taken by local jurisdictions and others, including MTC, to address those challenges and best capitalize on the opportunities.

This memorandum presents the Action Plan, prefaced by succinct findings regarding the regional and state-wide need for housing generally and affordable housing in particular, as well as a brief summary of the findings of CD+A's analysis of the inventory of developable public land and EPS's analysis of the feasibility issues faced by housing development. The recommendations herein have been shared with the Technical Advisory Committee, whose insights and diverse perspectives have been incorporated to refine the Action Plan.

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Executive Summary

For many years, the pace of new residential construction has not kept up with demand and housing prices have escalated across many Bay Area communities. In the midst of these housing pressures and rapidly increasing rents and values, delivery of affordable and workforce housing has been particularly challenging due to a range of physical, financial, and political constraints. With the high cost of Bay Area land and current development costs significantly exceeding national averages[1], it is difficult for the homebuilding industry to construct homes that households earning the region's median incomes can afford, let alone households of more modest means. Having identified numerous publicly owned parcels throughout the Bay Area and assessed their feasibility for various types of housing at different income levels, it is clear to this study's participants – a cross section of public agency representatives, housing developers, and real estate industry consultants – that housing that is affordable to the majority of households is not available in adequate amounts, and will not be without changing the status quo.

As shown on **Table 1**, MTC and its consultants and advisors have identified nearly 700 acres of developable parcels, estimated to have capacity for roughly 35,000 housing units.

Table 1: Public Land Suitable for Housing Near Transit

County	Parcels	Acres	Capacity at 50 DU/ac
Alameda	153	248.0	12,400
Contra Costa	121	102.6	5,130
Marin	2	5.8	290
Napa	1	0.7	30
San Francisco	21	22.6	1,130
San Mateo	62	62.1	3,110
Santa Clara	84	234.2	11,710
Solano	20	10.9	550
Sonoma	6	11.4	570
TOTAL	**470**	**698.4**	**34,920**

This Action Plan provides a set of recommendations to develop publicly owned properties near transit services in the Bay Area for affordable and workforce housing.[2] The use of such transit-served land for housing is particularly promising, as the residents of such housing can make use

[1] RS Means cost estimators show 2017 Bay Area construction costs exceeding national averages by 18 percent in Vallejo and 29 percent in San Francisco, with other Bay Area cities falling in between. By contrast, construction costs in Austin, TX – a region that competes with the Bay Area for technology jobs – are only 82 percent of the national average. These figures do not include the costs of land acquisition, entitlement, impact fees and other items that also tend to cost more in the Bay Area.

[2] For this study, "affordable housing" means units for households earning up to 60 percent of median income, as those typically are eligible for common subsidy programs such as Low-Income Housing Tax Credits (LIHTC) and Section 8 vouchers. "Workforce housing" means units for households with income below that required to secure quality market-rate housing, typically those in the 60 percent to 120

of the region's major transportation infrastructure investments, and the developers of such housing can capitalize on some funding opportunities that are specifically geared toward transit-served parcels. In addition, the use of public land presents key opportunities that are not typically available on private land, such as the ability to defer land acquisition costs until the project is entitled, the possibility of receiving a discounted land price to reflect the public benefit of the project, and the chance to leverage the public land contribution or discount as a "local match" for competitive funding programs.

Despite these many potential advantages, members of the Technical Advisory Committee have stressed that developing workforce and affordable housing on public lands faces significant challenges. In the face of a growing regional population and a constrained supply of developable land, public agencies must be cautious about disposing of land they may need over the long term, if not the present or immediate future. Public agencies also have financial responsibilities to their constituents and taxpayers, and offering their land for less than market value and/or for developments that may not generate significant property taxes can be difficult to justify from a fiscal standpoint. Nevertheless, many jurisdictions and agencies in the region have identified affordable housing as a key policy objective, and public land remains a unique asset to advance that objective.

Building upon approaches that have been successfully used by various jurisdictions in the Bay Area and beyond, this Action Plan suggests steps that any Bay Area jurisdiction can take to increase the likely success of addressing the region's great housing needs by developing public land for housing. Highlights include the following recommendations:

1. **Public agencies should make a conscious and consistent effort to prioritize housing construction on as many parcels as possible.** Cities, school districts, transit agencies, and other public organizations will continue to need much of the property they currently hold to serve their core missions. However, by communicating the desire and expectation that their property will be aggressively reviewed and offered for housing development opportunities, agencies can make clear to their entire staff and constituency that they are adopting a pro-housing position and that inevitable conflicts should be resolved as favorably for housing as possible.

2. **Agencies should review their procurement standards to make parcel disposition and development as streamlined as possible.** AB 2135 (Surplus Land Act) requires that any California jurisdiction seeking to develop surplus land must first offer the property to developers of affordable housing. Beyond this statewide requirement, agencies should prepare for disposition and development by creating policy-level flexibility to offer land for either fee simple sale or long-term ground lease, and to offer such land at prices below market-rate appraisal value to the extent that such discounts are required for affordable housing and can be recognized as a local match for other available subsidy programs.

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percent of AMI range, though in some communities with very high housing prices "workforce housing" may include households up to 150 percent of AMI or greater. Use of one term or the other in this document does not necessarily preclude the application of actions to the other housing category.

3. **Agencies should continue to create local funding resources to assist in affordable housing production and retention.** Many Bay Area jurisdictions already require new developments to provide on-site affordable housing or pay fees that can contribute to affordable housing. In addition, an increasing number of cities and counties have passed property and/or sales tax measures funded by the broader community (not just new developments) and directed new proceeds toward affordable housing, and tools such as Enhanced Infrastructure Financing Districts provide opportunities to direct tax increment toward housing, a partial replacement of previous Redevelopment resources. These and similar local funding approaches can provide much-needed subsidy for both new construction and retention of existing affordable housing stock, and can often be leveraged with other state and federal programs to multiply their impact. The feasibility analysis for this study indicates that under current economic conditions, projects providing 100 percent affordable housing will likely require additional funding sources even if the public land is provided at no cost and the projects receive typical tax credit subsidies.

4. **Agencies should take steps to reduce development costs and risks by streamlining the approval process.** Housing development in the Bay Area often faces numerous political and procedural challenges, ranging from concerns about environmental impacts to the lengthy and uncertain approval process. These challenges increase development costs due to extra analysis and outreach requirements, and increase risk by reducing the certainty that a developer investing in extensive pre-development efforts (including site acquisition) will receive approvals for a feasible project. These costs and risks can be reduced through public sector efforts such as establishing ministerial permitting or "by-right" zoning for projects meeting objective standards defined by the local jurisdiction, providing program-level environmental clearance, waiving or deferring certain impact fees, and making public investments in required infrastructure or replacement parking. Public land itself also can play a key role in this feasibility issue by allowing affordable housing developers to acquire land at below-market prices and allowing them to defer the acquisition costs until a project has advanced on approvals and external funding efforts.

5. **Agencies should take steps to enhance project feasibility through their development regulations.** Many communities have adopted Specific Plans or made other efforts to increase the allowed densities of both public and private land, which often can enhance project feasibility. Jurisdictions also can enhance project feasibility by encouraging form-based zoning and/or construction of "affordable by design" units, and by allowing affordable housing projects to provide fewer parking spaces per unit. While such options may not always be appropriate given the context of any given development, the flexibility to diverge from standard development regulations can significantly enhance project revenues and/or save costs. Trade-offs between certainty (risk reduction due to clear regulations) and flexibility (potential cost savings or value enhancements through discretionary options) should be weighed when considering policies to adjust the design and programming parameters for affordable housing projects.

6. **MTC should use its leverage to strongly encourage jurisdictions to aggressively pursue housing development on surplus public lands.** As a regional organization controlling significant funding for transportation and the responsibility to implement a

sustainable development pattern for the Bay Area, MTC should direct discretionary funding to jurisdictions that have proven capable of producing housing, invest proactively in projects that face major infrastructure hurdles, fund technical studies and staffing support for agencies seeking to develop their land, create flexible funding mechanisms to offer low-cost financing, and lobby for State laws that encourage the use of public lands for housing.

Summary of Housing Needs and Market Conditions

Numerous recent studies have explored the significant mismatch between housing supply and demand in California, and the impact that a lack of housing production has had on affordability and the economy. Examples of such studies have included the Legislative Analyst's Office's "California's High Housing Costs: Cause and Consequences" (March 2015), McKinsey Global Institute's "A Tool Kit to Close California's Housing Gap: 3.5 Million Homes by 2025" (October 2016), and the California Housing and Community Development Department's Draft "California's Housing Future: Challenges and Opportunities" (January 2017). In the Bay Area, the Association of Bay Area Government (ABAG) "State of the Region 2015" offers insights as well. These and other reports summarize the situation with findings including the following:

- The 2007-2014 RHNA cycle set a goal for an additional 215,000 units for the Bay Area, but permits were issued for just 123,000 housing units, only 57 percent of the RHNA goal. While the region's goals for market-rate housing were essentially met overall (though not in each county), permits were issued for only 27 percent of the regional RHNA goal for very-low to moderate income units, as shown on **Figure 1**.

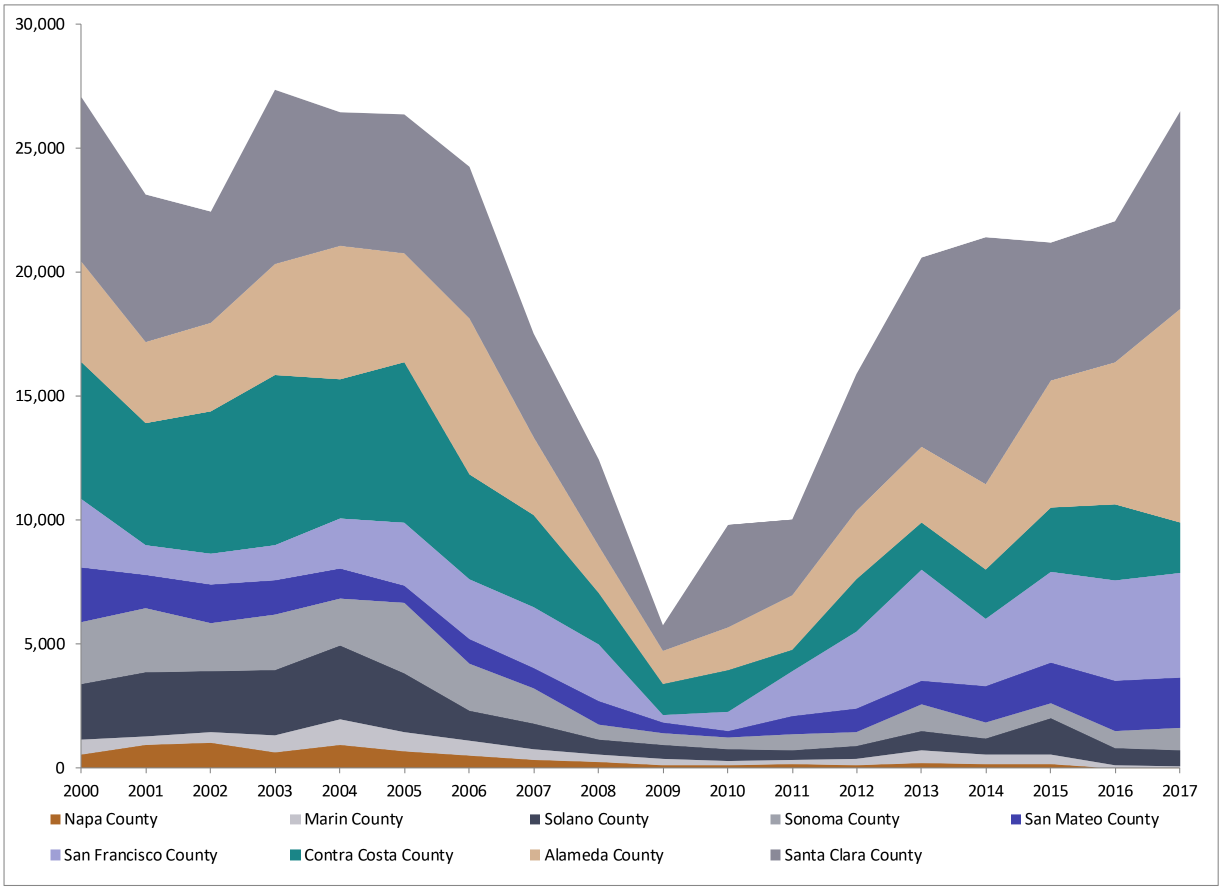
Figure 1 2007-2014 RHNA Goals vs. Permits Issued (9-County Bay Area)

Item	Alameda	Contra Costa	Marin	Napa	San Francisco	San Mateo	Santa Clara	Solano	Sonoma	Total
Very Low (>50% AMI)										
Goal	10,017	6,512	1,095	879	6,589	3,588	13,878	3,038	3,244	48,840
Permits Issued	3,095	1,353	250	135	3,920	702	3,798	283	715	14,251
% Achieved	31%	21%	23%	15%	59%	20%	27%	9%	22%	**29%**
Low (51-80% AMI)										
Goal	7,616	4,325	754	574	5,535	2,581	9,567	1,996	2,154	35,102
Permits Issued	1,699	1,035	256	71	1,481	641	2,692	481	826	9,182
% Achieved	22%	24%	34%	12%	27%	25%	28%	24%	38%	**26%**
Moderate (81-120% AMI)										
Goal	9,078	4,996	977	713	6,754	3,038	11,007	2,308	2,445	41,316
Permits Issued	1,140	3,654	219	268	1,234	746	2,371	1,067	1,033	11,732
% Achieved	13%	73%	22%	38%	18%	25%	22%	46%	42%	**28%**
Above Moderate (<120% AMI)										
Goal	18,226	11,239	2,056	1,539	12,315	6,531	25,886	5,643	5,807	89,242
Permits Issued	13,681	10,758	818	960	13,468	6,080	35,962	3,141	3,065	87,933
% Achieved	75%	96%	40%	62%	109%	93%	139%	56%	53%	**99%**
Total										
Goal	44,937	27,072	4,882	3,705	31,193	15,738	60,338	12,985	13,650	214,500
Permits Issued	19,615	16,800	1,543	1,434	20,103	8,169	44,823	4,972	5,639	123,098
% Achieved	**44%**	**62%**	**32%**	**39%**	**64%**	**52%**	**74%**	**38%**	**41%**	**57%**

Source: ABAG, HCD

- The overall number of residential building permits issued in the Bay Area has been increasing since the Recession's bottom in 2009, and permits issued in 2017 were just under the pre-Recession height reached in 2003, as seen in **Figure 2**. The graphic also indicates that the great majority and an increasing percentage of new residential permits since the Recession have been in the counties of Alameda, San Francisco, San Mateo, and Santa Clara, while the counties of Contra Costa, Marin, Napa, Solano, and Sonoma have received a diminishing number and proportion of new residential permits. This trend indicates a market acceptance/preference for the more urban and transit-rich areas of the region, contrasted with continuing market or other development challenges in less urban areas.

Figure 2 Total Residential Building Permits (9-County Bay Area)

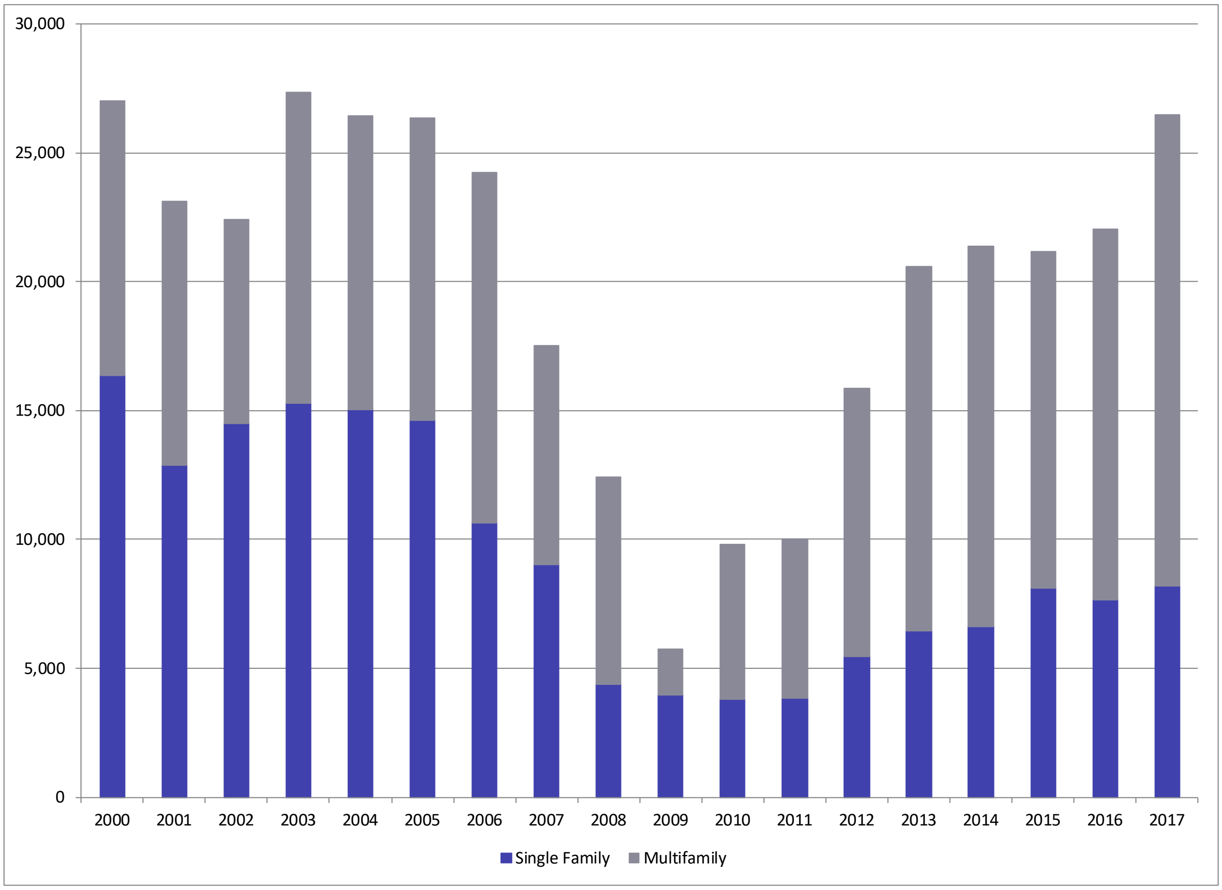


Source: HUD

- According to the California Department of Finance, the nine-county Bay Area added roughly 500,000 people between 2010-2016, but only 71,000 new homes, or only one housing unit for every seven new people. This was worse than the State overall, which added one unit for every 6.4 new people in the same period.

- Multifamily units have represented the majority of the region's total residential construction in the past decade, while single-family homes were the majority in the pre-recession years, as seen in **Figure 3**. This indicates increasing market interest in developing, financing, and occupying multifamily housing as typically is appropriate near transit stations.

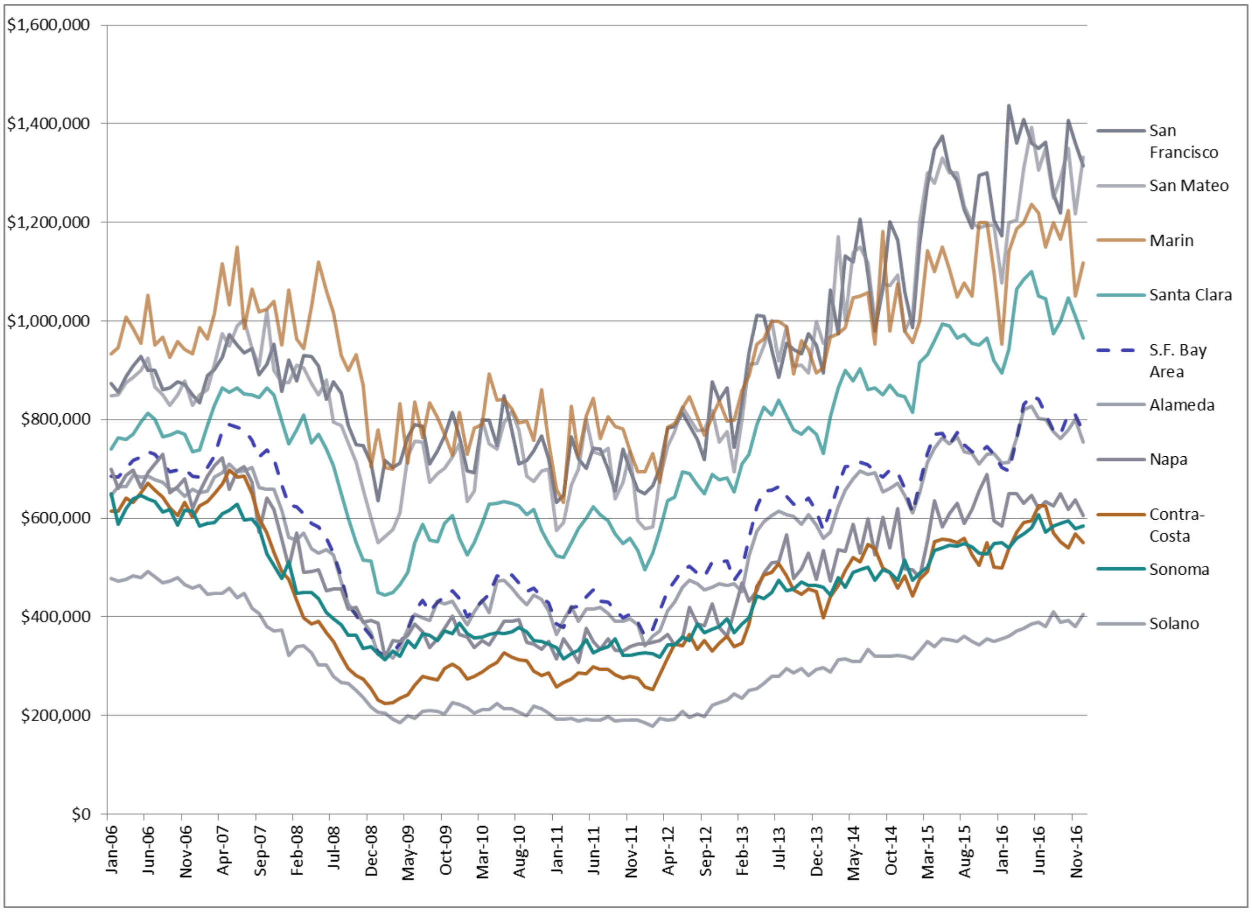
Figure 3 Bay Area Multifamily and Single-Family Permits Issued



Source: HUD

- Prices for single family detached homes have seen a steady upwards trend since the Great Recession with median home prices in most counties exceeding pre-recession highs, as seen in **Figure 4**. Median home prices have recently reached over $1 million in Marin, San Mateo, Santa Clara, and San Francisco counties, and the Bay Area median is roughly $800,000. A home selling for $800,000 would typically require a household income of over $150,000 per year, well above the median income in each Bay Area county.

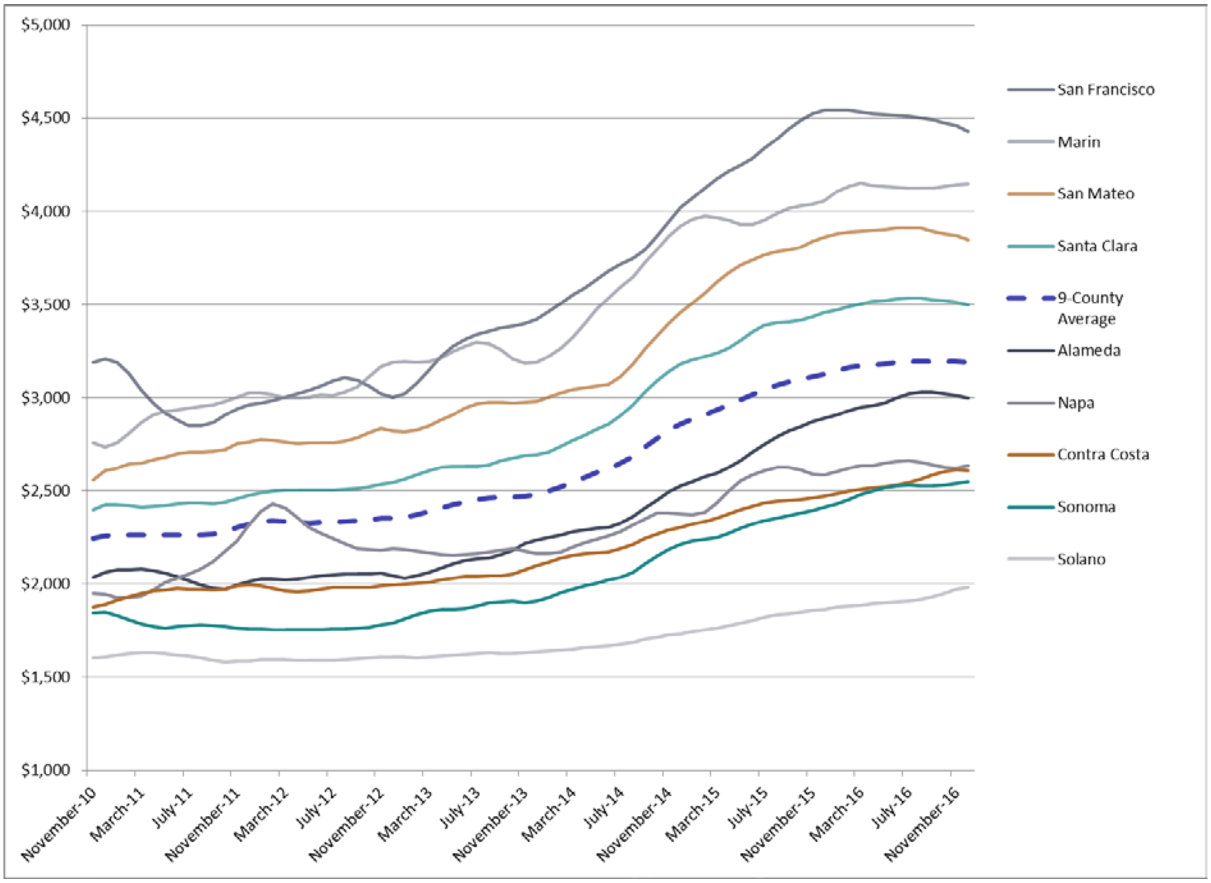
Figure 4 Single Family Detached Median Home Prices



Source: CA Association of Realtors

- Median rental rates have also been steadily rising across all Bay Area communities with the 9-County average at approximately $3,200 as of December 2016, as seen in **Figure 5**. The household income required for the region's median rental price now exceeds $125,000 per year, also well above median income levels in all counties.

Figure 5 Median Rent in Bay Area Counties



Source: Zillow Data

- The increase in housing prices is largely attributable to supply falling well short of demand. Some estimates, including from the Legislative Analyst's Office, suggest that only doubling the State's annual housing production trends over the past 30+ years will have a significant impact in mitigating housing price inflation, and then only if the great majority of new housing is built in the land-constrained and high-priced coastal markets like the Bay Area.

These findings highlight the history of housing supply and demand in California, and the Bay Area in particular, and the challenges likely to continue and worsen unless a significant number of new homes are added to the housing supply. This context is critical to understanding the importance of identifying and facilitating the development of housing on surplus public land, given these long-term "market failures" to provide enough housing to restrain prices and the unlikeliness of short-term changes to these fundamental conditions.

Summary of Land and Feasibility Study

Land Availability and Capacity Study Findings

Study Methodology

For this study, "public lands" includes all parcels owned by a public agency, including cities, counties, state departments, federal departments, school districts, or other special districts such as parks or transportation districts.

Two of the region's most prominent and multi-jurisdictional public landowners are the San Francisco Bay Area Rapid Transit District (BART) and the Santa Clara Valley Transportation Authority (VTA). These two entities jointly control land at dozens of transit stations in multiple counties, and have prioritized development of their land assets through various actions including adopting related policies, maintaining staff specifically dedicated to such efforts, and conducting various studies of the suitability of their land for development. For these two agencies, this study makes use of the developable property inventories prepared by the agency's themselves in recent years, as these inventories are deemed to reflect the most accurate available information available regarding site conditions and policy priorities.

For the remainder of the agencies in the nine-county Bay Area, MTC and its consultants did not receive comprehensive inventories of developable sites. Given that the sample of potential sites numbered in the thousands and jurisdictions/agencies numbered in the hundreds, judgment was required and applied broadly regarding the availability and suitability of publicly owned parcels for housing development. As outlined in the work scope for the project, the process involved the following steps:

1. Acquire and review parcel-level databases from Assessor's offices in eight of the nine Bay Area counties. The City/County of San Francisco provided its own public parcel dataset.

2. Identify all parcels within ½ mile of major transit facilities, including heavy rail, commuter rail, light rail, and bus rapid transit stations.

3. Identify all such parcels that were owned by public agencies, as indicated in the ownership data in the Assessors' rolls.

4. Eliminate public parcels that were parks, school campuses, or represented rights-of-way for rail, streets, waterways, or other non-developable features.

5. Eliminate parcels that were too small (smaller than 0.5-acres, with the exception of San Francisco where smaller parcels are considered) and isolated from other developable sites, or had site dimensions too unusual (e.g., a remnant parcel that is 1,000 feet long but only 15 feet deep) to be considered developable for an efficient residential project.

6. Eliminate parcels that were listed on the *Department of Toxic Substances Control's* *EnviroStor* database as having environmental conditions that would require extensive remediation to be developable for housing.

7. Consult the Housing Elements for the jurisdictions with relevant transit stations to ensure that publicly owned sites within one-half mile of transit identified in those documents as developable for housing were included in the inventory (this added back several parcels smaller than 0.5 acres).

For the remaining publicly owned sites, a visual inspection using aerial photography available from Google Earth was conducted to assess the existing conditions at each site. Those sites that appeared to be vacant or used for surface parking were considered to be developable for housing in all nine counties. Sites that had significant existing development, existing infrastructure (including transit facilities), or were already in the process of being developed for another project (housing or otherwise) were considered to not be available for future, as-yet-unplanned housing. For San Francisco, sites that had more modest existing development but appeared to be "underutilized" were counted as potential sites due to that City's strong real estate market and consistent history of redeveloping low-density uses; in other cities, modestly developed "underutilized" sites were not included in the inventory of potential housing sites, as they were assumed to represent an additional financial hurdle to demolish and replace the existing uses that would make them less feasible for housing development than sites that were vacant or used for surface parking.

The resulting selection of sites was then prepared as digital data viewable online (see sidebar), and presented to and shared with MTC and the members of the Technical Advisory Committee, which included representatives of Bay Area cities, transit agencies, and non-profit organizations. Where specific feedback was received from the committee members regarding the suitability of sites, appropriate changes were made to the site inventory.

SEARCHABLE ONLINE PROPERTY DATABASE

In August 2018, MTC and its consultants launched a website entitled "Viable Public Lands for Workforce Housing 2018." This website offers an interface with an online version of a Geographic Information System (GIS) software called ArcGIS. Through this site, it is possible to see each of the major transit corridors and station areas reviewed in this study, as well as the specific parcels that have been identified as potentially suitable for housing development. By zooming in to station areas and clicking on specific parcels, a pop-up box appears that shows:

- the parcel number;
- parcel size;
- owner;
- what jurisdiction and *Plan Bay Area* "Priority Development Area" (PDA) the site is in;
- the site's current zoning or General Plan designation;
- the current use status of the site (vacant, surface parking, or underutilized); and
- whether the site is expected to achieve a competitive score for location-based criteria results for the Low-Income Housing Tax Credits (LIHTC) and California's Affordable Housing & Sustainable Communities (AHSC) funding programs for affordable housing.

The website and its database reflect the findings of this study's spatial analysis, but also are intended to serve as a useful tool for jurisdictions, agencies, developers, and community members interested in opportunities for housing development. During the course of this study from 2016-2018, the data and findings represented on the website were vetted by MTC, its consultants, and the Technical Advisory Committee including representatives of various agencies and jurisdictions, but their accuracy are not guaranteed.

The website can be reached through the hyperlink above, or by entering the following into the web browser of your choice: https://arcg.is/C4vjv

Capacity Findings

As shown on **Table 2**, the analysis identifies a grand total of 698 acres of public lands that are potentially developable for housing. The largest amount is in Alameda County, while Napa County has the least.

Table 2: Public Land Suitable for Housing Near Transit

County	Parcels	Acres
Alameda	153	248.0
Contra Costa	121	102.6
Marin	2	5.8
Napa	1	0.7
San Francisco	21	22.6
San Mateo	62	62.1
Santa Clara	84	234.2
Solano	20	10.9
Sonoma	6	11.4
TOTAL	**470**	**698.4**

Table 3 shows the top ten jurisdictions in which the suitable public parcels are located. San Jose has the largest number of sites and the greatest number of total acres.

Table 3: Top 10 Jurisdictions Where Suitable Public Land is Located

Jurisdiction	Parcels	Acres
San Jose	43	198.3
Hayward	26	52.5
Pittsburg	20	43.9
Oakland	58	39.3
Fremont	15	32.1
San Leandro	12	23.9
San Francisco	21	22.6
Union City	7	21.7
Alameda County - Unincorporated	13	20.2
Livermore	1	19.9
TOTAL, Top 10 Jurisdictions	**216**	**474.4**

Using the parcel ownership data available from each County's assessor's office, as well as BART and VTA data, **Table 4** displays the proportions of the suitable land inventory owned by different types of agencies. As shown, transit agencies have by far the greatest proportion of sites identified in this inventory, although this result is surely influenced by the fact that this study utilizes BART and VTA's comprehensive reviews of their property for development, while other agencies' land was analyzed at a broader scale. Redevelopment agencies and/or their successor agencies also control a significant amount of these lands, and are charged by law with putting their properties toward public use or disposing of them for development in the near future. Housing authorities are also responsible for developing and preserving affordable housing, but these agencies jointly own the smallest amount of land in the inventory.

Table 4: Ownership of Suitable Public Land by Type of Agency

Agency Type	Acres	Percent of Total
Transit Agencies	430.7	61.7%
Cities	118.3	16.9%
Redevelopment/Successor Agencies	51.1	7.3%
State of California	42.2	6.0%
Counties	19.0	2.7%
Other	17.0	2.4%
School/College Districts and University of CA	8.6	1.2%
Public Utilities	6.8	1.0%
Housing Authorities	4.7	0.7%
TOTAL	**698.4**	**100.0%**

Table 5 outlines the top ten public land owners within the studied counties, and indicates that BART, VTA, and the State of California are the top holders of suitable public lands for housing. Again, BART and VTA's inventory figures are based on their own comprehensive reviews of developable land, while other agencies' land was reviewed using a broader approach given data availability.

Table 5: Top 10 Owners of Suitable Public Land

Owner	Parcels	Acres
Bay Area Rapid Transit District	91	228.7
Santa Clara Valley Transportation Authority	26	178.3
State of California	17	42.2
City and County of San Francisco	18	25.6
San Mateo County Transit District	11	18.1
City of Union City Community Redevelopment	6	15.1
County of Santa Clara	7	14.5
City of Oakland	19	9.9
City of San Jose	5	8.0
Suisun City	17	8.0
TOTAL, Top 10 Owners	**217**	**551.0**

These findings indicate that a number of jurisdictions engaging in proactive efforts to develop their lands for housing near transit could make a substantial difference in the region's housing supply. For example, the top 10 public land owners jointly have over 500 acres of land deemed suitable for housing development. If developed at an average density of 50 units per acre, these sites could support over 25,000 new housing units.

Frequently, the success of affordable housing development depends on the ability to secure financial subsidies through sources such as the federal Low Income Housing Tax Credit (LIHTC) and state Affordable Housing and Sustainable Communities (AHSC) programs. These programs provide their most effective funding on a competitive basis, and to compete effectively, proposed projects must score a maximum number of points in terms of their proximity to key services and amenities. To understand the implications of these criteria for the development of public lands for housing, CD+A scored each parcel identified through the process described above based on their proximity to features required for competitive scores from the California Tax Credit Allocation Committee (CTCAC) for LIHTC funding, and under the *2015-16 Affordable Housing & Sustainable Communities (AHSC) Program Guidelines*.[3] For LIHTC, this means being within ½ to 1-mile of frequent transit service, parks, libraries, pharmacies, and schools. For AHSC, this means being near grocery stores and schools, in addition to transit service. When these criteria are considered, well less than half of the potentially developable acreage identified in the tables above score optimally for these competitive funds, as shown on **Table 6**. This finding suggests that the current competitive criteria for funding affordable housing excludes some or many of the sites that may offer the advantages associated with both public ownership and proximity to transit.

Table 6: Public Land Acreage by Affordable Housing Funding Criteria Score

County	Total Acres Identified as Developable	Acres with Maximum Location Score for AHSC	Acres with Maximum Location Score for LIHTC
Alameda	248.0	125.2	39.5
Contra Costa	102.6	24.6	13.6
Marin	5.8	1.1	--
Napa	0.7	--	--
San Francisco	22.6	22.6	6.9
San Mateo	62.1	49.0	11.0
Santa Clara	234.2	20.9	5.0
Solano	10.9	--	--
Sonoma	11.4	5.2	--
TOTAL	**698.4**	**248.7**	**75.9**

Financial Feasibility Findings

Housing development costs in the Bay Area are very high, as a result of a combination of factors including basic land values in a finite and popular market, competition for labor and materials, and costs associated with the entitlement process. Achievable market-rate housing prices in many parts of the Bay Area exceed these various development costs and new construction is feasible and likely to be pursued by profit-seeking developers. However, the development costs for affordable housing can be similar to or higher than market-rate development costs, which

[3] These additional geographic data on neighborhood amenities were collected through open source data derived from *OpenStreetMap*.

may reflect differences in project or developer scale, the processes of entitlement and securing funds, the high cost of land in locations that qualify for key competitive funding sources, special construction wage requirements, and other factors. Meanwhile, the income-restricted price points usually are well below market rates. The result of these dynamics is that for each product type reviewed for this study – ranging in density from townhomes to mid-rise multifamily over podium – the construction of housing affordable to even most moderate-income households appeared to require financial subsidy.

For purposes of this Action Plan, the feasibility analysis points to several important findings:

1. Affordable and workforce housing is not likely to be feasible to develop without subsidies
2. Local agencies can address this subsidy need through various direct and indirect ways
3. The use of public land for affordable and workforce housing is uniquely helpful

This last finding is particularly important. With market-rate land values in some parts of the Bay Area exceeding $100,000 per unit even for dense multifamily housing, the cost of land can be a very high proportion of the overall costs of development. If a developer must acquire land before receiving project approvals and external subsidies, and those items can take multiple years to finalize, the “carrying cost” of the land acquisition can be substantial and add significantly to the need for subsidy. Finally, local “matching funds” are often required to effectively compete for affordable housing grants and the most beneficial tax credit programs, and a contribution of public land at a below-market price can count as part of that local match. Thus, to the extent that land acquisition costs can be deferred and/or reduced because it begins as public property, the feasibility of affordable and workforce housing can be greatly improved.

Policy Issues and Strategies for Public Agencies

Public agencies may own land for any number of reasons. In many cases, the land is critical to the performance of the agency’s mission, such as providing parks or schools. In other cases, the agency may be holding land in reserve for some future mission-oriented use, but not yet using it for that purpose. In still other cases, the land may be part of an agency’s property portfolio for some historical reason that is no longer critical to the agency’s current or future mission. Public agencies can pursue the following steps to optimize the use of their land for housing.

Establishing a Pro-Housing Agenda for Public Agencies Holding Land

Cities, school districts, transit agencies and other public organizations will continue to need much of the property they currently hold to serve their core missions. However, by communicating the desire and expectation that their property will be aggressively reviewed and offered for housing development opportunities, organizations can make clear to their entire staff and constituency that they are adopting a pro-housing position and that inevitable conflicts should be resolved as favorably for housing as possible. In some cases, it is possible to consider incorporating housing into developments addressing other public needs, such as combining housing with libraries, community centers, and other community-serving facilities.

The most complete example of such a policy is San Francisco’s Public Land for Housing Program which details the ways in which San Francisco will identify, prioritize, and pursue development of housing on lands controlled by various departments and agencies. BART’s Transit-Oriented Development policy and VTA’s affordable housing additions to their joint development policies are other evolving examples of organizations declaring their intent to address the region's housing needs through public land development.

Educating Policymakers on the Importance of Workforce Housing

Policymakers have many considerations when setting priorities and expectations for their organizations. Because housing is a well-documented regional need and many current and future constituents of different jurisdictions stand to benefit from the improved availability and affordability of housing, it can be helpful to ensure that policymakers are aware of the many societal benefits of increased availability of workforce housing. Numerous studies show that affordable housing can reduce environmental impacts associated with long commutes from less expensive housing markets, can reduce social service costs and improve educational outcomes, and can increase economic productivity for individuals and regions when households can spend more of their income on costs other than housing, among other benefits. These types of considerations can represent "moral" or simply pragmatic incentives in taking a positive position on affordable housing, and can be presented to policymakers by staff or housing advocates if elected officials are not actively leading on these issues.

In addition to these considerations, some agencies may not be aware of or compliant with existing legal requirements. Among these are existing State laws requiring jurisdictions to plan for housing for multiple income levels through their Housing Elements, the Housing Accountability Act requiring jurisdictions to approve housing where it is consistent with zoning and General Plan regulations, and Assembly Bill 2135 requiring agencies to first offer "surplus land" to affordable housing developers, and permitting the disposition of such land at below-market prices. In addition, a suite of new State housing legislation was signed into law in September 2017 that impacts housing funding, local development approval processes, and other factors that have constrained the State's supply of affordable housing. The existence and increasing attention paid to these laws can provide incentive to taking a proactive stance supporting affordable housing, particularly on public lands.

Encouraging Consistency through All Departments and Policies

One issue that public agencies often face is a fundamental conflict between the priorities of different departments. For example, a transit agency's engineering or operations division may be extremely focused on designing facilities to maximize the number of individuals who can ride the transit and minimizing service costs, while the property development or planning divisions may be focused on placemaking or generating revenues through real estate development. For another example, a public utility may be holding property for a very long-term use that may never come, while affordable housing is clearly a need in the present. Similar to San Francisco's "Transit First Policy" that provides direction to all City departments to prioritize transit, pedestrians, and biking over alternative modes of transportation, an "Affordable Housing First" policy can require all departments to conduct their activities in ways that encourage affordable housing, whether that be through planning, permitting, funding, or providing public services.

Proactively Identifying and Marketing Developable Land

Each agency should take a periodic inventory of their property holdings and determine which are currently in use, which are critical for future needs, and which might be surplus to their expected needs. In some cases, the properties in question may present all three of these conditions, so each property should be assessed individually but not necessarily categorized as one condition versus another. For example, the Santa Clara Valley Transportation Authority maintains a Joint

Development Portfolio that allows developers to see the current use and net developable area for each of 23 sites owned throughout Santa Clara County. The net developable area subtracts portions of the site still expected to be required for VTA functions such as parking and intermodal facilities, and along with information on zoning and General Plan designations provides insight regarding the potential use of the property for private development. While this MTC study has made an initial effort to determine which public properties near transit may be potentially developable for housing, only a concerted effort by each agency can make a more specific finding regarding each of its properties.

Soliciting Affordable Housing Developer Partners

Assembly Bill 2135 requires agencies seeking to develop "surplus property" to give first priority to developers of low or moderate-income housing (or parks or schools, but not market-rate development), and allows the agency to offer the land at lower than its appraised market value to enhance the feasibility for such development. If terms cannot be reached with an affordable housing developer within 90 days, agencies are allowed to offer the land to other developers, but those developers are still required to provide at least 15 percent of units at affordable prices. In this way, agencies are already required by law to provide affordable housing on most "surplus properties."

However, not all public properties that are offered for development may be defined "surplus." BART and VTA have stated that they consider their joint development properties for transit-oriented development to remain consistent with the transit agencies' core mission, and thus not considered "surplus." Other agencies may seek similar opportunities to interpret developable properties as something other than "surplus" and thus not strictly subject to AB 2135. For such agencies or properties, it can be important to establish an expectation that affordable housing will be prioritized or included—even if the land is not specifically designated as "surplus." Numerous public agencies have adopted policies making this expectation clear, including BART and VTA in the Bay Area.

The City of Sunnyvale has provided an example of a successful Request for Proposals for affordable housing development on a public parcel, as well as an example of a declaration of surplus property to be offered for affordable housing. South San Francisco also has provided examples of a developer solicitation for a mixed-use TOD project on public lands and a City action to develop affordable senior housing on another publicly owned site.

Aligning Procurement Practices with Affordable Housing Needs

Once a decision is made to offer public land for affordable housing development, it is critical that local procurement practices support this outcome. Unlike procurement of many basic goods and services purchased by local agencies where the best financial offer can prevail, real estate solicitations can be complicated by numerous factors. Some agencies prefer to solicit developers through a Request for Qualifications, selecting a developer on the basis of their experience and financial wherewithal to design, entitle, finance, and construct a project, but not requiring a full development or financial proposal as part of the developer selection process.

Other agencies prefer the greater certainty provided by a Request for Proposals process, through which developers typically are required to present more detailed design and financial terms. Even in these cases, procurement practices should make clear that the winning proposal is not simply determined by the highest price offered for the land, but rather that there are numerous factors to be considered, such as the community benefits offered including affordable housing units at various targeted sizes and/or income levels. Procurement staff and policymakers should also be aware that development of affordable housing is complex and outcomes often rely on securing future grants, tax credits, or other funding resources, and that project details may change from the time of the proposal to the completion of negotiations and commencement of construction. For this reason, it can be very useful to recognize these potential changes and allow flexibility in land pricing, set numbers of units, or other terms after the initial procurement stage. Strict adherence to an appraised "fair market value" for the land, or even the initial financial or programmatic offer made by the responding developers, can limit the opportunity to respond to evolving negotiation points or financing arrangements.

Allowing Sale or Lease of Public Land

Public agencies frequently have a stated preference for offering land through ground leases rather than as a "fee simple" sale transaction. Ground leasing can be positive for the agency because it provides a long-term revenue stream, and also the property can revert to the agency for continuing revenues and/or redevelopment for other uses at the end of the ground lease term. Many affordable housing developers have indicated that they have experience developing on ground leases, and that such arrangements can even be favorable to fee simple development if the ground lease term is long enough to provide long-term certainty regarding property rights and investment amortization (typically, 65 or more years). However, requiring ground leases may constrain development opportunities on many sites, because for-sale housing is rarely developed on a ground lease basis, and because development financiers can be wary of ground leases because they are less well understood. To provide the greatest possibility of achieving affordable housing outcomes, it can be useful to adopt a formal policy allowing public lands to be disposed of either through long-term ground leases or fee simple transactions, with the determination to be made based on the particular details of a proposed development and its financing requirements.

Adjusting Land Values to Enhance Feasibility

AB 2135 specifically allows public agencies to offer land at below its appraised value to enhance the feasibility of affordable housing developments. Such discounted land values can be very useful in closing the financial feasibility gaps for affordable housing developments for two reasons: 1) they decrease the costs that the developers must pay to acquire the site, and 2) they can be counted as "local matching funds" that enhance a project's score for grants or competitive tax credit programs. However, it is also true that land represents a unique and potentially valuable asset for public agencies, whose financial obligations typically are varied and substantial. Achieving less than full market value for land may represent an undesirable "opportunity cost" or even be prohibited in some cases depending on the type of organization and/or the source of funds originally used to acquire the sites.

Within this context, agencies can consider adopting policies that expressly allow them to offer land at below market-rate prices, even if those parcels are not strictly subject to AB 2135's requirements for "surplus land." The Los Angeles County Metropolitan Transportation Authority adopted a Joint Development Policy in 2015 stating that land value discounts will be based on the provision of affordable housing on their sites, although this policy was justified in part by the expectation that lower-income occupants of affordable housing would make more frequent use of transit services than would market-rate housing occupants, and thus the agency may expect to have an offsetting revenue increase.

Some Technical Advisory Committee members have indicated they have successfully achieved affordable housing on public land without discounting the land value. Even in such cases, the public agencies may be able to enhance project feasibility by deferring payment for the land until certain project milestones (entitlements, building permits, certificates of occupancy, etc.), which can reduce the upfront costs and thus the required return on the developer's or lender's funding.

Coordinating Multiple Public Interests

In some cases, land that is owned by one public agency lies within the land use jurisdiction of another agency. For example, BART owns land in numerous cities and unincorporated areas, and development approvals are the responsibilities of those other jurisdictions. To avoid conflicts between policies or simple misunderstandings that lead to delays or worse, it is important that any agency considering disposition of their land coordinate closely with the entity that has land use authority as well as with other key public stakeholders, to ensure that the goals and processes of each organization are aligned. When preparing for developer solicitations, the agencies should agree as much and as early as possible on the objectives of the disposition (e.g., to generate maximum revenues or to achieve a certain social outcome), the type of development sought, and the resources each can provide to ensure its success.

It is also worth noting that some affordable housing developments have received funding from multiple jurisdictions. The Peacock Commons project in Santa Clara, for example, received funding from the Cities of Santa Clara, San Jose, and Sunnyvale, as well as the County of Santa Clara. Such inter-jurisdictional funding programs can be of critical importance where financial resources are finite and projects have regional benefits.

Balancing Other Policy Considerations

Local agencies frequently place numerous requirements on new development, to mitigate the impact that such projects have on infrastructure and facilities. Examples include fees for parks, schools, and transportation, among others. Some agencies provide discounts to these fees for affordable housing, such as the City of San Jose's 50 percent reduction in park fees for affordable units. Local agencies should review their fee requirements for affordable housing to determine if reducing the fee burdens is a viable way of enhancing project feasibility. Surveys in 2015 and more recently by the Association of Bay Area Governments (ABAG) indicates that over half of Bay Area jurisdictions offer some form of fee reductions or waivers to support affordable housing production.

In addition, local agencies sometimes require new developments on public land, or that use public funding, to meet unique standards that not all private developments must. For example, BART has adopted a policy requiring major capital projects (including joint development) to enter or negotiate agreements affecting hiring and subcontracting practices, wages, work rules, and training programs for contractors. While these agreements can be important politically and yield positive outcomes for the project quality and the workers on the projects, they can also add costs that increase the financing gap for new development. Where not already required by other laws, local agencies would be well-served to consider the trade-offs of adding such requirements, given the funding gaps already faced by affordable housing.

Financial Strategies and Recommendations

As noted above, housing for moderate- and lower-income households has not been constructed in the Bay Area at a pace approaching demand, and in large part this is because the costs of construction exceed the prices that such households can pay for housing. To address this imbalance, many communities are creating local funding resources to provide additional subsidy for the construction and/or retention of affordable housing. These financial resources can be critical to leveraging the largest state and federal grant and tax credit programs by providing local matching funds.

Broad-Based Funding Programs

A variety of tools and funding mechanisms have been used to generate financial resources to support affordable housing from the broad tax base of a local agency. Examples of these are described below, with each offering a unique balance of merits or concerns.

General Obligation Bonds

General Obligation bonds can be used for a variety of purposes and implicate the full faith and credit of the jurisdiction issuing them. They are paid for by additional taxes on property owners, allocated as a proportion of the assessed value (i.e., "ad valorem"), and must be approved by a two-thirds majority of all voters. For this reason, they can be politically challenging to implement. However, several examples suggest it is in fact possible to issue general obligation bonds to fund affordable housing programs when the community perceives a critical need.

Because General Obligation bonds are paid on an ad valorem basis (as a percent of a property's assessed value), they tend to be considered "progressive" because the owners of more valuable properties pay higher taxes. However, due to California's Proposition 13 property assessment practices, many properties' assessed values are well below their actual market values. As a result, two properties that have similar market values but very different assessed values would pay very different tax amounts to cover the General Obligation bond debt service. Still, General Obligation bonds tend to be considered reasonably "equitable" as a mechanism for funding community priorities. Examples of communities that have recently passed General Obligation bonds for affordable housing include the following:

- Measure A1 (Alameda County): In November 2016, Alameda county passed a $580 million housing bond for construction and rehabilitation of affordable rental units, loans for moderate-income homebuyers and upgrades to existing low-income housing.

- Measure KK (Oakland): In November 2016, the City of Oakland passed Measure KK, a $600 million infrastructure bond earmarking $100 million for anti-displacement programs and affordable housing.

- Measure A (Santa Clara County): Santa Clara County passed Measure A in November 2016, which allows the county to borrow up to $950 million to create and preserve an estimated 5,000 affordable housing units.

- Proposition A (San Francisco): San Francisco passed Proposition A in November 2015, authorizing a General Obligation Bond of up to $310 million for the construction and retention of affordable housing.

As shown above, these bonds have been passed by both cities and counties, including separate bonds in Alameda County and the City of Oakland therein. Other Bay Area jurisdictions can explore passing General Obligation Bonds as a way of generating subsidies from the broad base of community beneficiaries, in addition to continuing to require affordable housing contributions from new development (discussed below).

Parcel Taxes

Parcel taxes apply to each taxable parcel in the jurisdiction, regardless of the assessed value for that parcel, and thus are not “ad valorem” taxes. For a “special tax” such as may be dedicated to affordable housing, a two-thirds majority of voters must approve the tax. Parcel taxes have not been commonly used for affordable housing, but there is no prohibition against their use for this purpose. Parcel taxes are often considered “regressive” as all parcels pay the same rate and those with lower values thus incur a proportionately higher cost. However, the “fixed” aspect of parcel taxes means that a property owner will typically pay less over time as a proportion of their increasing property value. Given the proven recent success of General Obligation bonds for affordable housing, local agencies may prefer that mechanism rather than parcel tax measures.

Sales Tax Measures

Local sales tax measures often are used for funding local priorities such as transit improvements (like the extension of BART service to Santa Clara County) or public safety, but can also be used for affordable housing programs. While local jurisdictions capture a base of 1.0 percent of sales, the tax rate may be increased through a two-thirds voter approval. As with most sales taxes, there is concern that a sales tax add-on would represent a “regressive” tax, with greater impacts on lower-income households that typically spend a greater proportion of their gross income on taxable goods. However, in some places like San Mateo County, there is more historic success in passing sales tax measures than General Obligation bonds. Measure K, passed in San Mateo County in November 2016, extends a half-cent sales tax until the year 2043. Funds will be made available for a variety of “general County services and functions,” and a portion is expected to be directed to affordable housing for families, seniors, veterans, and people with disabilities. Though proceeds will depend on the level of taxable sales that occur in the County, the ballot measure indicated an expectation of generating $85 million per year. Other Bay Area communities could consider pursuing similar sales tax measures and directing some or all of the proceeds to affordable housing.

Transient Occupancy Tax

Transient occupancy tax is charged on new visitor revenue by hotels and motels. It is a local funding source with tax rates varying across the Bay Area. Cities have placed additional taxes on hotel and lodging receipts to fund a range of programs. Often, these dedicated taxes over and above the base tax rate have generally been for tourism marketing and promotion programs and facilities related to the tourism industry such as convention centers. However, transient occupancy tax rates may be used to fund affordable housing with increases subject to a two-thirds voter approval.

San Francisco and Columbus, Ohio have historically dedicated a small portion of lodging tax revenues to fund affordable housing. In the recent past, Columbus has generated approximately $17 million per year in lodging tax revenues, 8.5 percent of which is dedicated to funding the Affordable Housing Trust.

Perceived benefits of this type of program include the logical nexus between tourism and the service level jobs needed to serve the hotel and lodging industry, as well as the fact that the cost typically is borne by visitors from out-of-town rather than local residents. Concerns include the potential for an added tax to adversely affect demand for hotel rooms, or alternatively the impact that dedicating a portion of the existing hotel tax rate to affordable housing may have on the tourism marketing programs currently funded by the tax.

Tax Increment Based Funding Programs

For decades, California jurisdictions had the opportunity to exercise powers through local Redevelopment Agencies to direct tax increment toward specific purposes aimed at community revitalization, including the construction or retention of affordable housing. When these powers were dissolved in 2012, cities and lawmakers sought other means of directing tax increment to affordable housing.

RDA Boomerang Funds

"Boomerang funds" refer to a portion of the prior Redevelopment tax increment net of pass throughs and prior obligations and commitments. Approval of AB 2031 in 2016 enabled local jurisdictions to direct tax increment funds they would otherwise receive following the dissolution of Redevelopment to an "affordable housing special beneficiary district" to promote affordable housing development within the city or county boundaries. Bay Area communities that formerly had Redevelopment areas can explore this mechanism as a way of establishing local funding for affordable housing. Among other jurisdictions, Santa Clara County and Oakland took action, even prior to the passage of AB 2031, to direct boomerang funds toward housing programs.

EIFDs

Enhanced Infrastructure Financing Districts (EIFDs) are enabled through SB 628 legislation adopted in 2014. EIFDs essentially allow a jurisdiction to dedicate a portion of its own tax increment from a defined district toward a variety of public purposes, including affordable housing. This can be done on a "pay-as-you-go" basis through simple budget-setting by the Council, but if the community seeks to issue bond debt on that tax increment, the approval of 55 percent of the district's voters is required. Assembly Bill 313 (2015) augments the earlier legislation by clarifying how EIFDs can be used for affordable housing programs. While EIFDs can provide a dedicated revenue stream for affordable housing, it arguably comes at the expense of other local municipal services, as the EIFD money would otherwise accrue to the community's General Fund.

EIFDs require a sponsor entity to adopt an Infrastructure Financing Plan (IFP) and create a Public Financing Authority to provide legislative oversight to the EIFD district. Once established, EIFDs require the consent of each taxing entity to commit a portion or all of its tax increment over a 45-year period toward the IFP. As part of a proactive plan to accelerate local affordable housing production, Bay Area cities can consider the merits of creating EIFDs to fund affordable housing.

CRIAs

Under AB 2 in 2015, a Community Revitalization and Investment Authority (CRIA) can be formed by any combination of a city, county, city and county, and special district through a joint powers agreement. CRIAs are overseen by City Councils or Board of Supervisors and require creation of a governing board. CRIAs can only be formed in places meeting certain demographic conditions such as lower than State-average incomes and high crime and unemployment and require a finding of blight in the area, but can generate substantial revenues of which not less than 25 percent is required to be spent on affordable housing. Bay Area jurisdictions can explore whether they have areas that qualify for CRIA formation, and whether such an authority would convey powers or resources they otherwise could not direct toward their affordable housing needs.

Obligations on New Development or Reuse

For several decades, many California jurisdictions have imposed requirements on new development to address affordable housing needs. While such approaches are subject to litigation from time to time, the options available to local jurisdictions at present are described below.

Inclusionary Zoning and In-Lieu Fees

Local jurisdictions often adopt inclusionary zoning ordinances that require new residential developments to provide a certain proportion of units at below-market-rate prices. Based on the findings of the *Palmer* case in Los Angeles, most jurisdictions in recent years only applied these inclusionary zoning requirements to *for-sale* housing developments. The right of a jurisdiction to impose such inclusionary requirements on new for-sale development has been affirmed by the California Supreme Court in a case from San Jose. However, as of September 2017, AB 1505 affirms that jurisdictions can impose inclusionary requirements on new *rental* developments without violating other limitations on rent control.

ABAG's 2017 housing policy survey results indicate that 73Bay Area jurisdictions already have some form of inclusionary zoning, though not all of those ordinances have been recently reviewed or crafted to reflect contemporary needs and issues. The 2017 ABAG survey results further indicate that 61 Bay Area jurisdictions allow developers to pay a fee in lieu of providing the affordable units within their projects, at least for certain types or sizes of projects. The inclusionary zoning in-lieu fees fund affordable housing development and preservation programs.

To promote affordable housing development on public lands near transit or any other public or private property, Bay Area jurisdictions can explore the adoption, reinstitution, and/or updating of inclusionary zoning ordinances and related in-lieu fee programs, and strategically direct their in-lieu fee proceeds toward such development. Even those many jurisdictions that have such programs typically review and refine the inclusionary requirements and related fees from time to time, to reflect evolving local housing needs as well as evolving development economics (especially construction costs). Of course, there are limits on the extent to which new housing developments can provide affordable units and remain financially feasible, and care should be taken to craft inclusionary policies and in-lieu fee schedules that balance feasibility limits and thus do not dampen construction of market-rate housing.

Commercial Linkage Fees

Similar to the nexus-based housing fees described above, commercial linkage fees can be imposed on the construction, expansion, or change of use for non-residential developments such as office, industrial, or retail space. Commercial linkage fees must be based on the impact of new development on the need for resources to subsidize new affordable housing associated with the employment activity generated by the new development. In 1991, the Ninth Circuit U.S.

Court of Appeals upheld the City of Sacramento's nonresidential linkage fee. In that case, the court found that the City's fee program "substantially advanced a legitimate interest."

Similar to housing fee program revenue, commercial linkage fees require adoption by City Council or Board of Supervisors with fee revenue available for production, acquisition of at-risk units, preservation, or rehabilitation of affordable housing.

A summary of affordable housing fee obligations among Bay Area jurisdictions was assembled by the Non-Profit Housing Association of Northern California in November 2015. That document shows that at least 18 jurisdictions had adopted impact fees for non-residential development as of that time. Bay Area jurisdictions can explore the adoption of nexus-based fees on new nonresidential development and/or direct their current nexus-based fee proceeds toward affordable housing projects on public land near transit.

Community Benefits Programs

In response to increasing developer interest and concerns about project impacts, several communities have created programs through which developers can receive enhanced project entitlements in exchange for providing community benefits. In Redwood City, developers may receive greater densities, height limits, or other accommodations if they contribute substantially and more than otherwise required to the City's desire for affordable housing, open space, transportation demand management, or other priorities. The City of Berkeley also has adopted a program allowing downtown development to exceed 75 feet in height in exchange for additional significant community benefits, which may also include affordable housing among other categories of benefit. In other cases, cities may consider incorporating community benefits as part of a "value recapture" program corresponding to upzoning or other completed plans that enhance the value of local properties. Jurisdictions exploring development of public lands for housing may consider similar approaches to enhancing development opportunities on those lands, and/or directing resources from broader community benefits programs toward the development of those public lands.

Reducing Development Costs and Risks

While Bay Area housing prices are high and the market is attractive to investors and developers, housing development in the Bay Area also faces higher costs and numerous risks that are not necessarily present in other markets. Public agencies can help to address those costs and risks through a variety of approaches discussed below, some of which are particularly applicable to the development of public land for housing, while others may be useful and appropriate to incent housing development more broadly.

Public Investments to Offset Development Costs

The development of housing involves numerous categories of investment, including land acquisition, entitlement, and the construction of buildings and infrastructure. Sometimes the public sector has resources that can be directed toward these costs and thus reduce the cost for the housing developer.

Community Engagement and Entitlement

Cities routinely create or update plans for future growth and development. Whether through General Plan updates, zoning ordinances, Specific Plans, or other documents, these efforts establish the ground rules for what can be developed where, and what the obligations of such development will be. Typically in the Bay Area, these efforts involve an extensive amount of community outreach as well as analysis of environmental impacts from the proposed changes. The McKinsey report indicates that entitlement processes and their associated approval delays can add as much as 30 percent to the costs of housing development in California.

To the extent that the public sector can absorb some or all of the cost burdens and risks of obtaining project approval rather than affordable housing developers, these efforts can help to reduce development costs and the timeline for project approvals. The local jurisdiction can preemptively process any necessary plan amendments and zoning changes by their own action. Publicly initiated changes will clarify the regulations that are needed to achieve the public purpose and also reduces the time and risks associated with such regulatory actions if conducted subsequently by the selected developer. This effort could involve the completion of program-level Environmental Impact Reports (EIRs) that can significantly reduce the uncertainty developers face when seeking approvals for their own specific projects.

In recent years, MTC and ABAG's OneBayArea Grant Program has provided funds to leverage local resources to advance these planning and entitlement efforts, particularly in "Priority Development Areas (PDAs)" that are identified by Bay Area communities as areas for investment, new homes, and job growth. By definition, transit access is a key component of PDAs and thus such planning efforts are consistent with this study of developing public lands near transit.

Infrastructure Investment

Many prospective housing developments in infill areas face challenges associated with site conditions and/or infrastructure beyond their own on-site needs. A study of the "readiness" of the Bay Area's Priority Development Areas to accommodate the growth allocated to them under Plan Bay Area revealed that many areas face deficiencies in roadways and transit services, water/wastewater, parks, school capacity, and other critical infrastructure that make it challenging to provide adequate service to existing residents, let alone accommodate still more housing. Though local agencies' capital funding resources are often in great demand, investing them in areas that can provide affordable housing near transit may emerge as a top priority for many communities. Whether the money is from General Funds or other mechanisms described above, strategically allocating them as matching funds to enhance scoring and leverage of other state and federal dollars can be a very efficient approach.

One particular issue faced by many public agencies is the question of "replacement parking." This issue is common to transit agencies who consider developing a portion of their current station areas for housing or other uses, but face concerns that reducing the number of commuter parking spaces may lead to reductions of overall transit usage and/or diversion of parked vehicles and associated impacts onto nearby neighborhood streets. Replacement parking is not necessarily unique to transit agencies, however, as public utilities, school districts, cities and other public departments may operate surface parking lots that could be better utilized for housing. Following the lead of BART and VTA, public agencies can take proactive steps in their property inventories to quantify their current and expected future need for parking given observed and desired travel behaviors and costs, and plan corridor- or district-level parking strategies that do not assume each site has its own unique parking supply. Then, local agencies can direct some of their resources toward funding the replacement parking still needed, again leveraging regional, state, and federal resources to realize these projects.

Parcel Assembly

In some parts of the Bay Area, the public parcels near transit may not be efficiently sized or configured for efficient housing development. For example, many parcels near Caltrain stations along El Camino Real in San Mateo County are small and shallow, and do not yield efficient floorplates for multifamily housing with subterranean parking as the market in the area is demanding. Public agencies can assist in creating efficient development parcels by offering their own land as part of assembled sites, and/or acting in a "matchmaking" capacity to identify opportunities for assembly and coordinating communications among property owners and developers. Jurisdictions can also amend their zoning to encourage parcel assembly, by granting higher achievable densities to larger parcels. In that way, owners of small parcels may realize significantly greater property value by combining with adjacent parcels than they could on their own.

Regulatory Issues and Recommendations

As discussed above, the number of regulations and steps imposed by local zoning ordinances and permitting practices can have significant impacts on the costs of housing development. While these regulations typically offer great control to jurisdictions' officials and their constituents to shape the growth in their community, certain changes or exemptions may be productive in increasing the supply of affordable housing in the Bay Area.

Amending Zoning Ordinances to Enhance Feasibility

Many zoning ordinances limit the height of development and/or the density allowed, either through a floor-to-area ratio (FAR) or a maximum number of units-per-acre. Often, these standards are premised on minimizing aesthetic impacts, privacy concerns, or traffic congestion associated with new projects. However, these zoning distinctions are not necessarily consistent among jurisdictions, nor do they necessarily lead to optimal use of sites, even assuming that they address their intended goals. For example, buildings with 45 units per acre can be virtually indistinguishable from buildings with 80 or 100 units per acre, in terms of their appearance, and travel demand management techniques can greatly diminish their traffic impacts, particularly near major transit services. Some communities have adopted form-based zoning codes as a way to update their zoning regulations, providing flexibility for developers to provide a variety of marketable uses or unit sizes within a building envelope that is regulated more in terms of its aesthetic components than specific counts of various elements. The 2017 survey by ABAG indicates that a small minority of Bay Area jurisdictions had adopted form-based codes (about 25 percent), but the flexibility provided by them may enhance the feasibility of affordable housing development in many locations.

Allowing greater development heights for affordable housing can be a double-edged sword. On the positive side, projects may need to exceed current height limits by a few feet simply to achieve efficient building or to provide either design or mechanical features atop buildings. On the negative side, at a certain point, the costs of construction increase for taller buildings while the affordable prices allowed do not, thus yielding even greater need for subsidy per unit. Very few recent affordable housing developments in the Bay Area have been more than five stories tall or required construction types more costly than woodframe, because they simply are less feasible above those limits and typical subsidy programs have practical or statutory limits regarding the funding they can provide per unit.

Some jurisdictions are also allowing the construction of "micro-units" or "efficiency dwelling units" that are smaller than typical units and thus less costly to construct, even if they are "affordable by design" rather than more traditionally income-restricted. San Francisco has allowed such units and seen several projects developed and accepted by the marketplace. While not appropriate for all places in the Bay Area, jurisdictions with high student populations or young singles and couples may consider allowing micro-units as part of their affordable housing solution, whether on public or private land.

Parking regulations also add significant costs to housing development, affordable or otherwise. In this study, the consultants determined that parking regulations vary greatly among jurisdictions. With structured and underground parking costs now routinely exceeding $30,000 or even $40,000 per space, the parking requirements can determine the financial feasibility of construction. State density bonus law now requires cities to allow reduced parking ratios for projects that meet certain affordability standards, with even further reductions required for projects near transit stations such as those studied here. Some research indicates that "developing parcels for lower-income households" in transit-served areas is "likely to lead to higher reductions in VMT"(vehicle miles traveled) than developing those parcels for market-rate housing, and that "lower income households . . . experience greater percentage reductions in VMT than higher income households" when living in transit-rich environments. Though politically challenging, cities may consider eliminating parking requirements altogether for affordable housing near transit, which could yield significant savings of both cost and construction time.

Priority Processing and Limiting Scope of Discretionary Review

In the 2017 legislative session, several bills were signed that may effectively streamline housing development approvals. For example, SB 540 and AB 73 allow and financially incent the creation of "Workforce Housing Opportunity Zones" and "Housing Sustainability Districts" near transit, with ministerial housing approvals and expedited environmental review being among their goals. SB 167, AB 678, and AB 1515 strengthen the Housing Accountability Act and limit the ability of opponents to reject affordable housing or emergency shelters.

In addition to complying with or capitalizing on these State laws, jurisdictions that have an interest in providing priority processing and in limiting the scope of discretionary review can do so by assuring conducive land use policies (General Plan and Specific Plan) consistent with desired higher density housing uses, providing zoning regulations that limit discretionary review (conditional use permits, etc.) and offering streamlined entitlement processing (fixed time limits on review, etc.). CEQA review can be effectively streamlined through local action and investment including preparation of programmed EIRs and pre-mitigation of potential impacts.

Potential Actions for MTC

The discussion above reveals a number of ways in which housing development faces challenges in the Bay Area, ranging from physical conditions to procedural practices to political constraints. As the Bay Area's body responsible for regional planning and transportation funding, the Metropolitan Transportation Commission (MTC) has an opportunity to address these various challenges. Rather than trying to address the issue of encouraging housing production broadly, the recommendations below focus on actions MTC may take to encourage the development of housing on public lands near transit.

Also, these recommendations generally involve funding, as that is the primary “lever” that MTC has to influence actions by jurisdictions and agencies. The recommendations do not specifically account for where the money may come from, nor how various specific funding sources may or may not be eligible for particular types of expenditures. For example, the funds received by MTC are generally expected or required to be used for transportation-related expenditures, but some projects would benefit most from investment in non-transportation infrastructure or even direct investment in housing development. Resolution of such factors is critical to the successful implementation of most of these recommendations, but will require analysis and strategy that is beyond the level of this Action Plan.

Table 7 at the end of this document presents the consultants’ opinions on the scale of the likely impact of each of the following recommendations on generating additional housing on public land, as well as an assessment of the scale of the costs to implement such actions and their current status in MTC’s practices or deliberations.

Create Stronger Links between Housing Production and Discretionary Funding

MTC’s One Bay Area Grant 2 (“OBAG 2”) program is set to distribute $862 million in federal transportation funding for regional and county-level projects and programs between 2018-2022. The regional programs are scheduled to receive $486 million and are primarily directed toward regional transit priorities and regional operations, but $76 million of the funds are allocated to a new Housing Incentive Pool (HIP) program. The goal of the program is to reward jurisdictions that permit or preserve the most housing units at the very low, low, and moderate income levels. At the end of the production challenge cycle, MTC will distribute transportation funding to the jurisdictions that permit or preserve the most housing units.

The county-level portion distributes $386 million to county and congestion management authorities (CMAs), who further distribute those monies to specific jurisdictions and projects. The counties’ allocations are based on a combination of their total population (weighted 50 percent), the county’s Regional Housing Needs Allocation (RHNA) housing count (weighted 20 percent), and the county’s aggregate production of housing in a previous time period (weighted 30 percent). After this allocation formula and some set-asides for specific programs, CMAs are required to direct a minimum proportion of their allocated discretionary funds to Priority Development Areas (PDAs) – 50 percent for the four North Bay counties and 70 percent for the remaining five counties – while the remaining county allocations can be used “anywhere” that an eligible project is located. For individual projects to be eligible for these OBAG 2 funds, their jurisdictions must have an adopted “complete streets” policy, a certified Housing Element, and an adopted resolution to prioritize the construction of affordable housing in any disposition of surplus public land consistent with AB 2135.

OBAG 2 also initiates the creation of the Bay Area Preservation Pilot (BAPP) program (formerly the Naturally Occurring Affordable Housing program), directing $10 million towards the development of a revolving loan fund to be used for the aquistion or rehabilitation of existing affordable apartment buildings and/or extend expiring affordability agreements. MTC’s $10 million, added with community development financial institution (CDFI) partnership, creates $49 million in BAPP loan capital, with an additional $11 million anticipated in developer equity to achieve MTC's required 5:1 leverage ratio.

These programs could be enhanced in the following ways:

Dedicate More Funding to the Housing Incentive Pool and Bay Area Preservation Pilot Programs

While $76 million in regional program funding is set up as a Housing Incentive Pool "challenge grant" to reward the top producers of affordable housing, the reward for such production is modest. Depending on the Housing Incentive Pool formula for distribution, the reward may not be enough of an incentive for local jurisdictions to permit more affordable housing given the local funding match/subsidy required to produce affordable housing. Likewise, the $10 million Preservation Pilot program is likely to fund the acquisition and affordability extension of a few hundred units at most, even if combined with other local funding sources.

Weigh Housing Production More Heavily in the Funding Allocation

Presently, the amount of housing that a county has actually produced accounts for only 30 percent of the distribution formula for the OBAG 2 county-level program funding. While this is an improvement over the previous OBAG 1 criteria that weighted housing production at only 25 percent of the scoring, it still represents a modest proportion of the overall funding score. Even counties that produce no housing whatsoever still can receive a significant proportion of the total county-level funding if their population is large and they have large but unrealized allocations in the RHNA. Though it may be politically challenging to make this change, weighting actual housing production more heavily in the county-level scoring can significantly shift dollars toward counties achieving better housing results.

Likewise, results may be enhanced by adding an eligibility requirement that individual projects be in PDAs or jurisdictions that are actually producing housing rather than those that have simply adopted minimum policy standards that are largely State-mandated already. For example, priority could be given to projects in cities that have produced at least 50 percent of their RHNA affordable housing allocation in a recent cycle, or have made efforts to identify and market public lands for housing development. In addition to production performance metrics, other local requirements that could be considered as prerequisites for funding eligibility may include adopted ordinances related to density bonus, accessory dwelling units, and minimum densities.

Other Ideas Discussed by the Technical Advisory Committee

Some Technical Advisory Committee members suggested that MTC should establish very specific regional standards for public agencies regarding their land assets. For example, it was suggested that as a condition of MTC funding, cities should be required to adopt local surplus land disposition ordinances in addition to complying with the State's Surplus Lands Act. Such ordinances could require cities to proactively identify surplus lands and set objectives for achieving affordable housing. It was further recommended by some members that MTC should establish a regional standard for such affordable housing, similar to VTA's standards that all projects should have at least 20 percent affordable housing and that the agencies' overall development portfolio should have at least 35 percent affordable housing. While noting that all of these are laudable objectives, other Technical Advisory Committee members felt that such stringent requirements would represent a heavy burden on many agencies, and that local agencies should be encouraged but not required to take these steps. Given the uniqueness of each agency's mission, financial position, existing staffing and land resources, and future land needs as well as localized market conditions, these members felt it was inappropriate to establish strict standards that apply to all agencies. Due to this lack of consensus among key stakeholders and the reasonableness of both positions, this Action Plan does not recommend that all agencies should be required to adopt comparable public lands ordinances with specific parameters as a condition of regional funding, but does suggest in numerous ways that each agency should engage in thoughtful planning and discussion of their property needs and objectives.

Provide Direct Funding of Project-Related Infrastructure

The OBAG funding and Housing Incentive Pool are currently geared to reward jurisdictions that have succeeded in producing affordable housing, and this linkage could be strengthened as described above. However, in some cases the housing production has been slow specifically because of infrastructure deficiencies, potentially creating a vicious cycle of underinvestment and underproduction. Agencies may be understandably reluctant to approve and implement housing development just to gain some scoring advantages on prospective future funding allocations that may or may not materialize or address their near-term infrastructure needs.

To better incent the implementation of specific development projects, MTC could negotiate Memoranda of Understanding (MOUs) with agencies that can conditionally guarantee necessary infrastructure funding. In exchange for local agencies entitling housing projects, committing funding resources to specific projects, and/or securing development agreements for housing on public lands, MTC can pledge specific funding amounts for specific improvements at certain performance milestones that agencies and developers can rely on to support their other financing and implementation strategies. Examples may include the following:

Fund Replacement Access Studies and Infrastructure, including Parking

The Bay Area has numerous examples of projects where public investment in infrastructure was critical to the successful development of housing and other community-serving projects. Sites near transit, especially those owned by transit agencies, tend to have unique features meant to provide access to the stations for people driving, biking, walking, or taking other modes of transit. To ensure that current transit riders as well as residents in new housing are able to effectively access the stations after development occurs, it is important to account for such access features during the design phase of a project, and MTC can provide funding for such studies.

Frequently, the infrastructure required has been parking garages to replace existing surface parking spaces. The MacArthur and Fruitvale BART station developments, for example, both relied on public funding for parking garages to replace spaces used by transit riders. In Walnut Creek, meanwhile, a large housing development on BART's property has taken many years to commence in part due to the challenge of securing private funding for a replacement parking garage. Likewise, in San Carlos, the City is challenged with attracting an affordable housing developer to a small City-owned site, but has been informed that more developers would be attracted if the site were combined with an adjacent public parking lot to make a more efficient and financeable project.

Certainly, it is important to minimize the number of parking spaces to be replaced, to control costs, maximize the developable land, and encourage non-automobile trips. However, in many circumstances, development of public lands is not politically or functionally viable without some level of replacement parking. As part of its planning grants, MTC already encourages efficiency in replacement parking projects and policies by funding technical studies of the demand and the implications of reducing supply, and this effort may be expanded or enhanced by widely circulating results and best practices. Such studies can address not only parking replacement issues, but also the "right-sizing" of all types of access facilities on and around transit stations, to achieve a balanced approach that encourages other modes of transportation.

MTC can also help to address this fundamental constraint on development by directly funding infrastructure such as replacement parking that is required to make public lands available for housing. For many years, this funding role typically was served by local Redevelopment Agencies, but their dissolution has left both a funding gap and an organizational absence that has proven difficult to replace.

Offer Conditional Funding Commitments to Leverage Other Sources

Some public land development opportunities face infrastructure needs other than replacement parking. For example, the Alameda Point property – a former Naval air station on the island city of Alameda – offers hundreds of acres of land for development. The current plan allows 1,425 housing units, including a 25 percent affordable housing requirement, but the existing roads, water systems, and other infrastructure on the property are inadequate to provide the capacity for the envisioned development. In addition, the City of Alameda faces significant traffic congestion issues due to the limited number of ways on and off the island, and extensive investment and programming is required to keep traffic at acceptable levels if Alameda Point adds significant housing. When affordable housing developers sought State "cap-and-trade" funding for an initial project at Alameda Point in 2016, the application was not selected at least in part due to concerns that the transportation infrastructure and services to support the project were not fully funded.

MTC can assist in this type of situation by conditionally committing funds to projects that can address the community's traffic concerns and enhance the affordable project's competitiveness for critical external funding sources. In this Alameda Point example, it may have been possible to entitle more than the current amount of housing on the property if such regional funding were certain rather than speculative, and the developers of both the market-rate and affordable housing planned for the property would be better positioned to finance their projects.

Fund Technical Support Services for Property Disposition

In addition to funding infrastructure improvements and transportation operations, MTC has funded numerous planning efforts and technical services to cities and agencies. Specific projects and programs that can enhance the likelihood of achieving housing development on public land include the following:

Offer Planning Grants to Streamline Entitlement

One of the issues that has been raised by local jurisdictions with regard to by-right permitting is that they often do not have the money and staff resources to complete detailed plans (such as design guidelines or switching to a form-based code) that would make them feel comfortable that the objective standards in place would result in the kind of development they want aesthetically. MTC could expand its current grants program that assists in these instances by funding detailed planning and design studies to increase the viability of "by-right" permitting.

Fund Technical Support for Disposition Studies and Staffing

While some cities and agencies have staff dedicated to advancing development on their publicly owned property, many others do not have the scale, resources, or typical need to maintain such a staff. Even those that do have such staff often seek outside assistance with:

- design studies and economic analysis to identify and prioritize development opportunities,
- community engagement to discuss project design and programming parameters, including community benefits, and
- developer solicitation, selection, and negotiation efforts required to complete and implement agreements for the development of public land assets.

As part of its discretionary funding allocations, MTC could prioritize cities' and agencies' requests for staffing support and technical assistance to identify and dispose of public property for housing, especially where workforce and affordable housing is a desired outcome. When evaluating funding requests directly, or when creating instructions for CMAs to allocate funds, MTC could give stronger weighting to proposals that specifically enhance an agency's staffing and technical capacity to promote and implement housing development on public lands.

Members of the Technical Advisory Committee have opined that a significant barrier to using public land for housing is the understandable concern that those lands may be required in the near or long term for other public purposes. The scarcity and cost of developable land in the Bay Area presents a challenge to housing development, but also presents a challenge to public agencies that may need land for a wide variety of purposes. MTC can assist such agencies by funding Facilities Master Plan studies and other efforts to take account of their current properties, project their future needs, and consider the potential to offer unneeded sites for housing and/or work to incorporate housing around or even above the facilities they will continue to need. Such studies may even involve multiple agencies, as one agency's "surplus land" may represent a much-needed expansion opportunity for another agency. One example of a coordinated facilities planning effort is San Francisco's ongoing "Southeast Framework for Community Facilities" as part of its Emerging Southeast Initiative. That study aims to plan and strategize for public facilities of virtually all types (schools, libraries, public safety, child care, healthcare, etc.) for the growing population in that part of the City, rather than having individual departments or agencies conduct their plans independently.

Maintain Public Lands Database

Several Technical Advisory Committee members felt that the public lands information assembled for this study provides very useful data for organizations seeking to identify development opportunities and other organizations seeking to coordinate on land needs for various public purposes. These members stressed the value that could be achieved by maintaining and making publicly available such a consolidated public lands inventory on an on-going basis, and suggested that MTC could provide stewardship of the inventory. Indeed, the adopted Action Plan for *Plan Bay Area 2040* indicates that MTC should "create [an] accessible database of major development and publicly owned sites." Such an effort would require a continued staffing commitment from

MTC, as the inventory is likely to change as parcels are acquired, disposed of, developed or reserved for future public uses. As an alternative to this continual maintenance of a public lands database, MTC could play a role in assembling the periodic facilities master plans and surplus land inventories prepared by various agencies from time to time, particularly if such efforts are required by State law and/or as a condition for certain transportation funding as suggested elsewhere in this document.

Create Flexible Resources for Funding and Implementation

While the suggestions above indicate how funding might be strategically deployed and used as incentives to increase housing production, particularly on public lands, they do not describe the mechanism through which funding would be provided. Development of housing in the Bay Area is very expensive, and housing priced for moderate and lower-income households typically requires a significant financial subsidy. Every dollar that a housing development can avoid paying enhances the feasibility of the project and makes it more likely to materialize.

Explore a Regional Infrastructure Fund

One concept already discussed at MTC is to create a Regional Infrastructure Fund that would offer low-cost financing for infrastructure investments that enhance housing development in strategic locations. The Regional Infrastructure Fund could be a combination of grants or low-interest, long-term loans for which agencies could apply, and which could offer advantages over conventional public financing by not requiring local votes for increased taxation and having more favorable repayment terms than a typical General Obligation or revenue bond. MTC could work directly with local agencies to assess the merits of the project being funded in terms of its contribution to regional housing issues, determine the need for the funding and the items to which it could be applied, and negotiate conditions for receiving funds and terms for repayment.

The funds received by the jurisdiction could serve as a “local match” for other external funding sources, such as grants and tax credit programs, thus diminishing the need for the local agencies to direct their own limited resources to projects of regional importance. One of many unresolved issues with this concept would be whether the local agencies would have a funding source to repay the Regional Infrastructure Fund, or whether the funding would be a true or de facto grant. If a grant, it would be critical to identify ongoing revenue sources to continue to offer this program. The initial revenues to establish such a fund might come regionally derived sources such as the Bay Area Toll Authority (BATA) or bond measures, for example, which may provide flexibility that is not available through other State or federal funding sources.

Explore a Regional Land Bank

Several members of the Technical Advisory Committee for this study have suggested that a regional land bank could be an effective mechanism for pursuing development of housing on public lands. Land banks are common in the eastern United States, but less so in the West. Typically, they have been formed to consolidate efforts to reuse or redevelop “problem properties” that are vacant, abandoned, or tax-delinquent, but a similar mechanism could be applied to the Bay Area’s underutilized public lands. One example is the recently formed Pittsburgh Land Bank in Pennsylvania. While noting that most existing land banks serve a somewhat different purpose in that they focus on private properties, Technical Advisory Committee members have expressed interest in this concept as a mechanism for facilitating development on public lands, noting that it could be particularly useful for smaller organizations who lack the capacity for their own disposition staffing. MTC could explore the potential for such a mechanism, including issues such as the following:

- Which entities' land would be eligible?
- How is land identified and acquired?
- How is development prioritized and solicited?
- How are previous owners compensated?
- Who has authority to approve developments and development agreements?
- Would the Land Bank be able to assemble public and private parcels for more developable sites?

MTC could explore this concept in greater detail, including an investigation of statutory authority, willing participants, and roles to be played by existing or potentially new entities.

Lobby for Legislative Action

During the 2017 Legislative Session, 43 bills were introduced that addressed housing in one manner or another. The 15 bills approved by the Legislature and signed by the Governor include two significant new funding bills (SB-2 and SB-3), several important reforms and improvements to existing statutes, and new legislation. Taken as a whole, this legislation offers some useful reforms and certainly new funding for housing development.

SB-35 (Weiner) intends to increase "by-right" provisions for developments featuring housing (i.e., limiting discretionary review of properly zoned projects that meet specific locational criteria), although some aspects of the bill may pose feasibility challenges for projects that wish to use it, such as requiring certain labor wages or meeting certain affordability thresholds. Amendments to the Housing Accountability Act (SB 167, Skinner) restrict local government's ability to impose conditions that expressly reduces project financial feasibility.

In addition to these efforts to force desired actions at the local level, the 2017 legislation (and the continuing two-year bills) also offer multiple opportunities to assist local governments that are taking a proactive approach to housing. These opportunities include creation of new planning districts (e.g., SB-167) where special entitlement and CEQA review policies apply, and grant funding (SB-2) which offers new permanent funding in the range of $250 million annually. As will be administered by HCD in FY 2018/19, this funding will be directed toward planning grants to local governments for transit oriented infill development sites or projects. Assuming that the Housing Bond Measure authorized by SB-3 is approved by the voters in June 2018, $4 billion for housing affordable housing related programs and investments will be available.

As a body representing the many jurisdictions of the Bay Area, MTC has unique clout to lobby for additional legislation at the State level that can enhance the potential to develop public lands as housing. Initial ideas for legislation that can advance these goals include the following:

Require Periodic Identification of Surplus Property and Long-Range Planning

State law already requires that public agencies first offer any surplus land to affordable housing developers. However, no State law requires agencies to periodically assess whether their properties are needed for their mission or could be deemed surplus. Agencies receiving State funding could be required to submit a surplus property inventory every so many years, which would most effectively be the result of periodic updates to a long-range facility and service plan that accounts for expected growth through at least the regional planning horizon. These inventories might be coordinated with regional Housing Element schedules to allow the information to be incorporated into site data and action plans in those documents. The inventories could also be collected and maintained by MTC, a regional land bank, or other entity as a comprehensive resource for prospective housing developers. Note that a precedent for such a requirement can be found in the Long Range Property Management Plans for former redevelopment agencies following their dissolution in 2012, which required the successor agencies to dispose of property either for public uses or for private development.

Streamline Interjurisdictional Conflicts

When different agencies have different agendas, they can work at cross purposes. For example, a city or transit agency may own public land near a freeway interchange, but the Air Quality Management District may be concerned about placing housing near an emissions-heavy area. State legislation could be created that clarifies and potentially limits the role one agency plays in entitling housing development on another agency's land.

Grant Limited Land Use Sovereignty or Limit Local Authority to Reject Proposals

Most land use decisions and project entitlements occur at the local level. However, in some instances State law grants the land use and approval authority to a State department, multi-jurisdictional regional entity, or special district rather than the local jurisdiction. These exceptions are primarily for "public works" projects, but given the State-level attention to the need for affordable housing, it may be possible to include affordable housing on public land as a use for which these exceptions could be granted. This may prove difficult to administer, as most agencies other than cities and counties do not have the institutional capacities or processes in place to evaluate and approve development proposals, and would need to invest in such organizational capabilities.

As an alternative to this approach, legislation could be adopted that retains land use authority in the current jurisdictions, but limits their ability to reject proposals for housing development on public lands. Just as State density bonus law mandates certain actions or concessions for projects providing minimum thresholds of affordable housing, cities and counties could be required to grant rezoning of public lands if proposed for housing by the controlling agency, perhaps with very limited exceptions.

Table 7
Overview of the Effectiveness of Potential MTC Actions

Potential MTC Action	Potential Impact	Magnitude of Cost	Current Status
Create Stronger Links between Housing Production and Discretionary Funding			
Dedicate More Funding to the Housing Incentive Pool and Bay Area Preservation Pilot Programs	**MODERATE:** Funding directed toward these programs should have a direct effect on creating or retaining affordable housing units, so the scale of impact depends on the amount invested. Each additional million dollars could support the construction or retention of a few to a few dozen affordable housing units, depending on the projects' ability to attract and leverage other external sources of subsidy.	**MODERATE:** A meaningful difference from current practices would only by achieved by moving tens of millions of additional dollars toward these programs.	MTC anticipates approval of a combined $86 million for these programs as part of OBAG 2 funding in 2018. Increases to these amounts might be considered for OBAG 3 in the next few years.
Weigh Housing Production More Heavily in the Funding Allocation	**MODERATE:** Further increasing the weight of housing production and/or policies that enhance developability in the OBAG funding allocations at the County and City level would financially reward jurisdictions that prioritize housing production. The extent of this reward and its impact on housing production before or after the funding allocations is uncertain, and likely depends on the amount of money to be gained, local needs for that money, and other local political pressures.	**NONE:** This program does not imply new funding, only a re-allocation of existing funding.	Attention to rewarding jurisdictions for increased housing production has occurred through MTC approval of the new Housing Incentive Pool program. Deliberation for the Housing Incentive Pool formula for funding distribution is still underway. Intensified housing production weighting and criteria might also be considered for OBAG 3 in the next few years.
Provide Direct Funding of Project-Related Infrastructure			
Fund Replacement Access Studies and Infrastructure, including Parking	**SIGNIFICANT:** The cost of reconfiguring existing transit facilities and building parking structures to partially or wholly replace surface parking poses a major financial hurdle for new development. Studies that can yield efficient plans for such investment are important, but actual public investment in those facilities can enable development that would not be feasible otherwise.	**SIGNIFICANT:** The cost of replacement parking structures are regularly in the tens of millions of dollars, and other site/infrastructure improvements may also have major costs. Funding these improvements as even 5 to 10 stations could cost $100 million or more.	MTC currently offers funding to jurisdictions for access studies, but does not offer such funding to transit agencies, and could consider that approach in future funding cycles. Direct infrastructure investment could be considered as a funding priority for OBAG 3 in the next few years, or could be pursued through a Regional Infrastructure Bank not yet in place.
Offer Conditional Funding Commitments to Leverage Other Sources	**SIGNIFICANT:** Some projects have failed to receive external funding (such as through AHSC) at least in part because of uncertainty regarding additional funding sources needed for critical infrastructure. By making conditional commitments that guarantee such MTC infrastructure funding only if additional funding sources are secured or awarded, MTC can enhance the competitive position of those projects while being assured that MTC's funding will only be spent on projects that are in fact financed and "shovel ready."	**SIGNIFICANT:** The costs of even relatively modest transportation infrastructure projects are regularly in the millions of dollars. Funding these improvements for a few dozen could cost $100 million or more, but MTC would be assured that the funding would go toward actual projects rather than being more speculative.	Direct but contingent infrastructure investment commitments could be considered as a funding priority for OBAG 3 in the next few years, or could be pursued through a Regional Infrastructure Bank not yet in place.

Table 7
Overview of the Effectiveness of Potential MTC Actions

Potential MTC Action	Potential Impact	Magnitude of Cost	Current Status
Fund Technical Support Services for Property Disposition			
Offer Planning Grants to Streamline Entitlement	**MODERATE:** Public funding of Specific Plans, environmental clearance, and other efforts that clarify and codify development entitlements can greatly reduce risk for developers, can eliminate or reduce developer costs associated with those efforts, and can ensure that the development allowed is consistent with local priorities. However, the presence of such documents does not increase demand for housing or achievable prices where feasibility is challenged, and generally yields savings of perhaps a few million dollars for most projects, while other public investments (such as in infrastructure and replacement parking) may save tens of millions.	**LOW:** This program implies a continuation and perhaps modest expansion of existing funding by a few million dollars.	MTC has been providing planning grants and technical assistance for several years, and is expected to continue this program in the future.
Fund Technical Support for Disposition Studies and Staffing	**MODERATE:** Many public agencies do not have the technical expertise or time to conduct studies and other efforts focused on identifying and disposing of their land for housing. By funding staff or consultants to take on these issues on behalf of agencies -- such as through facilities master plans and/or developer solicitation processes -- MTC can greatly enhance the chances that sites will be successfully developed.	**LOW:** For a few million dollars, disposition studies and processes could be conducted by or for numerous agencies that otherwise may not be inclined or able to offer their land for housing development.	MTC has been providing planning grants for several years, and is expected to continue this program in the future. In future funding cycles, priority could be given to projects focused on public land disposition.
Maintain Public Lands Database	**LOW:** By creating and maintaining a database of potentially developable public lands, MTC can guide interested developers and agencies toward one another. However, the impact of this effort really depends on the extent to which it is used, and is likely to fall short of the impact of more direct involvement with agencies through other technical support efforts.	**LOW:** For not more than a few million dollars over several years, MTC can fund staff and/or consultants to keep the resource updated from time to time.	Through this Public Lands for Housing study, MTC has created an initial working database. MTC has not yet identified or committed funding or resources to periodically maintain the database.
Create Flexible Resources for Funding and Implementation			
Explore a Regional Infrastructure Fund	**SIGNIFICANT:** By creating a substantial, reliable, and regionally controlled and funded resource for infrastructure, a Regional Infrastructure Fund could greatly reduce development costs, risks, and uncertainty.	**SIGNIFICANT:** The costs of even relatively modest infrastructure projects are regularly in the millions of dollars. Funding these improvements for a few dozen projects could cost $100 million or more.	MTC and stakeholders have initiated conversations about a Regional Infrastructure Fund, but much detail has yet to be explored.

Table 7
Overview of the Effectiveness of Potential MTC Actions

Potential MTC Action	Potential Impact	Magnitude of Cost	Current Status
Explore a Regional Land Bank	**SIGNIFICANT:** By creating a single organization that can identify development opportunities, solicit and negotiate developer partnerships, and coordinate funding and approvals for multiple agencies, a Regional Land Bank could greatly reduce costs, risks, and uncertainty for both the public and private sector.	**LOW to MODERATE:** Forming a land bank would likely require several million dollars of start-up costs to create the partnerships, legal framework, governance and financial structure, and staffing. Some initial public-to-public financial transfers may also be required to assemble a supply of land in the bank. However, once these are in place, the land bank operations might be funded by a variety of sources, including a portion of revenues generated from land disposition.	MTC and stakeholders have initiated conversations about a Regional Land Bank, but much detail has yet to be explored.
Lobby for Legislative Action			
Require Periodic Identification of Surplus Property and Long-Range Planning	**MODERATE:** If public agencies are required to proactively identify surplus land and long-term land needs, prospective developers will have a stronger sense of the available land supply and disposition decisions by the agencies will be less subject to conflict.	**LOW:** For a few million dollars, land studies could be conducted by or for numerous agencies that otherwise may not be inclined or able to offer their land for housing development.	MTC and stakeholders have discussed the merits of such legislation, and may support related lobbying efforts in the future.
Streamline Interjurisdictional Conflicts	**LOW:** Legislation that clarifies the relative position of different agencies in the land use authority and entitlement process could provide developers and agencies greater certainty regarding project approvals.	**LOW:** For a few million dollars, studies might be conducted by or for numerous agencies that explore the trade-offs of allowing development to advance despite some concerns regarding typical regulations. For example, what is the benefit vs. cost to society of having housing near transit but in areas with health or environmental sensitivities?	MTC and stakeholders have discussed the merits of such legislation, and may support related lobbying efforts in the future.
Grant Limited Land Use Sovereignty or Limit Local Authority to Reject Proposals	**MODERATE:** If a public agency is willing to offer land it owns for housing development but another jurisdiction has the actual authority to approve or reject the project, the threat of an arduous approval process may greatly diminish the owner's incentive to pursue the project. Granting the owning agency greater autonomy or certainty on project approvals could streamline the process and increase the supply of land being offered. This effect would likely occur only after significant organizational capacity for planning and approval processes is developed within such agencies, or possibly a centralized agency such as a Regional Land Bank. As an example of a related law, Assembly Bill 2923 - recently passed by the California Legislature and awaiting the Governor's approval - would require BART to create zoning standards in their station areas that local jurisdictions would need to adopt, with limited opportunities to reject compliant projects.	**LOW:** For a few million dollars, agencies could undergo initial training on the project approval process and/or conduct related planning studies, and ongoing training and technical support could also be funded.	Assembly Bill 2923 is currently being considered by the California Governor, after having passed in the State Assembly and Senate. MTC has discussed the merits of such legislation and stakeholders have discussed its possible expansion to agencies other than BART.