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November 20, 2014

Christopher Calfee, Esq.
Senior Counsel
Governor's Office of Planning and Research
1400 Tenth Street
Sacramento, California 95814

Re: Orange County Transportation Authority's Comments on the Discussion Draft of "Updating Transportation Impacts Analysis in the California Environmental Quality Act Guidelines"

Dear Mr. Calfee:

The Orange County Transportation Authority (OCTA) appreciates the opportunity to comment on the Office of Planning of Research's (OPR) preliminary discussion draft of, "Updating Transportation Impacts Analysis in the California Environmental Quality Act (CEQA) Guidelines" (Draft Update). OCTA operates as the countywide transportation agency for Orange County, with the mission to develop and deliver multimodal transportation solutions to enhance quality of life and keep Orange County moving. In this capacity, OCTA is charged with implementing Orange County's voter-approved transportation sales tax measure, Measure M2, which includes over \$15 billion in transportation improvements through 2041.

Pursuant to SB 743 (Chapter 386, Statutes of 2013), the Draft Update proposes an overhaul of existing practices for measuring transportation impacts under CEQA. Many of the projects OCTA is charged with implementing under Measure M2 could be impacted by the changes proposed in the Draft Update, posing barriers and/or delaying delivery of the voter-approved Measure M2 multimodal suite of projects. OCTA therefore appreciates OPR's consideration of the following comments:

Clarify analysis of transportation projects

Clarification is needed regarding how a lead agency would differentiate the induced vehicle travel of a roadway capacity project from additional vehicle travel (over existing conditions) that may be induced by other factors, such as new housing, employment, or population growth. In addition, please clarify what constitutes a "congested area" and how to determine if the project would

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“substantially” induce vehicle travel, as stated in the Text of Proposed Amendments to Appendix G, section d.

It should be noted that the analysis of induced vehicle travel for roadway capacity projects will likely trigger the need for more detailed environmental documents, versus using delay metrics, which will be more costly and time consuming for lead agencies. This is especially a concern if this type of analysis is required outside of transportation priority areas, where the majority of Orange County’s capacity projects are planned, and where mitigation options that promote alternatives to automobile travel are more limited.

Defer statewide application to allow for further analysis

OPR’s current proposal to implement the new metrics statewide on January 1, 2016, should be deferred until accurate data can accrue from application of the new metrics in transit priority areas. This will allow for analysis and refinements to the new metrics, resulting in a more informed decision on the statewide application. In addition, the opportunity will be provided to determine whether the use of vehicle miles traveled (VMT) is the most appropriate methodology for addressing the SB 743 statute language prior to statewide application. Prior to making a determination as to whether the new metrics should be applied statewide, another public engagement process should take place to provide input on the initial application of the new metrics.

As part of this process, potential inconsistencies with other CEQA requirements should be reviewed. Although automobile delay does not constitute a significant impact under CEQA, traffic delay still plays a role in determining other types of significant impacts, such as air quality. Therefore, the guidelines need further clarification to explain how a lead agency is expected to mitigate impacts to air quality due to increased congestion if adding roadway capacity is no longer an appropriate mitigation measure. It should also be noted that other planning requirements for congestion management programs and general plans still include level of service (LOS) provisions, and in some cases, mitigation requirements. The inconsistent goals of these documents compared to SB 743 may cause additional confusion, resulting in delays and increased cost to the implementation of local plans in addition to transportation projects.

Furthermore, the Federal Highway Administration (FHWA) requires an analysis of LOS, merge/diverge, and weaving on freeways. In addition, FHWA requires an analysis of traffic and air quality impacts for a cumulative condition for the life

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of the freeway improvements (20-year design year), using these metrics. Therefore, in joint CEQA/NEPA technical studies and environmental documents, an analysis of these traditional traffic metrics will still be required. Likewise, air quality analysis for carbon monoxide hot-spots as well as particulate matter is dependent on delay and level of service. Because of these federal requirements, there could be conflicts between necessary project features and mitigation measures under the draft update to the CEQA Guidelines.

Application of the revised metrics should not apply to projects with a released Notice of Preparation

In section 15064.3(d), the Draft Update proposes that the provisions of the section “apply prospectively as described in section 15007.” However, to avoid any potential disagreements regarding the interpretation of section 15007 that could result in substantial project delays, please clearly state that only projects that have not yet commenced an initial study or issued a Notice of Preparation when the amendments take effect should be subject to the new metrics. This will allow for improved consistency and application, and avoid risks for project delay and increased costs.

Clarify references to projects that “generally would not result in a significant transportation impact”

In proposed section 15064.3(b)(2), the Draft Update presumes that certain types of projects “generally would not result in a significant transportation impact,” but does not explicitly state that they are exempt. While supportive of the approach the guidelines take to recognizing the benefits of projects consistent with an adopted sustainable communities strategy (SCS) and regional transportation plan (RTP), the resulting impact for these projects is unclear. Please clarify the purpose of calling out these types of projects.

Delete suggestions of significance for certain types of transportation projects

Within the proposed new section 15064.3(b)(2), the Draft Update includes a suggestion of significance for any new general purpose highway or arterial lane. Often these projects are key elements of region’s SCS and RTP, which already demonstrate a regional approach to reducing emissions and meeting mobility needs. The guidelines should build on the approach used later in the section

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and allow all transportation projects included in a region's SCS and RTP to be presumed not to create a significant transportation impact.

Additional safety considerations are not called for by statute

The SB 743 statute language does not call for additional safety considerations, and such issues are already being analyzed under the CEQA safety impacts review. Rather than comingling the issues of safety and transportation impacts, these should remain separate considerations. OPR may want to consider such amendments at a later time, during a more comprehensive update of the CEQA guidelines.

Move discussion of recommended thresholds to a technical advisory

In order to clarify that determination of thresholds of significance is at the discretion of the lead agency, it would be more appropriate to move any discussion of recommended thresholds to a technical advisory. Furthermore, the inclusion of regional average vehicle miles traveled as a potential metric for determining the impacts of land use projects may create confusion in application. It is unclear if regional averages for various land use types are readily available to make these determinations, and it is also unclear what regional average is to be used.

Clarify the appropriate application of the proposed mitigation measures

The Text of Proposed Amendments to Appendix F includes a list of potential measures to reduce vehicle miles traveled. Under CEQA, the identification and application of mitigation measures is determined on a project-by-project basis, depending on the circumstances of each project. By including the measures in the proposed Appendix F, there is an assumption that they are generally effective at reducing VMT. Instead, such mitigation measures should be included in a technical advisory. In addition, by adding guidance to clarify under what circumstances these measures are appropriate, and to what extent they are effective at reducing VMT, it would help all involved with a given project to better understand the level of mitigation that may be expected. Lack of guidance may create uncertainty about the assumed effectiveness of the measures, potentially leading to avoidable cost increases and delays.

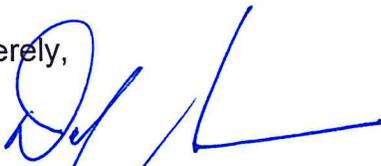
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Require consultation with transit agencies for projects that may impact transit facilities or services

Shifting from LOS to VMT analysis could alter the significance of a traffic impact for a project as well as alter the notification process of that project. For this reason, it is vital that lead agencies notify and consult with transit agencies on projects that may impact transit facilities or services. This consultation should allow transit agencies the ability to suggest and determine appropriate mitigation measures that respect the services and facilities of the transit agency.

OCTA appreciates your consultation on the Draft Update. However, the changes may be introducing tremendous legal and technical uncertainty into the CEQA process, particularly for projects that are planned or in-progress. We appreciate your consideration of the above issues before implementing these provisions under CEQA. If you have any questions please contact Kristin Essner, Principal Government Relations Representative, at (714) 560-5754 or Kurt Brotcke, Director of Strategic Planning, at (714) 560-5742.

Sincerely,



Darrell Johnson
Chief Executive Officer

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c: Platinum Advisors, LLC