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

Subject: City of Los Angeles Department of City Planning and Department of Transportation SB 743 Comment Letter

Dear Mr. Calfee,

Thank you for the opportunity to review and submit comments on the "Preliminary Discussion Draft of Updates to the CEQA Guidelines Implementing Senate Bill 743 (Steinberg, 2013)." The City of Los Angeles appreciates the Office of Planning and Research's (OPR) leadership and transparency during this past year in carrying out the difficult task of recommending changes for how projects assess their environmental impacts related to transportation.

To encourage projects to reduce their vehicle miles traveled (VMT) the City currently has in place procedures to implement trip reduction measures including Transportation Demand Management (TDM) strategies. Nonetheless, the City feels that a shift to VMT performance metric will enhance our ability to measure how TDM can lead to system-wide benefits and can better incentivize mixed-use development and the appropriate types of land uses than do our current procedures.

Furthermore, VMT performance metric also supports the City's emphasis to support other travel modes. In the recently released LADOT Strategic Plan, LADOT places a renewed priority on health and safety in measuring the success of the organization and performance of our streets. The growth in walking, bicycling and transit as reliable modes of travel is critical to achieving that success.

While SB 743 establishes a promising framework for CEQA reform as it relates to transportation analysis, City staff have concerns that OPR's current iteration of proposed Guidelines may define impacts, or lack thereof, too broadly and fails to provide a reasonable

timeline for cities to adapt to the proposed changes. We provide the following discussion to help OPR improve the Guidelines language to ensure practical application of meaningful CEQA relief, while meeting VMT reduction goals.

I. **Timeline**

City staff are concerned about the preparation necessary to transition to the new metric approach in the time required by the proposed California Environmental Quality Act (CEQA) guidelines, and have expressed doubts about the availability of a VMT-related metric for project-level analysis. While staff are confident that VMT-based metric methodology is both the preferred approach and within our technical means, the transition to this evaluation approach will take longer than the four month timeline required once the Guidelines are enrolled with the Secretary of State. A key question is what happens between the time that LOS no longer applies and when the lead agency approves the methodology and threshold for the replacement impact evaluation methodology. Travel demand models that account for VMT are available at the metropolitan planning organization (MPO) level pursuant to the Regional Transportation Plan/Sustainable Community Strategy (RTP/SCS) adoption process; however, uncertainty persists as to what degree the models can be readily applied to evaluate VMT on a project-level basis.

While OPR provides useful resources related to sketch models that may not require the same intensive amount of data investment as a travel demand model, applying such models will still likely require sufficient calibration and validation in order to meet the substantial evidence test that a CEQA analysis requires.

Consideration of time and resources also applies to the lead agencies' need to establish a threshold. Beyond model validation, compliance with CEQA's substantial evidence test will require an internal policy review, scenario testing with case studies, and estimates as to the effectiveness of project mitigation. CEQA also requires that lead agencies develop thresholds through a public review process, which may require adoption by a planning commission or city council.

Implementing the transportation evaluation guidelines without proper preparation of VMT models scalable to development projects could lead to an unstructured review process and create a period of uncertainty in CEQA compliance. Even with the proactive efforts the City of Los Angeles has initiated to make the transition, with the help of a grant from the Strategic Growth Council, this City may need a minimum of two years in order to adopt a new threshold. Many other cities that have not yet initiated this process would likely take longer. The City requests a longer grace period to technically vet the replacement evaluation methodology. However, understanding that the four-month timeframe may be adequate for some lead agencies, perhaps OPR could establish a range within which the Guidelines would take effect to allow some lead agencies to opt-

in early, while still providing a horizon date by which all lead agencies must adopt a new review methodology and whereby LOS would no longer apply from a CEQA perspective.

II. Delegation to Lead Agency to Establish Threshold

After reading the Guideline language, staff continue to have concerns that the Guidelines could be misread to imply that OPR has established a defacto threshold of significance that is tied to the regional average VMT. The proposed text to **Section 15064.3 (b)(1)** reads as follows:

"A development project that results in vehicle miles traveled greater than regional average for the project type (measured per capita, per employee, per trip, per person-trip or other appropriate measure) may indicate a significant impact."

The above language appears to establish a threshold that the City could be bound to. While OPR has stated on page eight of the discussion draft 'Updating Transportation Impacts Analysis in the CEQA Guidelines' that SB 743 did not authorize OPR to set a threshold, the above language does not expressly indicate that lead agencies continue to have the discretion to establish a threshold that is different than regional average VMT. CEQA practitioners refer to the CEQA Guidelines as a definitive source, and the lack of clarity in defining this authority to establish the threshold will likely consume staff time in defending a different approach that would likely only be resolved through litigation.

As an established center within the SCAG region, most areas within the city are already performing below regional average VMT. This implies that most new development projects would not need to include any mitigation related to transportation through a CEQA analysis, since the analysis would fail to disclose any impact. While this generally may be satisfying the goals of SB 743 by incentivizing infill development, it may produce unintended consequences by removing regulatory oversight for even the largest scale development from both a transportation, as well as a greenhouse gas perspective. The consequence includes missed opportunities to increase VMT performance of new projects, through transit-oriented site design, a broad set of transportation demand management (TDM) measures, and further incentivizing low VMT-generating land use patterns. These consequences could be exacerbated where an infill project replaces existing affordable housing and fails to show the corresponding VMT increase. National household travel survey data shows a strong correlation between transit usage, travel demand and household income, yet this is not accounted for in existing trip generation data. Lower income earning households, displaced by new development, may be forced to find replacement housing in outlying areas with less access to transit, while the higher income households moving into transit-rich areas show less reliance on transit. The displacement of low income households and their migration to outlying regions would likely increase VMT over time.

In addition, a regional average threshold will be hard to defend to the public if there is a perception that even large scale projects are not mitigating their vehicle demand, or their impacts on GHG emissions, since vehicle travel constitutes 40 percent of greenhouse gas emissions statewide.

Staff believe the Guidelines language can better clarify that lead agencies continue to have authority to establish their own transportation-related thresholds pursuant to the intent of SB 743 to properly account for VMT related impacts. Staff recommends that the language in **Section 15064.3 (b)(1)** be replaced as follows:

The Lead Agency shall continue to have discretion on the establishment of impact thresholds to determine significant impacts of a project, but the impact threshold shall not be higher than the regional average vehicle miles traveled for the project type (measured per capita, per employee, per trip, per person-trip or other appropriate measure).

III. Finding of No Significant Impact within TPAs and HQTAs

OPR appears to have expanded the applicable area where the new metric would replace LOS in the first implementation phase in subsection (d) by also including a ½ mile buffer around High Quality Transit Corridors (HQTCs) in addition to Transit Priority Areas (TPAs). With inclusion of the HQTCs, the draft guidelines substantially expands the geographic scope beyond just TPAs, as referenced in the legislation, to include nearly all urbanized areas in the city. The geographic scope as defined here would extend far beyond lower VMT-performing infill development.

The draft language further states in subsection (b)(1) that projects located within a ½ mile buffer of TPAs and HQTCs be considered to have a less than significant transportation impact, and therefore would not require mitigation. This is of concern to the City as the map of HQTCs includes some communities that have relatively low transit usage (less than 5 % commute mode share by public transportation). Simply satisfying the proximity to a transit corridor defined by bus headway, while not considering actual transit ridership provides major regulatory incentives to the broadest range of development since the conclusion would easily be reached that there are no transportation impacts without yielding much in terms of real VMT reductions.

Staff request that OPR remove the language implying that projects located within one-half mile of either an existing major transit stop, or an existing HQTC generally, may be considered to have less than significant transportation impact. This is a sweeping conclusion without the availability of travel patterns and transit mode ridership in the TPA or HQTC, and would result in missed opportunities to include trip reduction measures where they are needed. Additionally, such a finding is not necessary in order for a project, within a TPA or HQTC, to avail itself of CEQA streamlining benefits. As an alternative, projects within these geographies could also apply the CEQA streamlining

incentives under SB 226, and avoid the necessity to prepare an environmental impact report (EIR), since the VMT metric readily lends itself to the application of Uniform Development Standards through TDM measures. The same CEQA streamlining would result, while the lead agency would have grounds to apply mitigation measures or standards yielding improved VMT performance.

IV. Adaptable Impact Metric

The draft guideline language appears to support applying a different impact methodology between land use and transportation projects, and City staff prefer this flexibility. For instance, a lead agency should be able to apply a VMT per capita metric when evaluating land use projects, and be able to apply a VMT per person trip metric when evaluating transportation projects. However, the draft guidelines are unclear in subsection (b)(2) if a lead agency is able to define an impact threshold for transportation projects that would permit some level of induced travel without triggering a transportation impact. There should be flexibility in setting a threshold that allows a transportation project to induce some amount of travel as long as there is no corresponding increase in VMT per person trip. In addition, there should be flexibility when evaluating land use projects to select the applicable metric, such as VMT per capita metric for housing projects and VMT per employee metric for office projects.

V. Confining Analysis to Political Boundary

Section 15064.3 (b)(4) states that a lead agency should not generally confine its evaluation to its own political boundaries. There is sound basis for including this language given the regional nature of VMT and traffic patterns in general, and the importance of this principle applies to either LOS-based or VMT-based analysis. However, a narrow interpretation of this language may constrain a lead agencies ability to set a higher performance standard than the regional average. The City requests that permissive language be added that allows lead agencies to set higher standards than regional VMT.

VI. Safety Impacts of Speed Differentials

The City staff shares concerns with other cities that the local safety discussion in Section 15064.3 (b)(3) may present contradictions, and is generally overly prescriptive.

For example, Section 15064.3 (b)(3)(C) indicates that an impact to safety occurs when a project contributes to speed differentials of greater than 15 miles per hour between adjacent travel lanes. While it seems this criteria flows from the discussion of queuing onto freeway off-ramps that precedes it in the Guidelines, if read out of context, it could be used to apply to a project analysis along urban arterials that do not exhibit the same corresponding safety problems of freeway speed differentials. At the same time, this criteria could also be applied to the freeway context to discourage development of **BRT**,

HOV or transit-only lanes where they are shown to result in speed differentials, but not have the corresponding impact on safety.

The Guidelines also presents potentially conflicting direction through the safety impact discussion since the most readily available measure to resolve differential speeds on freeways is either through adding another lane to an exit ramp, and/or creating unimpeded flow onto urban arterials. The relative danger of traffic collisions is largely determined by travel speeds. Local examples of these kind of treatments have encouraged higher speeds on local streets, which poses inherent risks to vulnerable road users, contradicts Caltrans's Deputy Directive on Complete Streets, and appears to be the type of mitigation that the new policy shift is intended to discourage.

Given this contradiction, the City recommends that OPR combine Section 15064.3 (3)(B) and (3)(C) and revise as follows:

(B) Add vehicle trips that would substantially contribute to queuing on freeway off-ramps where queues extend onto the mainline, and also would substantially contribute to increase in speed differentials between the adjacent travel lanes.

If OPR maintains the freeway safety criteria, OPR should also give clear guidance that mitigation be generally limited to reducing trips of development projects that contribute to the freeway queuing. OPR should also clarify that mitigation measures that add additional capacity at freeway off-ramps or cause unimpeded traffic flow onto urban arterials be not exempt from a CEQA impact evaluation as discussed in Section 15064.3 (2).

To summarize, City staff believe the guidelines are a good start in a much needed reframing of transportation discussions under CEQA. However, more clarity is needed to ensure that lead agencies will retain the ability to define what constitutes an impact under CEQA, and more time to transition to this new evaluation framework. Thank you for considering our recommendations, we look forward to participating as these significant changes proceed through the rule making process.



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