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**URGENT: COVID-19 Pandemic, Connect SoCal Plan, and Public Records Act**

Dear Mr. Ajise:

Our civil rights organization, which is dedicated to the restoration of attainable home ownership and multi-generational economic stability with better educational and health outcomes for California's hard working minority families, timely submitted detailed comments on the draft 2020 Regional Transportation Plan/Sustainable Communities Strategy (Plan), and accompanying Program Environmental Impact Report (PEIR).

We begin by expressing our dismay that SCAG would even consider approving on May 7 a 10,000+ page Plan and PEIR released during the height of the pandemic emergency on March 27. This schedule shows total disregard for the massive health, family welfare, and economic consequences of the COVID emergency. Many minority households hold down three or more jobs to make ends meet, and lost all or most of the jobs in their households. Families with children were also expected to immediately assume responsibility for home schooling, as well as full time childcare, placing even more extreme burdens on those lucky enough to be part of an essential workforce and still have a job. The healthcare needs of immediate and extended family members is yet another demand, along with navigating the red tape of assistance programs for individuals and small businesses.

In short, the pandemic is a crisis in our community which has resulted in disproportionately high death and hospitalization rates for California minorities. For SCAG, in the middle of this pandemic, to decree that a 25-year housing and transportation plan for the entire region must be summarily adopted, when every federal, state and local agency in the country is delaying deadlines to prioritize urgent COVID needs, is both shocking and entirely unacceptable.

Instead of devoting its entire May 7 meeting to the COVID emergency, as the California Transportation Commission has done in commanding all transportation agencies to report in on the COVID issues affecting their operations and plans, SCAG staff demands that its Board rubber stamp a Plan conceived in complete ignorance of COVID, which has already resulted in massive illness and deaths in our region, as well as the indefinite shutdown of most of the

economy and most public transit. This schedule displays a shocking disregard for our communities, for the public, and for SCAG’s locally elected officials who must cope with scores of COVID priorities in their own cities and counties.

And we note, as described in detail below, that the final Plan and PEIR summarily dismissed the many detailed comments we raised on the draft Plan – and then made further changes to the final Plan which were concealed from the public, and affirmatively worsen our housing crisis and harm our communities. In the height of a housing emergency and a global pandemic, the Plan/PEIR misrepresents its content and consequences.

- Notwithstanding endless rhetoric about respecting “local input,” the SCAG modelling staff revealed that Plan made undisclosed changes to approved General Plans – reducing density below General Plan authorized levels in unknown locations, and increasing density above General Plan authorized levels in other unknown locations. The PEIR acknowledges that these General Plan inconsistencies are significant unavoidable CEQA impacts, but SCAG staff has not even disclosed the Plan’s rejection of General Plans to the public or the elected local officials who approved these General Plans - and are accountable to their voters for General Plan implementation. The PEIR also completely fails to identify, analyze or adopt feasible mitigation measures or alternatives to avoid this significant adverse General Plan inconsistency CEQA impact – and it fails to disclose the massive demolition, displacement and gentrification impacts of demanding massive density increases that are inconsistent with General Plans. Housing projects that comply with General Plans and other local, state and federal environmental requirements are legally vulnerable to anti-housing CEQA lawsuits because of this Plan’s fundamental rejection of “local input” General Plans. Even more significantly, neither the public nor SCAG Board members can even discern what these rejected General Plans even are since these details are buried in “Traffic Analysis Zone” maps that are not even included in the 10,000+ page Plan/PEIR package released on March 27!
- Notwithstanding major controversies about Plan’s undercounting of existing housing needs given widespread overcrowded housing especially in minority communities, and the region’s overall failure to produce adequate housing supplies, both the Plan and PEIR completely fail to acknowledge the region’s addition of about 800,000 more reasonably foreseeable new housing units which SCAG is itself allocating to local governments on May 7 as part of the Regional Housing Needs Allocations (RHNA) process. This failure alone assures that the Plan absolutely does not meet the region’s housing needs, and also guarantees that any local jurisdiction that does update its Housing Element to accommodate its new RHNA allocation will be planning for housing and population growth that is inconsistent with the SCAG Plan. Inconsistency with an SCS is identified in the CEQA Guidelines as a threshold of significance, with inconsistencies required to be avoided or mitigated unless infeasible. The PEIR includes as a mitigation measure that local agencies modify their General Plan to comply with the SCAG Plan – the very antithesis of the misleading statements SCAG staff has made about respecting “local input.” In fact, this Plan creates a no-win “Catch-22” for new housing, where local governments can be sued for not updating their Housing Element to comply with RHNA, and can also be sued for a RHNA-compliant housing element that is inconsistent with the SCS. With a planning horizon of 2045, the Plan’s failure to acknowledge and include the

RHNA allocations for each jurisdiction is unconscionable as well as illegal, and disparately victimizes (again) the region's minority communities, residents, and businesses.

We request that the Plan and PEIR be removed from the May 7<sup>th</sup> agenda, that a public workshop on the final Plan occur where all changes from the draft Plan, as well as all deviations from locally-approved General Plans, be fully and completely disclosed. We also request the final TAZ maps be posted on the SCAG website, since only the now outdated in superseded draft TAZ maps are available. And we request a full and complete accounting and Plan integration for housing unit additions that must be added to comply with each jurisdiction's reasonably foreseeable RHNA allocations as determined by SCAG.

We anticipate that this will necessitate plan changes, including likely supplemental environmental analysis of those plan changes, which can only be accomplished with the full, immediate and complete cooperation of SCAG staff.

We further request that the Plan and EIR consider the immediate and drastic economic and transportation consequences of the COVID emergency, which constitutes significant new information of changed circumstances that must be fully analyzed before the Plan can be finalized or approved. Remote work and reduced daily commutes are extremely feasible – and even before COVID more people worked from home than used public transit in the SCAG region. Remote work reduces emissions and traffic congestion to help the region notwithstanding CARB's dogmatic refusal to recognize the VMT reduction benefits of remote work. Additionally, the science has confirmed that airborne concentrations of COVID virus are higher in enclosed spaces with high occupancies – including subways and buses, as well as elevators in high density buildings – and social distancing is required to reduce exposure risks, but also further decreases ridership capacity. While we will all be learning COVID lessons for many years, lessons already learned must be acknowledged and integrated into the Plan and PEIR as significant new information.

### **Introduction and Summary**

We begin by noting our profound disappointment with SCAG staff's summary dismissal of virtually all of our comments, although we note that civil rights has always fallen victim to the preconceived prejudices of government bureaucrats who are endlessly creative in depriving minority residents of homeownership and housing opportunities while pursuing a policy goal that is shameful through the lens of history. Trying to cramming more than a million people into elevators and buses while charging \$3000 per month rents and depriving working families of homeownership is the policy goal of this Plan – bureaucracy over democracy, and rejection of the will of the people, or our locally-elected officials or locally-approved General Plans as well as dozens of housing bills enacted by the Legislature to increase production of housing that complies with General Plans.

We restate that SCAG has both the legal obligation and moral imperative to propose and approve a Plan that actually meets the housing and transportation needs of our communities – for today's residents, and not just the hypothetical future envisioned by those with secure jobs in civil service and academia focused on global climate change, where California contributes less than

1% of global greenhouse gas emissions (GHG) to the world and boasts per capita GHG emissions that less than half or even a third of our competitor states like Texas, Arizona and Nevada.

Today's reality is that California and the SCAG region have the nation's highest poverty rate, highest homelessness rate, highest rent cost burdened household rate, most catastrophic housing shortage, highest housing production costs, and longest/most unpredictable housing approval regulatory gauntlet. Latino, African American, and Asian American families (along with students and our young workforce) are disproportionately victimized by the confluence of massively destructive state, regional and local housing policy choices. SCAG must be part of the housing solution – but this Plan exacerbates all of these problems by acknowledging just one policy goal – reducing Vehicle Miles Travelled (VMT) and GHG under “guidance” enforced with an iron fist from a distance by the California Air Resources Board (CARB) – while throwing the housing and transportation needs of the region's residents, especially its minority residents, under the bus (literally).

Failed Housing “Solution”. As to the Plan's housing program, we believe, and commented on, the unconstitutional and unlawful disparate impacts of the Plan's regional housing program, in the context of an unprecedented housing crisis that already disproportionately harms members of our communities. Specifically, we note that although the Plan acknowledges the “extraordinarily high cost” of infill housing, and recommends restoration of redevelopment tax increment financing as a partial housing cost solution, this one line – in 10,000 pages of Plan/PEIR text (!) – is the Plan's only acknowledgement that the high density “elevator building” TOD rental apartments proposed by the Plan is completely unaffordable to the majority of the region's residents. The Plan opens a shameful new chapter – the first in SCAG's history – in an ongoing saga of more than a century of discriminatory redlining policies adopted by government agencies for all manner of self-serving or myopic policy goals to exclude minority families from homeownership, as documented by The 200's **Redlined** video, available at <http://www.thetwohundred.org/redlined/>

It is no coincidence that the Plan's insistence on unaffordable housing solutions, with a magic lantern wish for state law redevelopment funding, does not work for the majority of the region's residents at precisely the same moment in history that the majority of the region's residents are now minority community members. SCAG rubbed the same magic lantern wishing for redevelopment funding in 2012 and 2016, only to be summarily rebuffed every single year up to and including in 2019 by the state's prior and current Governors. And SCAG appears to have conveniently forgotten that even at the height of redevelopment funding, taxpayer subsidized housing comprised only about 5% of our housing supply – even before relentless increases in housing production costs now routinely exceeds \$500,000 for each and every small new apartment unit.

It is also no coincidence that the Plan calls for the wholesale demolition of existing communities, including the last remaining historically minority community residents and businesses, which are located near transit stations and along transit corridors. “Urban renewal” and displacement also have a long and sordid history, always pursued in furtherance of some policy objective overwhelmingly advocated by white advocates at the expense of minority communities. As both CARB and SCAG staff well know, in a gentrification and displacement report commissioned by

CARB scholars at UC Berkeley acknowledged that “transit proximity has a significant impact on the stability of the surrounding neighborhood, leading to increases in housing costs that change the composition of the area, including the loss of low-income households” – a displacement outcome confirmed by independent studies in New York and Chicago, and a central part of the debate and ultimately rejection SB 50 by all of the SCAG region’s Senators earlier this year. Yet the Plan, and the PEIR, fail to acknowledge the racial, economic, or physical impacts of the massive displacement to the region of wiping out entire communities that have the misfortune of having an underutilized existing or nonexistent planned future commuter bus service.

It is unconscionable for SCAG to approve an unaffordable housing plan for the region, and it is illegal. As we pointed out in our detailed comment letter, and as we have identified in two pending civil rights lawsuits against the California Air Resources Board and Office of Planning and Research, an agency action that causes disparate harm to the housing needs of minority communities violates the due process and equal protection clauses of the federal and state constitution, violates federal and state fair housing act laws, and is unlawful under SB 375 itself which requires that an SCS accommodate the housing, population, and economic development of the state’s regions.

SCAG’s response to these civil rights and fair housing act comments was a dismissal of these as a “policy” comment. Violation of civil rights is not a “policy choice” that SCAG can lawfully make. We raised these comments not in the context of identifying a policy disagreement, or merely an “environmental” impact under CEQA, but to put SCAG on notice (and to exhaust our administrative remedies) that the time for civil rights leaders to tolerate bureaucratic policies that continue to discriminate against minorities seeking homeownership has ended, and we will take all actions to protect the civil rights of our communities to attainable housing and homeownership.

We also take yet another opportunity to urge SCAG to avoid violating the civil rights of our minority communities, and to comply with other laws including SB 375. Compliance requires that the housing included in the Plan must be “affordable” to hard-working minority families without reliance on nonexistent state funds and long-shot lotteries to occupy a taxpayer subsidized rental in an affordable housing “project.” Leaders of The 200 fought for decades to end discrimination by government agencies, for the right to own a home, and to assure that minorities are no longer relegated to “the projects.” It is shocking – shocking – to have to remind SCAG staff, and now SCAG Board’s directly, that discriminatory housing programs that make homeownership unattainable for middle income minority families is illegal. The 200 wholly supports taxpayer funded housing for homeless, special needs, and low income residents, but as scores of non-partisan experts and agencies have opined taxpayer subsidized rental housing has never been, and can never be, a housing solution for the vast majority of middle income Californians.

Failed Transportation “Solution.” We are likewise deeply disappointed by SCAG staff’s summary dismissal of our transportation comments. SCAG well knows, as is thoroughly documented in The 200’s lawsuit against OPR that was attached and submitted as an integral part of our comment letter, that VMT in the region (pre-COVID) has substantially and consistently increased since the end of the Great Recession, and that the vast majority of that VMT increase is attributable to commutes by Latino and African American workers who need to

get to their job – and have been ruthlessly priced out of proximate coastal communities by no growth NIMBY policies and the racist abuse of laws like the California Environmental Quality Act (CEQA) to block even housing that is fully compliant with local General Plans and zoning codes, and all of the state’s stringent environmental protection and conservation standards. SCAG staff itself helped assemble the statistics showing that over a 3 year period, 14,000 housing units were challenged in CEQA lawsuits in the SCAG region - 98% of which were in infill locations in existing communities, 70% of which were within ½ mile of high quality transit corridors, and 78% of which were in the region’s whiter, wealthier and healthier neighborhoods and not in environmental justice communities. Anti-housing CEQA lawsuits challenging approved housing projects are today’s “citizen redlining” tool to block minorities from living in their neighborhoods.

SCAG staff also knows, as documented by our comments, that we can reduce tailpipe emissions – of criteria and toxic pollutants, as well as greenhouse gases – without depriving individuals from their ability to get to work, take their kids to a soccer game, or get themselves and their parents’ to the doctor. Under President Obama, the United States Environmental Protection Agency proudly announced that more than 98% of criteria pollutants had been eliminated from tailpipe emissions in the nation’s automobile and pickup truck fleet under the Clean Air Act. Although greenhouse gas emission (GHG) reductions were not required, vehicular emissions of GHG were also massively reduced from the nation’s pre-1972 vehicle fleet. We know how to reduce tailpipe emissions – with electric vehicles and other technologies, but also with changed work patterns such as telecommuting – but we do not know how to reduce VMT. It is inconceivable that a white family in 1975 would be deprived of homeownership and told to spend hours for hoped-for bus service: the Clean Air Act solution was to get rid of tailpipe emissions, not to deprive families of their mobility. And in the welfare reforms enacted during President Clinton’s tenure, it was former welfare recipients who had access to a personal vehicle – reliable, timely transportation – that could get and keep a job longer, keep their kids on track in school longer, and work their way out of poverty better – than those who had to ride the bus. Decades of poverty studies confirm that personal vehicular mobility is critical, especially for lower and middle wage workers – but unlike 1975, since the region’s population is now majority-minority, technological changes like electric cars aren’t good enough and we need to settle for small rental apartments and interminable or unreliable bus rides. This is the face of transportation discrimination against minorities, and it like housing discrimination is illegal and immoral – and SCAG has itself commissioned studies from UCLA and USC that confirm the current truth of these facts as described in our 200 v OPR lawsuit.

SCAG also knows that transit ridership, notwithstanding billions of dollars of investment, has actually declined – and the same UCLA and USC studies commissioned by SCAG have shown that transit ridership loss has been most substantial for lower income minority riders, and that there is no proposed fixed route transit service solution that would reverse this trend. The Plan itself concedes that only about 2% of people in the LA MSA use transit, and about 1% of people in the inland empire use transit, as shown in Table reproduced on the following page. And the SCAG Plan itself admits:

The key challenge facing public transportation in Southern California is the recent rapid decline in the use of public transportation. As documented in *Falling Transit Ridership: California and Southern California*, habitual transit riders appear to be shifting away towards personal vehicles. If the ridership keeps dropping, service cuts may occur, leading to a vicious cycle of further ridership decline.

Many transit advocates would argue that new technologies and service patterns such as Transportation Network Companies (TNCs), Mobility as a Service (MaaS) and automated vehicles present an opportunity for transit agencies to move away from being service providers to become platform owners and mobility managers. However, transit agencies, and public agencies in general, tend to be resistant to change. In particular, as noted by transit consultant Jarret Walker in January 2018, transit agencies are subject to strict regulatory oversight, rigid labor contracts, occasionally conflicting or confusing direction from elected officials, and a focus on day-to-day operations. These conditions often cause transit agencies to focus on stability and predictability.

**TABLE 1 Travel Mode Share, All Trips**

Modal Category	Los Angeles–Long Beach–Anaheim, CA	Riverside–San Bernardino–Ontario, CA
BICYCLE	1.00%	0.50%
MOTOR VEHICLE	82.70%	90.40%
OTHER	1.40%	0.70%
TRANSIT	2.20%	1.00%
WALK	12.70%	7.40%

*Source: 2017 National Household Travel Survey*

SCAG’s Plan is a transportation solution for the 1% (or 2%) – and ignores the transportation needs, and solutions, that work for everyone else.

SCAG is also legally responsible, under federal and state transportation and air quality laws – as well as civil rights laws – to provide for effective and equitable transportation solutions for communities as they exist, not for utterly unaffordable new housing types predicated on fixed route public transit ridership that do not work to get people where they need to go reliably, safely, or on time.

We assume many of SCAG’s leaders and staff have the luxury of working from home at a keyboard or from a cell phone. We know that CARB disdainfully calls people who have to be physically present to perform their job and be paid the “service population” – but federal and state transportation and air quality law require the Plan to work even for minorities, not just keyboarding bureaucrats with secure salaries and benefits. We are Californians and we are equally entitled to pursue homeownership: we are not the “service population” for bureaucrats.

### **Detailed Comments**

We first note the absence of legally adequate responses to our comments, as well the absence of any substantive changes in the Plan/PEIR in response to our comments. We also note that many other commenters raised overlapping concerns with the Plan/PEIR, from the massive

displacement and gentrification consequences of destroying existing minority community residents and small businesses in neighborhoods served by transit, to proposing housing and transportation measures already shown to be wholly infeasible for the vast majority of the people living in the region who work full time (and often at multiple jobs) but cannot afford housing and suffer the longest commute distances in the nation.<sup>1</sup>

We also object to staff's unprecedented proposal that the SCAG Regional Council hold a "public" meeting telephonically to approve the Plan/PEIR in April, one month after the release of the 10,000++ page Plan/PEIR. The SCAG Board is more than twice the size of the State Senate, which has wisely postponed trying to meet to conduct the public's business in the COVID emergency. There is ZERO meaningful opportunity for public input and meaningful dialogue with SCAG's Board, given telephonic constraints that preclude both meaningful interaction with the public and meaningful interaction among the diverse members of the Regional Council itself. Any such proceeding would be unlawful, and a violation of the Brown Act and Bagley-Keene Open Meeting laws even under the recent COVID-19 Executive Order. The proposal also represents a shockingly tone-deaf bureaucratic expectation that the elected members of the Council take time away from dealing with the COVID-19 emergency to absorb 10,000+ pages of text in a socially distanced vacuum. Members of our community – struggling with staggering job losses, family care obligations, illness, unpaid debt, and a highly uncertain recessionary future – are even less able to take the time to find broadband access and absorb 10,000 pages of a 30-year regional housing and transportation plan.

Even more urgently, the day after the Plan/EIR is adopted, anti-housing special interests can immediately use the Plan/EIR in CEQA lawsuits – including but not limited to CEQA lawsuits challenging approved projects that comply with all state and local requirements including the prior SCAG Plan!! In the midst of the state's most severe housing crisis in history, handing a new CEQA lawsuit claim to housing opponents is not just harmful public policy, it's immoral – and an unconstitutional and unlawful disparate impact caused by SCAG against minority communities most victimized by the current housing crisis.

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<sup>1</sup> To pick just one of dozens of examples of unlawful responses to our comments, the PEIR continues to ignore the CEQA mandate for considering the cumulative consequences of implementing the reasonably foreseeable Regional Housing Needs Assessment (RHNA) final state allocation demanding that the region plan to accommodate 1.3 million new homes. The adoption of these RHNA targets is exempt from CEQA, but this exemption does not excuse SCAG from considering the reasonably environmental consequences of the region's legally-mandated implementation of this final RHNA allocation. Other examples: the Plan and PEIR fail to respond to comments regarding the civil rights and statutory violations of the Plan, including each of the causes of action included in the 200 v CARB and 200 v OPR civil rights lawsuits, which were submitted in their entirety as comments on the Plan and include detailed factual and legal comments about the region's housing and transportation, and the unlawful discriminatory consequences of VMT reduction mandates through massive displacement of existing communities and massive construction of rental "projects" with unknown funding or unaffordable costs.



California has a housing shortage of 3.5 million units. Adopting a Plan/PEIR that immediately creates a new CEQA lawsuit claim against housing that complies with all city and county plans and ordinances, and is built to the most exacting sustainability standards of any state in the nation, by a 70-member board acting by telephone in the midst of a global health pandemic, is an unconscionable. We need to collectively stay calm, and focused on solving the region's housing and transportation needs, and to do that we must pause and collaborate on revising the Plan/PEIR – not rush to telephonic judgment on a 30-year plan.

### COVID-19 Pandemic Requires Plan Revisions and Recirculation of the PEIR

COVID-19 requires a clear-eyed reassessment of the region's transportation and housing needs, and the feasible transportation and housing solutions that work for the people who live in the region.

Instead of acknowledging the failure of past plans to provide effective housing and transportation solution for the region, and instead of recognizing the massive changes already underway with COVID-19, staff proposed that the Plan/PEIR be rubber stamped on a fast track telephonically.

This letter adds to our prior comments that the COVID-19 pandemic is significant new information for purposes of CEQA. The region's response to the pandemic has demonstrated the feasibility of massively increasing remote work practices, which is a proven VMT reduction measure that can be implemented without the massive demolition and replacement of existing transit-served neighborhoods. Remote work is also a VMT reduction measure that is far less costly, and hugely less regressive and racially discriminatory, than charging those forced by high housing costs to live at greater distances from their jobs, and those forced to be physically present at their job to perform their job duties (and get paid).

The COVID-19 pandemic also raises significant new information in the form of disparate health hazards caused by lower income transit-dependent neighborhoods in higher density urban cities such as Chicago and New York. As noted by the New York times on April 7:

At least 41 transit workers have died, and more than 6,000 more have fallen sick or self-quarantined. Crew shortages have caused over 800 subway delays and forced 40 percent of train trips to be canceled in a single day. On one line the average wait time, usually a few minutes, ballooned to as high as 40 minutes.

Since the coronavirus pandemic engulfed New York City, it has taken a staggering toll on the Metropolitan Transportation Authority, the agency that runs the subway, buses and commuter rails and is charged with shuttling workers — like doctors, nurses and emergency responders — who are essential to keeping the city functioning.

<https://www.nytimes.com/2020/03/17/nyregion/coronavirus-nyc-subway-federal-aid-.html>

The contagion risks of transit is not confined to these legacy east coast cities. The San Francisco Bay Area has nearly five times more commuters using public transit as San Francisco (about 10%, primarily commuting to downtown San Francisco) as contrasted with coastal LA's 2% and the Inland Empire's 1% of transit users. Given transit workers and riders COVID risks, even in the state's most transit-dependent city - San Francisco serving its 49-square miles, as contrasted

with LA's nearly 700-square miles, transit officials first shut down all light rail lines, then cut bus lines from 68 to 17 routes. Transit service, and transit agencies, remain critical – but the fragility and adverse consequences of abrupt cessations of transit services in public health hazards is a significant adverse environmental impact under CEQA that was unknown, and unknowable, when the Draft Plan/PEIR was proposed.

COVID-19 has already proven the feasibility of the less economically regressive, racially discriminatory, and environmental harmful VMT reduction option of increasing the region's remote workforce. COVID-19 has already proven the fragility, as well as the adverse health and environmental consequences of reliance on fixed route public transportation 19<sup>th</sup> century bus and train technology.

### California Public Records Act Request

Instead of allowing either the public or the elected members of its Regional Council – all of whom are coping with the daily emergencies of the pandemic - to conduct a meaningful public review of the over 10,000 pages of text comprising the Plan/PEIR released March 29, just as the full horror of the pandemic was becoming clear, SCAG staff has insisted that the Plan/PEIR “must” be approved only one month later. SCAG staff has reported that the region is at risk of losing billions in federal and state transportation funding unless its Plan/PEIR are approved in April 2020.

This letter requests, pursuant to the California Public Records Act, the list of federal and state funding programs which SCAG could no longer access if the Plan/PEIR are not approved in April 2020, or as or before December 2020. The letter further requests copies of any correspondence received by any third parties regarding SCAG's loss of public funding if the Plan/PEIR are not approved in April 2020, or as of December 2020.

This letter further requests copies of all documents, including emails, between SCAG staff, and either CARB or OPR, between November 1, 2019 and April 27, 2020. CARB and OPR are defendants in civil rights lawsuits filed by The 200 for housing discrimination undertaken under the false flag of climate change which has the actual effect of destroying historic minority neighborhoods, displacing minority residents to ever more distant locations where housing remains affordable (including other states), and depriving minority residents of homeownership with tactics like charging VMT “mitigation” fees for new housing while exempting majority white existing homeowners from such fees. We fully anticipate ample documentary evidence of collusion between SCAG staff, along with CARB and/or OPR staff, in furtherance of the unlawful discriminatory housing actions included in the Plan, and anticipate fully protecting our legal rights to

We request these records in electronic format, either in a Drop Box or with other remote access technology, or on a memory stick. We respectfully request the opportunity to communicate with your information technology staff to assure that the computers available to us can accommodate the electronic information format.

## Comments on Plan/PEIR

We hereby restate all of our earlier comments and objections, as even a cursory skim of the final Plan/PEIR demonstrates that staff wholly ignored our comments and most comments raised by others.

The simple and unassailable truth, as documented in detail in the 250-page civil rights lawsuit challenging VMT and other anti-housing measures in the CEQA Guidelines, and in the 150-page civil rights lawsuit challenging four anti-housing measures (including VMT reduction mandates) adopted by the California Air Resources Board in its Scoping Plan notwithstanding the Legislature's repeated express rejection of any legislative mandate to reduce VMT, is that our housing, homelessness, and poverty crisis have all become much more severe over past eight years under prior RTP/SCS plans that elevated one legal mandate – GHG reductions, as interpreted by the unelected members of CARB's board – above all civil rights, transportation, air quality and, housing federal and state legal mandates applicable to the RTP/SCS PEIR. Instead of heeding Albert Einstein's advice that those who refuse to learn from history are destined to repeat it, the Plan/PEIR double down on the same failed strategies with the inevitably same failed result.

SCAG's legal duty is to adopt a Plan that achieves multiple statutory objectives, including but not limited to actually providing safe and accessible transportation and housing solutions that work for the region's people, and sustain and accommodate population and economic growth as required even by the Legislature's climate mandates set forth in SB 375.

Instead, as again summarized below, the Plan throws the region's minorities under the bus - a bus that is statistically almost certain to be nearly empty except (for some routes only) during the morning and afternoon commutes.

- SCAG Plan Fails at Housing. The SCAG plan expressly acknowledges that its desired outcome of infill-only housing to meet one regulatory objective of one agency – CARB's 19% GHG reduction mandate, for which CARB counts only VMT reductions from public transit, bike and pedestrian modes as trip reductions and does not recognize telework or other remote access learning, medical care, shopping, or other activities. The Plan acknowledges that infill high density housing that wipes out existing neighborhood uses in locations with transit – locations where the Plan already acknowledges that about 30% of the region's household already live – is extraordinarily expensive, and cannot work without financing and regulatory reforms that SCAG has no legal authority to require or enforce. SCAG's prior leadership and Boards have repeatedly acknowledged that SB 375 cannot be achieved without re-instating and actually expanding redevelopment tax-increment financing tools and cannot be achieved without reforming CEQA to end lawsuits and lawsuit threats against implementation of plan-conforming housing, transit and infrastructure. The Legislature and two successive Governors have declined to reinstate redevelopment, or reform CEQA. In the state's most sustained period of economic growth, now tragically ended with the pandemic, and with a housing supply shortfall of 3.5 million units according to Governor Newsom, housing production

actually fell for two successive years in a row. The SCAG Plan cannot be built on a foundation of unicorns and gold pots at the end of rainbows: this Plan should be either abandoned entirely, or conditioned to become effective only if a massively expanded redevelopment program and equally fundamental changes to CEQA's project-by-project, duplicative and successive special interest leverage lawsuits.

- **SCAG Plan Fails at Transportation.** The Plan expressly acknowledges that only 2% of coastal residents use public transit, 1% of inland residents use public transit, and transit use continues to fall (even before pandemic). The Plan further concludes that public transit agencies are too bureaucratic and rigid to provide the types of platform-based transportation solutions that have been proven successful in reducing car ownership, or promoting the only successful congestion-relief (and VMT reduction) measures like affirmatively promoting remote work solutions that have now been instantly adopted by millions of SCAG residents in the COVID-19 emergency. Instead, the SCAG Plan again yearns for another unicorn – the currently-unlawful imposition of fees to drive at some times on some streets and highways, and more fees to drive even a mile in an electric car – to impose massively regressive and racially discriminatory new cost burdens on precisely the same people most harmed by the housing crisis. As vividly demonstrated during the pandemic, “those people” – whom CARB calls its “service population” and the rest of us call “Californians” – need to be able to get to work safely, and on time. Instead of providing transportation solutions that work for people, as required by federal and state transportation laws, the SCAG Plan proposes to impose massive new and currently unlawful financial burdens on workers in the form of VMT and congestion pricing fees on those who cannot work from home, to fund still more fixed route transit projects, instead of including the suite of effective, safe, and efficient transportation solutions that are lawful now – and urgently needed now – by what in the COVID-19 pandemic have been more appropriately referred to as our essential workforce and not dismissed as the “service population.”

The SCAG plan is the housing equivalent of requiring everyone to live in million dollar mansions (which in this Plan is a million-dollar 750-square foot high rise condo with \$1000 monthly association fees in addition to mortgage payments), rely on magically more effective 19<sup>th</sup> century fixed route bus/train technologies, collect a ton of VMT and congestion fee money from the nation's most housing-burdened and poorest minority “service workers,” and then wave a magic wand to restore redevelopment and reform CEQA, and then – voila! – the plan works!! And if, when the magic again fails to appear, as it has for the last two rounds of plans, well . . . that's a problem for tomorrow.

And this is all before the COVID-19 pandemic, record unemployment claims, and heart-stopping tax revenue declines predicted by the state's reliance on boom time capital gains and top incomes, and local government's reliance on already-plunging declines in brick-and-mortar retail sales.

### Conclusion

The Plan/PEIR cannot lawfully be approved as proposed. The COVID-19 emergency is significant new information requiring what should have occurred in response to comments, and

did not: the reworking of the Plan/PEIR to actually meet the transportation and housing needs of the people in the region.

Nobody elected or appointed transit agency officials to adopt a plan – in the name of climate or any other environmental value - to perpetuate a century of racially discriminatory redlining actions to continue to deprive minority Californians from acquiring a home, safely and efficiently getting to work, and attaining the California (and American) dream for themselves and their children.

We urge you to withdraw and rework the Plan, recirculate an adequate revised draft PEIR, and engage in a full and inclusive stakeholder engagement process. We know there are more compact forms of housing – starter homes can include townhome and condo projects, flats and small-lot homes – that can work. We know there is some transit that can work at least some of the time. Given the scale and severity of the region’s housing, poverty and homeless crises, however, and the disparate impact that these crises have on the region’s majority-minority community, the revised plan should build on the far more constructive planning framework provided in the geographic distribution of the region’s job centers, should endorse the “all of the above” housing solutions needed to address the current crisis including the region’s need to accommodate 1.3 million new housing units under the current Regional Housing Needs Assessment cycle,

We welcome the opportunity to “meet” to address any questions you have regarding the foregoing, and to collaborate with you and your staff as you revise the Plan, and revise and recirculate the PEIR, to restore SCAG’s historic commitment to being integral to the region’s success – and end this foray into creating massive and discriminatory new housing obstacles.

VTY,

200 Leadership Council Members

John Gamboa

Hyepin Im

Steven Figueroa

Joe Coto

Anna Solorio

Ortensia Lopez

CC: SCAG Officers and Board Members