ASSOCIATION OF BAY AREA GOVERNMENTS
Representing City and County Governments of the San Francisco Bay Area

ABAG

Date: May 6, 2016

To: ABAG Executive Board

From: Ezra Rapport
Executive Director

Subject: **ABAG MTC Merger Study Recommendation**

1. Context / Recommendation

ABAG is facing what is probably the most critical juncture in its 55 year history. ABAG has reached a point where a decision must be made with respect to its future, and the future of regional planning and programs in the Bay Area. The integration of ABAG and MTC into a comprehensive regional agency might be a real possibility.

What will be before the Executive Board on May 19th is a decision to select a path forward that has the best chance of being approved by both ABAG and MTC and best serve the public interest. The status quo between the agencies is that MTC will terminate its Planning Grant to ABAG on July 1, 2016, unless an alternative Merger Implementation Plan (MIP) is adopted by both agencies. If both agencies can agree on a path forward with sufficient detail, that agreement would constitute a Merger Implementation Plan (MIP), and that action would trigger a continuation of the MTC Planning Grant to ABAG while the details of the MIP are worked out.

Our recommendation is for the Executive Board to approve two Options: Option 4 and Option 7 of the Management Partners report (see attachments A and B) with important principles for Option 7. These principles are described below under Recommendation.

Option 4 (New Governance Model and Full Staff Merger), in ABAG staff's view, is the best option for the Bay Area. The New Governance model should combine the best of MTC's statutory responsibilities to program and allocate transportation dollars, while also supporting city and county engagement in land use, economic development, environmental planning, and other non-transportation issues facing the region. With this governance model, a powerful regional agency with a broad scope of responsibility can be created utilizing combined administrative resources.

While we see a change in governance as crucial to the long term mission of regional planning, we are convinced that the ABAG and MTC boards cannot address governance in the time frame needed to sustain ABAG. As stated above, MTC's Planning Grant to ABAG expires July 1, 2016, unless MTC and ABAG both adopt an alternative Merger Implementation Plan (MIP). With the assumption that the dialogue for changes in governance will take more time than is available to address the present situation, all options that require an immediate commitment to a change in governance are fatally flawed if this change cannot be agreed upon by both ABAG and MTC by July 1, 2016.

In addition to our recommendation of Option 4, staff also recommends the alternative approval of Option 7, if that is the only option that MTC will approve. Option 7 retains the ABAG Board and its institutional policy authority, but proposes to transfer ABAG staff to MTC following development of a contract for services and entering into an MOU to establish a timeframe for considering a new governance structure and setting forth principles, goals and parameters for considering new governance options. In addition, Option 7 calls for an MOU on the parameters of a new governance model to be considered within a reasonable time.

The deficiency of Option 7 is that it splits administrative control away from ABAG governance. While there is an advantage to having unified administration, the successful implementation of Option 7 will require the MTC administration to be sensitive to ABAG staff, programs, and relationships to all levels of government and stakeholders. ABAG's programs are financially self-sufficient for the foreseeable future, but these programs require an administrative control that is very different from the exigencies of MTC administration. There needs to be a strong commitment on the part of MTC administration to both protect ABAG's Council of Governments (COG) role and to fairly evaluate the programs maintained by current ABAG staff.

We understand that MTC administration needs to protect MTC from financial liabilities. At the same time, ABAG programs should be carefully evaluated prior to making any significant changes so that ABAG membership remains supportive of this effort. ABAG's governance and administrative model has taken decades to construct, but may disintegrate rapidly without careful consideration of any changes proposed by MTC administration.

The ABAG staff transfer to MTC should be accompanied by a set of principles to guide Option 7 and proposed principles have been enumerated in Section 9 of this report. These principles should be attached to ABAG's resolution of approval. The principles should help guide the ABAG negotiations between ABAG and MTC for an MOU that defines roles and responsibilities and the contract for services between ABAG and MTC.

ABAG and MTC should also consider engaging in facilitated discussions regarding new governance models during the next two years. ABAG and MTC should analyze a set of options for new governance with the intent of choosing an option that integrates the functional responsibilities of both the Metropolitan Planning Organization (MPO) and the COG, and provides the best possible regional agency for the Bay Area to accomplish comprehensive planning, programming, and implementation of projects that will serve the 21st century.

2. Governance and Staffing

Option 7 does not address all problems. Option 7 cannot be implemented without an extensive work program to transition ABAG employees and ABAG programs to MTC administration. A second major consideration is how to define what is meant by ABAG autonomy, policy oversight, and regional responsibility, which is mentioned in Management Partners' report. The MOU should also set, at a minimum, a reasonable time frame for new governance options to be evaluated by MTC and ABAG.

Given the need to reach consensus among ABAG and MTC, however, we view only Option 7 as feasible, with principles enumerated in this memo and others that may be attached by the Executive Board. Option 7 needs to be made realistic in both the short term and long term. The two agencies need to choose a single option in order to focus on the necessary details.

3. <u>Regional Planning Opportunity</u>

Despite the challenges, we believe that the potential reorganization of ABAG and MTC into a single agency represents an extraordinary opportunity to create an innovative regional governance function that combines the best of ABAG and MTC. Together, these agencies contain an unparalleled expertise to deliver improved planning, policy, and funding support to the Bay Area. Working as a combined staff, both agencies would be able to provide responsive, locally-tailored services that improve the lives of current and future Bay Area residents, in a variety of economic, social, and environmental contexts.

We do not want to lose sight of this opportunity. A great deal of effort has been expended discussing the issues of regional governance and the required process of collaboration across the Bay Area's diverse communities. While there is much more to be done, the Bay Area deserves the most effective organization for regional planning and implementation of critical programs. The Bay Area is becoming increasingly complex as its economy grows. There are enormous transportation, housing and environmental challenges ahead, including affordable housing, water supply, and sea level rise, and there is an urgent need for an integrated, comprehensive regional planning and implementation institution.

4. <u>Council of Governments Essential Role</u>

Management Partner's Option 7 states that ABAG "retains autonomy and policy oversight over current statutory roles and responsibilities." This direction will require more than verbal assurances that policy making responsibilities will be respected. In order for the ABAG Executive Board to retain autonomy and policy oversight, there must be a strong connection to the staff charged with implementing those statutory roles and responsibilities. The Executive Board should be able to assert policy prerogatives through the Work Plan and Contract for Services it negotiates with MTC. Staff should be available to listen, interpret, and implement policy direction from the ABAG Executive Board, or its successor.

ABAG's ability to carry out its statutory roles and responsibilities also relies on its relationship to local governments. The connection between ABAG and local governments is structured through the Executive Board and the role of city and county delegates for each jurisdiction. The ABAG delegates represent City Councils, who in turn, are a connection to the City Managers and local government staff, especially land use planners. Through this mechanism, ABAG maintains a solid relationship with local government. This channel of communication and collaboration needs to remain if cities and counties are to consider the new arrangement to be a continuation of the Council of Governments.

The following are essential activities that define a Council of Governments, and we believe they need to be maintained at least until new governance options are implemented:

A. **Strong Local Partners**: Cities and counties must be essential partners in the emerging regional planning and services structure. Sustained trust and accountability to local governments will be a foundational dimension of this new regional agency and retain membership dues in place.

B. **Work Program approved by Executive Board**: The approval of the work program by the Executive Board, prioritizes regional challenges and strategies, and provides direct guidance on land use, housing, economic development, and environmental policies and strategies. The Executive Board will need to provide direction on major regional strategies such as Priority Development Areas, resilience strategies or Regional Housing Needs Allocation.

C. **Involvement of Regional Planning Committee or similar body**: The ABAG's Regional Planning Committee, or similar committee that includes elected officials and major stakeholders, should continue to advise staff on major planning projects such as the designation of an Economic Development District, coordination of water conservation strategies or the creation of a Regional Housing Trust Fund.

D. **Planning Staff**: An integrated planning function will need to continue to engage with local jurisdictions. ABAG staff takes input on housing, economic development and infrastructure needs and provides support on land use analysis, policy analysis, best practices and public engagement. Public workshops and communication through social media are essential components of any regional planning process to secure transparency and broader public input.

E. **Public Engagement**: Meaningful and transparent public engagement processes should continue to be used to develop strategies to support housing production and affordability, regional sustainability, economic prosperity, resilience and climate adaptation among others that are supported by a strong network of stakeholders.

F. **Stakeholder involvement**: The on-going roles that environmental, business community and equity stakeholders play are extremely important and need to continue.
   a. Environmental stakeholders will maintain an important role in the preservation of open space, access to parks, and healthy places.
   b. The business community will promote ongoing and new economic development strategies and strengthen collaboration across sub regions.
   c. Equity stakeholders broaden the agencies' participation to ensure disadvantaged communities have a voice in regional strategies and investment decisions.

G. **Current Programs**: ABAG's programs of financial services, energy savings, insurance pools, and the healthy restoration of the bay and estuary should be carefully evaluated. ABAG believes these are core services to local jurisdictions and the communities in the Bay Area, and a major reason local jurisdictions pay dues to ABAG.

5. Solid ABAG Financial Performance

Staff would like to impress upon MTC and our stakeholders the strength of ABAG's finances and operations to date. This information will be helpful to those looking to understand how ABAG's finances are structured and how to maintain financial performance through a solid merger implementation plan.

A. ABAG has consistently operated with a balanced budget, and has not experienced an operating deficit within the last five years (our analysis only looked back five years).
B. ABAG executes a sustainable business model.
    1) Member dues pay for agency management, member services and strategic organizational planning.
    2) All grant funded projects are programmed to be operated within the funding provided. Expenditures are closely monitored to ensure the ability to restructure the project budget to avoid a deficit. When grants terminate, grant funded positions are reduced.
    3) ABAG administration and finance provide management, administrative and other support services to ABAG, our entities, and related parties. Both direct and indirect fees are charged to fully recover the administrative cost.
C. All ABAG entities operate with balanced budgets and both the Financial Authority for Non-Profit Corporations (FAN) and Pooled Liability Assurance Network (PLAN) have very healthy reserve funds ranging from $3-20 million. POWER distributes all surpluses (deficits) to its members.
D. ABAG contributes a successful and reputable business model that is not duplicative of the services MTC currently provides. ABAG's programs are a strategic fit within the larger ABAG mission and its services are relied upon by critical stakeholders both regionally and locally.
    1) ABAG successfully represents 109 cities and counties as demonstrated by 100% member dues collection.
    2) ABAG has a positive reputation in the Federal, State and Regional Community for our extensive research, planning, land use, housing, equity, environmental, resilience, and economic issues as demonstrated in the growth of our budget in the last year from $26 to $58 million.[1]

[1] For example, ABAG administers the Bay Area Regional Energy Network (BayRen) program which is funded by a grant from the CA Public Utilities Commission and the Integrated Regional Water Management Program (IRWMP) funding through the California Department of Water Resources and managed by ABAG's San Francisco Estuary Partnership (SFEP). BayRen is the exclusive implementer of the Energy Upgrade California Home Upgrade Program designed to reduce energy use in existing homes by providing incentives to homeowners who make energy-efficient improvements. SFEP helped secure an additional $41 million in state grant funds and now manages for our partners a total of $93 million for these multi-benefit water quality and drought response projects. In FY2016-17 alone, BayRen will be responsible for administering $12.8 in state grants out of ABAG's total state funding of $42.7 million. In FY2016-17 alone SFEP will be responsible for administering $24.5 million in local, state, and federal funding for projects throughout the Bay Area. These are great examples of the magnitude and impact created through our local, state, and federal grant funds.

E. ABAG's costs, unfunded pension liabilities and OPEB costs are all included in our employee direct cost rate and our indirect cost rate (see Attachment A). While our SFEP programs/grants are not charged for indirect cost since they are located with the Regional Water Quality Control Board in the State Building, ABAG amortizes the pension and OPEB liabilities through their direct charges to the grantors.
F. The ABAG condominium unit and tenant improvements should be considered as part of the value ABAG brings to the merger.

6. Process Towards Full Integration

It will be essential that there is a strong commitment on a governance reconfiguration so that the relationship between regional governance and city and county participation is clear and decisive. Addressing regional governance is not only about SB 375. The Bay Area faces numerous environmental, economic, social and public health issues in the 21st century.

A new governance model does not have to disturb the MTC composition and balance of power, which is set forth in statute. ABAG staff supports the existing MTC Commission maintaining control over the funding of transportation networks and projects. However, the issues outside of transportation programming and allocations, such as Plan Bay Area, should have representation that reflects the larger number of cities that need to respond to future Bay Area issues. For example, this greater representation could be accomplished through a newly configured *limited authority* Governing Board, who would work with the administrative structure and the ABAG and MTC policy boards to decide, for example, the scope of the Regional Plan, issue the State of the Region report, perform an evaluation as to how well the regional agency was accomplishing its mission, and ensure that the planning budget was reasonably allocated to the tasks at hand.

ABAG's Board, staff and member jurisdictions are looking for assurances that options to address a new governance structure will be carried out in an orderly and thoughtful manner. It is essential, in our opinion, to establish a date certain by when governance options will be presented to the MTC Commission and ABAG Executive Board. The MOU should set forth a specific schedule that addresses this objective.

7. **Pre-Merger Implementation Activities**

While ABAG believes that staff merger ahead of the new governance model is an overly complicated and risky solution, we acknowledge that Option 7 is feasible, but requires substantial work prior to implementation if this option is selected. The merger of ABAG staff into the MTC should be handled expertly with outside consulting support assisting both agencies. ABAG currently retains a mission driven staff. They will need assurances that they will be able to accomplish ABAG's regional planning goals under the MTC administrative organization.

Prior to any staff merger, significant due diligence on the part of MTC regarding ABAG's assets and liabilities needs to be undertaken so the MTC staff can make further recommendations to the Commission. Likewise, ABAG should be expected to identify concrete actions that will allow for a transition of ABAG staff to MTC administrative control, while maintaining business continuity of the enterprise groups, continued grant activity for the San Francisco Estuary Partnership, the Resilience, and Energy programs, as well as necessary assurances for the continuity of ABAG's policy function as a Council of Governments. ABAG members must have faith in these assurances for local governments to continue paying dues to support ABAG as a continuing Council of Governments.

Management Partners is preparing a draft implementation action plan that sets forth steps that comprise a new Merger Implementation (MIP) for ABAG and MTC. The schedule results in a negotiated MOU and Contract for Services. At the conclusion of the negotiated documents, both ABAG and MTC will have to approve the contract for service and MOU prior to full implementation.

The technical challenges and strategies to facilitate a staff merger should be discussed in another memo, and these details should be addressed by a team of consultants, including organizational development consultants and consultants with human resource technical expertise. This should include thoughtful engagement with staff and employee representatives.

8. Recommendation to Executive Board

Our recommendation to the Executive Board is to first approve Option 4 (Full Merger) and then Option 7 (Staff Merger with Governance Model later) of the Management Partners report with important attached principles. In addition to our recommendation of Option 4, staff recommends the alternative approval of Option 7 if that is the only option that MTC will approve. Option 7 retains the ABAG Board and its institutional policy authority, but transfers the ABAG staff administration to MTC. It also calls for a new governance model to be considered within a reasonable time. Important principles (see below) attached to the approval of Option 7 will make the difference in achieving the most important goals ABAG staff identified in its merger analysis, namely, (1) the continued participation of cities and counties as the dominant political structure underlying comprehensive regional planning, (2) the financial security of the ABAG institution and its past and present employees, and (3) a reconfiguration of regional governance to ensure broader city and county and stakeholder participation.

9. Principles and Language for the Resolution Supporting Option 7

Staff recommends that if the Executive Board is going to support both Option 4 and Option 7, then principles applicable to Option 7 need to be appended to the resolution, as follows:

A. The Council of Governments (COG) provides local jurisdictions with the staff support, resources and partnerships necessary for them to have significant input in developing and implementing regional plans such as Plan Bay Area. The COG operates with the clear understanding that all land use authority in California resides with cities and counties. Support for Option 7 is conditioned on the continuation of local engagement and participation in regional planning in the following manner:

    1) Cities and counties are essential partners in regional planning.
    2) Regional planning incorporates a meaningful and transparent public engagement process.
    3) Regional land use planning is responsive to local land use planning to build high quality neighborhoods.
    4) In addition to transit and transportation planning, regional land use planning integrates other relevant planning fields, such as water, agriculture and open

space, resilience, energy efficiency, climate change adaptation and mitigation, air quality, sea level rise, economic development, and social equity.

B. The COG should have a voice in developing land use incentives designed to promote the construction of and acquisition/rehabilitation of housing units scaled to support the Bay Area economy.
C. When integrating the ABAG Planning and Research Department, special attention should be made to retain its collaborative and holistic culture.
D. In concert with any organizational changes, ABAG and MTC staff should engage in a deliberate process for integrating missions that address: 1) the function, management, mission, and vision of ABAG departments; 2) internal and external relationship maintenance; 3) decision-making structures; and 4) conflict resolution.
E. ABAG and MTC should designate a Staff Merger committee of Board and Commission members that will provide guidance with respect to merger activities and changes. This committee should be informed by an organizational consultant familiar with the overlapping areas of ABAG and MTC administration. We do not believe important decisions need to be made immediately, and it would be helpful for a committee of elected officials to be in place for any discussion of issues among the staff.
F. MTC administration should endeavor to understand and preserve ABAG's existing programs. Should MTC administration desire to make substantive changes, they must first consult with the ABAG Executive Board.
G. The staff merger should include the transition of all ABAG staff. Savings and consolidation should take place through existing vacant positions, expected attrition opportunities in further reorganization, and through an organizational development plan approved by both ABAG and MTC.
H. The ABAG Executive Board will need a management level staff person to act as a liaison to the new administration. The ABAG Board and the Executive Director of MTC should engage in a mutual process for the selection and retention of this liaison. The mechanism to accomplish this should be worked out as part of the MIP. This position will ensure that the ABAG Executive Board has an appropriate connection to staff so it can perform its policy oversight with autonomy.

10. <u>Action Requested of the Executive Board</u>

The resolution the ABAG Executive Board would be asked to approve to start us down a path toward Option 4 or Option 7 would express general support for the chosen Option and direct staff to:

A. Conduct a financial and legal analysis to determine the impact on both ABAG and MTC of a staff consolidation.
B. Enter into negotiations and establish a deadline for:
    A. A multi-year Contract for Services that would consolidate ABAG and MTC staff under one executive director and provide staffing for all statutory duties, responsibilities and programs of the region's COG.
    B. An MOU to pursue new governance options within a specified time period.
C. Enter into a letter agreement whereby MTC continues to provide funding support to ABAG for regional planning services pending the development and execution of the Contract for Services and the MOU on new governance options described above.

Staff will provide the Executive Board, ABAG member jurisdictions and ABAG delegates with monthly updates on staff's progress toward completing the due diligence work and drafting the Contract for Services, MOU and Letter Agreement.

As each of these steps is completed, it will be brought before a publicly noticed meeting of the ABAG Executive Board for discussion and approval.

Attachment A:

Unfunded Pension Liabilities and OPEB

ABAG's $12 million unfunded pension liability is not unique to ABAG and not an indication of poor fiscal management. The unfunded pension liability arose from CalPERS' failure to recommend adequate funding contributions for several years. As a result, ABAG is in concert with most PERS plans in having unfunded liabilities that are being amortized over periods of six to 20 years. The ABAG unfunded liability is 34.1% of the plan's total accrued liability, which compares to MTC's 23.4% unfunded liability, as a percentage total accrued liability.

Until fiscal year (FY) 2015-16, the amortization of the unfunded pension liability was computed as a percentage of estimated payroll, and the dollar amount would rise or fall proportionately with increases and decreases in payroll costs. Beginning in FY 2015-16, amortization is set at a dollar amount, which for FY 2015-16 is $1,085,876. This payment is billed to ABAG monthly as a fixed amount of $90,490. ABAG's pension amortization is scheduled to rise approximately $700,000 over the next six years, which will cause ABAG to re-evaluate its charges to grantors and enterprises.

ABAG has an Actuarial Accrued Liability for its Retiree Healthcare Plan of $4.7 million, which is being amortized as part of ABAG's annual payroll expense of $7 million at approximately $700,000 a year. This level is sufficient to fund current expenses and to provide reserves for future claims. It is projected that the plan will be fully funded by 2022. As with many of these plans, the escalation of medical cost made ABAG's plan a financial burden and new enrollment to the original plan was terminated in FY2009-10. We anticipate a decrease in ARC with our upcoming actuarial evaluation due to a smaller employee pool than previously reported.

ABAG's unrestricted fund balance shows a $8 million deficit. While it is technically true that ABAG's Balance Sheet reflects a deficit fund balance, the financial health of ABAG has not changed, and if ABAG is allowed to continue to operate at its current level, the liability will be eliminated over time.

Metropolitan Transportation Commission and the Association of Bay Area Governments Merger Study

Options Analysis and Recommendation Report

April 2016

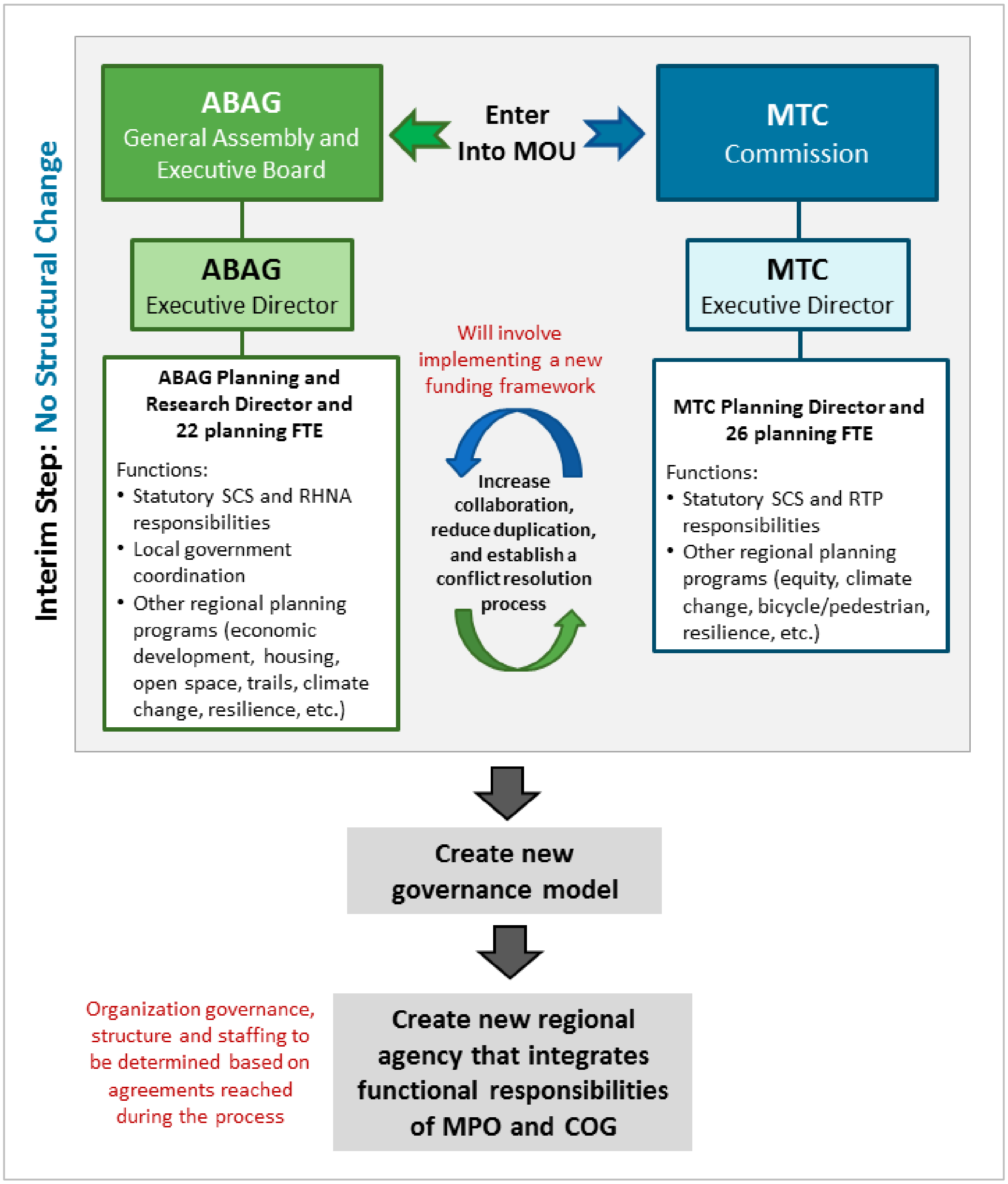
Management Partners

Option 4 – Create a New Regional Agency and Governance Model

Description

Enter into a memorandum of understanding (MOU) between MTC and ABAG to create a new governance model that integrates the MPO (MTC) and the COG (ABAG). The MOU would set forth the principles, parameters and basic terms to guide the creation of a new regional agency and governance model for the region. Until a new agency is created and integration achieved, MTC and ABAG would remain as separate, independent agencies, including their respective mission, governance structures, legal and statutory duties, responsibilities and authorities. ABAG would statutorily continue to be responsible for those activities set forth in SB 375 regarding preparation of the SCS. Figure 9 on the following page provides a graphic depiction of this option.

Figure 9. Graphic Depiction of Option 4



Note: For clarity, the graphic only depicts a brief summary of planning unit functions (not the full range of ABAG's and MTC's responsibilities).

General Impacts

Legal

Entering into an MOU would result in a formal agreement between ABAG and MTC to create a new regional agency and governance structure and set forth the guiding principles, parameters and basic terms to guide its establishment. Following a determination about the governance structure, duties and responsibilities of a new regional agency, as well as a financial assessment and proposed staffing plan, state legislation would be required to transfer the current statutory duties and responsibilities of MTC and ABAG to the new agency. Both ABAG and MTC have ancillary JPAs staffed by their respective agency personnel, which would have to enter into new contracts with a new agency for the same purpose if they wish to remain affiliated with the successor agency.

Other authorities such as the Bay Area Toll Authority (BATA) have significant authorities, duties and responsibilities as well as fiduciary obligations that would have to be examined carefully to ensure the process would not impact operational commitments during the next several years. Financing authorities as well as bond documents would also have to be reviewed to determine whether there are any significant obstacles to a successor agency.

Financial

If MTC and ABAG choose an option that involves creating a new agency, a more in-depth financial assessment will be required. Such an assessment would need to include a detailed analysis of each agency's existing financial liabilities and their future impact on the finances of a newly created agency. The high-level assessment (base assumptions) in this report is based on our experience with other mergers. Under a new regional agency, it is assumed there would be a net reduction of one executive director position in addition to one less planning director at a minimum.

Given the overall merger of staff, we believe it is reasonable to expect at least a 10% overall reduction in remaining overhead costs, which is likely conservative. Efficiencies and economies of scale typically result in greater cost savings. The overall impact for both agencies is therefore projected at a $2.6 million in net annual savings, as indicated in Table 7. There would be one-time recruiting costs of $80,000 for the new executive director and planning director positions, and one-time implementation costs (legal and consulting) of at least $500,000. This option assumes that Resolution 4210 is replaced by adequate funding to avoid adverse fiscal impacts on ABAG during the period of negotiation and implementation of the new organization.

Table 7. Estimated Financial Impact of Option 4

	Assumes 50% Split in New Costs		
	MTC	**ABAG**	**Joint**
Existing Executive Directors	($456,000)	($363,000)	($819,000)
New Executive Director	237,500	237,500	475,000
Existing Planning Directors	(311,000)	(298,000)	(609,000)
New Planning Director	165,000	165,000	330,000
10% Reduction in Overhead Costs	(1,652,271)	(302,632)	(1,954,903)
Net Cost (Savings)	**($2,016,771)**	**($561,132)**	**($2,577,903)**

Management

Until such time as a new regional agency is created, the current management, performance and accountability issues associated with preparation of the SCS and PBA would likely continue until and unless shared agreements reset how the agencies currently work together on regional planning programs and services.

A new regional agency would result in a completely consolidated regional planning organization (along with other programs, operations and services) under a single management and leadership structure. This would result in clear and consistent direction to staff and transparency to the governing body or bodies and the public about who is responsible for implementing the region's vision. It would also present significant opportunity for the agency's management and leadership to integrate both agencies into a cohesive, efficient and well-functioning organization with a shared mission, vision and values.

Existing Employees

Representation Status – In a new agency, the first determination to be made would be whether to offer positions to existing employees in the two agencies or to fill positions through an open recruitment process. This decision would be made as part of the process to establish the new agency and would be done under collective bargaining rules and in consultation with existing employee groups. A bargaining unit in the new agency would be unrepresented until such time as a majority of all employees in the unit elected to be represented by one or more unions. For the bargaining unit to become represented, employees would first need to present evidence of the desire to be represented through a card check process or by signing petitions. Typically administered by the state, such an election would result in all of the employees in the agency being represented by a union if 50% plus one of the employees in the unit voted affirmatively for such an affiliation.

Compensation – Compensation levels would be established as part of a meet and confer process under state law with the employees of the new agency. If they were set at the current MTC level, former ABAG staff may see an increase in compensation depending on the position.

Benefits – Benefits would be established as part of a meet and confer process under state law with employees of the new agency. They could be set to mirror the current MTC benefits, the current ABAG benefits, or a different set of benefits.

Retirement Plan

- The retirement plan would be established as part of a meet and confer process within the options available through CalPERS. Both agencies currently have a 2.5% @ 55 plan for "Classic" employees and the required 2% @ 62 plan for new plan employees. The current MTC retirement plan includes a survivor benefit while the ABAG plan does not. The current MTC plan includes a 3% annual COLA while the ABAG plan includes a 2% COLA. Either of these options could be selected by the new agency. The current rate paid by MTC includes these options and, if both were selected, the contribution rate would likely be set at the current MTC rate (although this would need to be confirmed with CalPERS for a new agency).

- The employee contribution for Classic employees would be established as part of a meet and confer process under state law. New plan employees are required to pay the full employee contribution rate set by PERS. Currently, ABAG employees pay a 1% retirement contribution with this amount increasing to 2% and 3% over the next two years. Classic MTC employees pay a 5.73% retirement contribution, increasing to 8% over the next several years (depending on employer share increases each year). ABAG's new plan members pay the full 6.25% contribution rate and MTC's new plan employees pay the full 6.5% contribution rate. The difference in contribution rate is due to the inclusion of a survivor benefit and a higher COLA in the MTC plan.
- Retiree health benefits would be established as part of the collective bargaining process between the employees and the new agency. They could be set to mirror the current MTC benefits, the current ABAG benefits, or a combination of the two. Employees that have already retired would see no change to their retiree health benefits if the new agency were able to assume the ongoing cost.
- A decision to include or exclude employees from Social Security would be made as part of the meet and confer process under state law. Currently, ABAG employees are covered under Social Security while MTC employees are not. ABAG employees have a payroll deduction for Social Security contributions while MTC employees do not.

Policy

A new agency and governance model presents an opportunity to integrate the two agencies responsible for regional land use and transportation planning and associated services and programs into a transparent and more accountable policy structure. It would also provide an opportunity to establish a clear vision for the region. Duplicate committees addressing similar issues could be eliminated, which would also mean a much more efficient use of elected officials' time.

Alternative governance models provide a range of options to meet the interests of the region's local governments and stakeholders, including multiple governance structures responsible for different missions of the new agency, e.g., the MPO or transportation, the COG, and administration (executive board) within an overarching policy body. Voting structures among the governing bodies can be weighted in accordance with various factors, including population, or by certain categories.

A. Operational Effectiveness and Accountability

Creation of a new regional agency should provide for clear staff roles and responsibilities for Plan Bay Area. However, it will take a minimum of a year (likely more) to establish and additional time to implement this option, and therefore it will have little impact on the PBA 2017 process which is likely to be nearing conclusion or be completed by the time a new agency can be operational. For this option, we assume a new funding framework would be implemented and the respective roles for ABAG and MTC in regard to PBA would continue until a new agency is created. As discussed under Option 1, while some modest incremental improvements could be made for the current PBA 2017 process in comparison with the PBA 2013 process through improved coordination and a dispute resolution process, many of the same issues of operational effectiveness and accountability are likely to remain until a new agency is created.

This option would result in the integration of land use and transportation planning, programs and services under one unified agency. A new, integrated and unified agency under one management and leadership structure would clarify and streamline staff roles and responsibilities and improve accountability. A single integrated agency should also provide increased career opportunities for staff within a larger agency.

B. Transparency in Policy Decision Making

In the near term this option is unlikely to address concerns with the roles and responsibilities for PBA 2017. The fundamental problems associated with having two agencies with overlapping responsibilities for the same plan will not be resolved until a new agency is created. Once a new agency is created, there should be significant improvements in streamlining the process, both for staff and for elected officials. A new committee structure would likely be created, allowing for less overlap in responsibility and fewer overall meetings. The PBA process would go through one agency rather than two, allowing for stakeholders to better follow and engage in the process.

Whether PBA will be seen as the product of "representative decision making" will largely depend on the structure of the governing body or bodies. In any regional agency smaller jurisdictions want their interests and unique circumstances to be respected and their concerns understood. The interests of the more populous cities and counties are that programs and funding serve locations with the majority of the population of the region. These two interests must be addressed and balanced in any new governance structure.

A single agency serving the region will be able to tackle some of the issues facing the region in a more holistic and comprehensive manner, including new issues as they arise. The administrative and other savings that can be expected by combining two agencies into a single agency could be used to support new policy initiatives.

C. Core Service Delivery and Financial Sustainability

Option 4 assumes the continuation of the 2014 Funding Framework until a new agency is created. We estimate that a new agency would lead to annual savings of $2.6 million after an estimated one-time cost of at least $500,000 to create it.

Both organizations are much more than planning agencies, and provide a range of services in addition to their role in preparing and implementing PBA. ABAG's programs include the Estuary Project, its insurance pool, and assisting local governments with resilience and emergency planning. These services are valued by its member agencies. In addition to its role in managing and distributing transportation funds, MTC (including its associated agencies such as the Bay Area Toll Authority) has significant programmatic responsibilities, including the 511 system, oversight of bridge operations and maintenance, and the Clipper Card system.

MTC is somewhat unusual among MPOs we examined in the amount of local and state funding it manages in addition to federal funds, and the degree to which it has operational responsibilities; however, it is not unique. The San Diego Association of Governments (SANDAG) has operational and capital improvement responsibilities and approximately as large an overall budget as MTC. Large local governments in the Bay Area also manage comparable budgets and operations, and provide an even larger range of operations and programs than MTC, including significant land use, capital improvement, planning and policy responsibilities.

While unifying two agencies into a single agency will present challenges, we have not identified any overt operational obstacles (pending legal review) to that unification. Existing MTC operations and programs should transition to a successor agency relatively seamlessly (pending legal review) with little operational impact. With a comparatively secure financial foundation and significant savings from agency unification, the new agency should be able to maintain and expand core service programs, and provide adequate administrative support for programs and services.

A new agency provides an opportunity for a more integrated, consistent and comprehensive approach to all regional programs and services, including implementation of PBA. Assuming a continuation of current grants, service programs and dues revenue, with less duplication and more cost-effective agency administration, the new agency would have additional resources to broaden its mission. This would allow it to become a partner with local governments in several areas in addition to implementing PBA, including assisting local governments and stakeholders in addressing other issues of significant regional concern, such as housing policies and resilience.

D. Implementation Viability

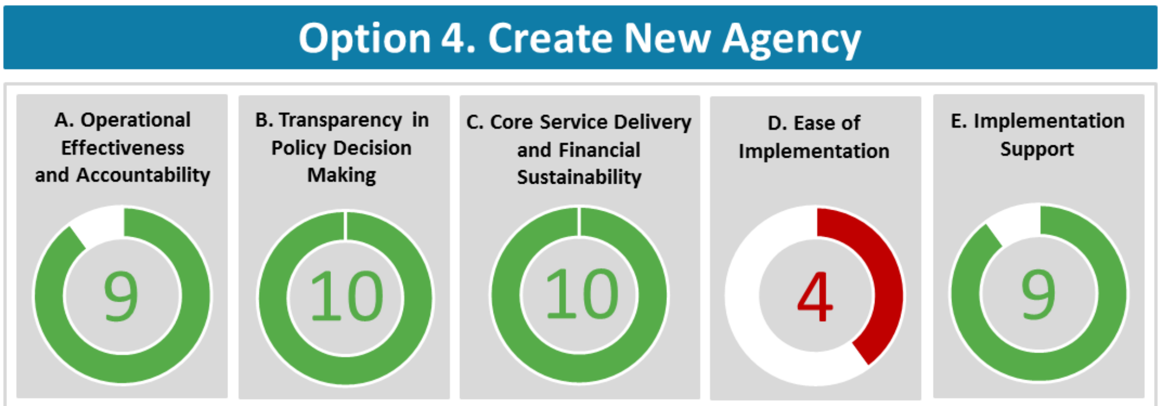
Creating a new regional agency will require legislation at the state level. It will also require approval from the MTC and ABAG governing bodies as well as associated JPAs and other authorities. The complexity of this process has not been examined in depth, but we believe it to be one that will take some time.

The major challenge in implementing this option will be reaching agreement among the many interests and stakeholders on a new governance structure that strikes the appropriate balance between their various interests. A new agency also provides a different opportunity for employee representation in the collective bargaining process to be determined.

Once created, a single larger, organization with secure and stable financial resources is more likely to be able to recruit and retain qualified staff. With a strong financial foundation, the new agency should be able to maintain benefits for current and future retirees, although this has not be assessed. This option would implement the strong stakeholder interest in a having a unified planning agency. The option's ability to foster support from local governments will depend in large measure on the governance structure ultimately agreed on for the new agency.

Based on the above criteria analysis, Figure 10 presents the overall numeric assessment for Option 4 across five major areas.

Figure 10. Criteria Assessment Overview for Option 4



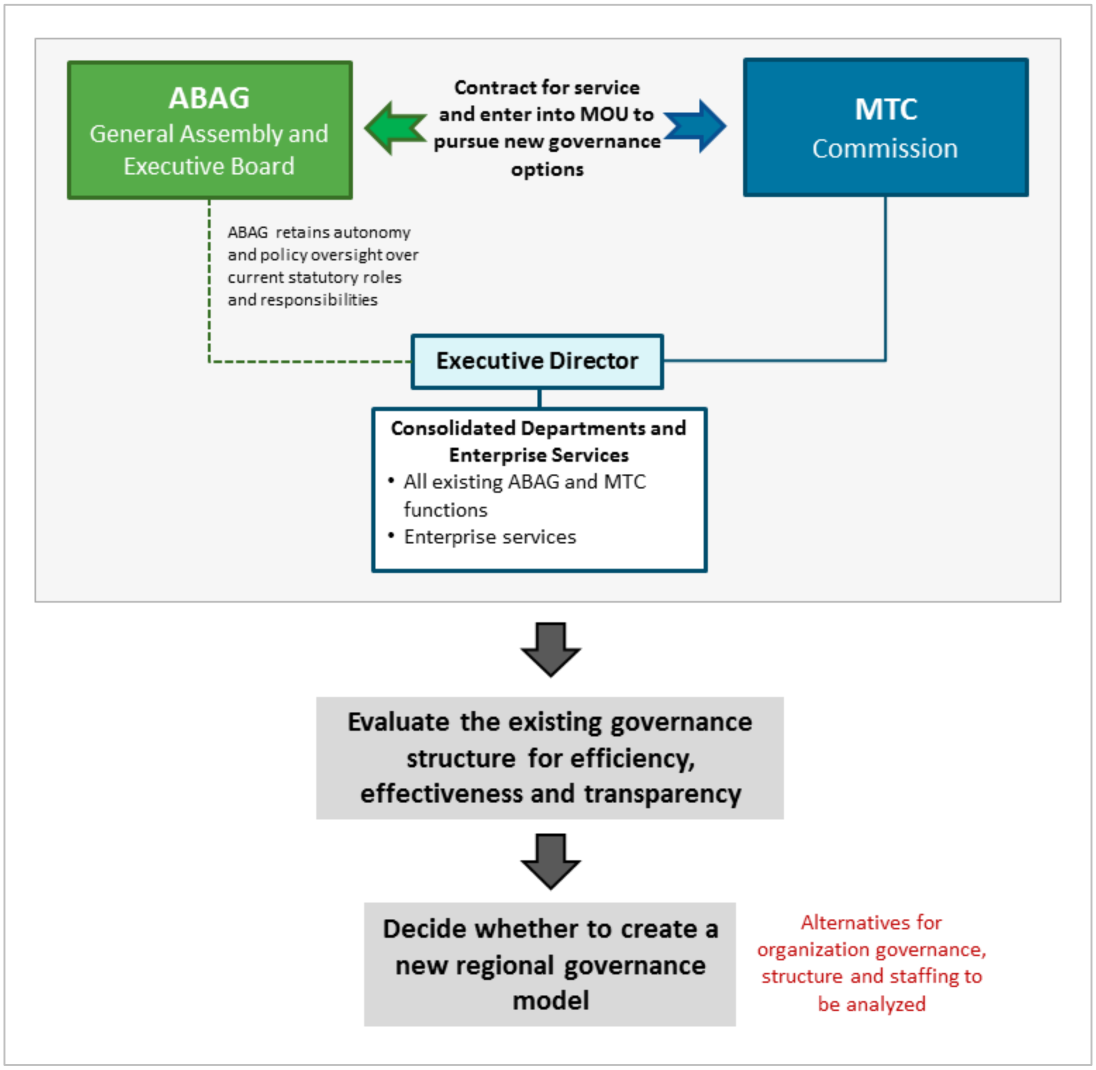
Option 7 – Enter into a Contract between ABAG and MTC to Consolidate Staff Functions under One Executive Director and Enter into an MOU to Pursue New Governance Options (Full Functional Consolidation)

Description

Enter into a contract between ABAG and MTC to provide staffing for all ABAG statutory duties and responsibilities, a work program, functions agreed to be transitioned, as well as the role of the executive director with respect to the ABAG policy body. Enter into a memorandum of understanding (MOU) between MTC and ABAG to establish a timeframe for considering a new governance structure and to set forth principles, goals and parameters for pursuing new governance options. The ABAG JPA and MTC governance structures, as well as their statutory roles and responsibilities, would remain unchanged.

Within a timeframe agreed upon, evaluate the existing governance structure for efficiency, effectiveness and transparency and decide whether to create a new regional governance model. The ABAG and MTC governance structures and consolidated agency would remain in place as well as their statutory authorities, duties and responsibilities until and unless a new regional agency and/or governance structure is agreed upon and implemented. Figure 15 on the following page provides a graphic depiction of this option.

Figure 15. Graphic Depiction of Option 7



Note: For clarity, the graphic only depicts a brief summary of planning unit functions (not the full range of ABAG's and MTC's responsibilities).

General Impacts

Legal

MTC would become the legal counsel for the ABAG JPA as well as its enterprise functions and other JPAs to the extent the latter authorities agree to the transition. ABAG staff provides support to four JPAs, which would have to enter into new contracts with MTC for the same purpose. ABAG financing authorities as well as bond documents would also have to be reviewed to determine actions which might have to be taken to respond to any obstacles or liabilities if MTC assumes oversight in these areas.

Should a new governance model be agreed on, legislative action by ABAG and MTC as well as state legislation would likely be required to transition to a new model.

Financial

If this option is pursued, a more in-depth financial assessment will be required. Such an assessment would need to include a detailed analysis of each agency's existing financial liabilities and their future impact on the finances of MTC, or if pursued, a newly created agency. The outcome of this option in terms of organizational savings is the same as Options 4 and 6: there would be a net reduction of one executive director and one director of planning, and given the merger of staffs, it would be reasonable to expect a 10% overall reduction in remaining overhead costs. The overall impact for both agencies is therefore projected at a $2.6 million net annual savings, as indicated in Table 10. In addition, it is estimated there would be one-time recruiting costs of $80,000, and one-time implementation costs (legal and consulting) of $500,000. This option assumes that Resolution 4210 is replaced by adequate funding to avoid adverse fiscal impacts on ABAG during the period of contract negotiation.

Table 10. Estimated Financial Impact of Option 7

	Assumes 50% Split in New Costs		
	MTC	**ABAG**	**Joint**
Existing Executive Directors	($456,000)	($363,000)	($819,000)
New Executive Director	237,500	237,500	475,000
Existing Planning Directors	(311,000)	(298,000)	(609,000)
New Planning Director	165,000	165,000	330,000
10% Reduction in Overhead Costs	(1,652,271)	(302,632)	(1,954,903)
Net Cost (Savings)	**($2,016,771)**	**($561,132)**	**($2,577,903)**

Management

Consolidating the ABAG and MTC staff would result in a more comprehensive regional planning organization under a single management and leadership structure. This would result in efficiencies, cost savings and more effective use of staff resources including streamlining the preparation of PBA. Under contract to ABAG, the combined staff will be assuming support to all of ABAG's policy bodies, duties and responsibilities. MTC will need to adjust its organizational structure to accommodate ABAG functions and services. Following an analysis of the duties and responsibilities of ABAG staff, some positions may also no longer be required when the functions are consolidated in MTC.

ABAG's commitment to providing assistance to its member agencies in a number of areas will also need to be supported and continued in the new framework. Nonetheless, the consolidation should result in clear and consistent direction to staff and transparency to the governing body or bodies and the public about the staff responsible for implementing the region's vision as established by ABAG and MTC. It would also present significant opportunity for an executive director to integrate both agencies into a cohesive, efficient and well-functioning organization with a shared mission, vision and values.

Employee Impacts

Until a new regional agency is formed, the employee impacts would generally be the same as those described under the Implementation of Resolution 4210; however, there has been no determination as to whether all ABAG positions would transition to MTC. Should there be agreement to create a successor agency under a new governance structure, the impacts should be the same as those described under Option 4, Creation of a New Regional Agency and Governance Model.

Policy

Until and unless a new regional governance model is agreed on, ABAG and MTC's policy and governance structures would continue as currently structured. ABAG would remain autonomous and independent from a policy standpoint. In addition to its JPA policy and statutory duties and responsibilities, the ABAG governing bodies would specifically retain their statutory responsibilities over the SCS as well as RHNA and therefore its specific policy roles in these areas. While some policy decision making could be streamlined with staff integration, there will be no formal change to the bifurcated strategic and policy direction for regional land use and transportation planning and related programs between two agencies not formally linked by an integrated policy structure.

Under this option, there is no formal commitment to create a successor agency and new governance model. If a new governance model is pursued and implemented, it would increase the transparency of regional land use and transportation policy decisions and provide an opportunity to establish a clear vision for the region. A new governance model would also eliminate duplicate committees addressing similar issues, which would also mean a more efficient use of elected officials' time as well as staff time. Alternative governance models provide a range of options to meet the interests of the region's local governments and stakeholders, including multiple governance structures within the new agency that are responsible for different missions, e.g., the MPO or transportation, the COG, and administration (executive board). Voting structures among the governing bodies can be weighted in accordance with various factors, including population, or by certain categories.

A. Operational Effectiveness and Accountability

Consolidating staff would clarify and streamline staff roles and responsibilities between the MPO and COG under a single leadership and management structure, thereby fostering accountability for performance on PBA 2017 as well as all regional land use and transportation planning generally. This option would provide a single planning department that would integrate regional land use and transportation planning more effectively. A combined organization with more stable financial resources should also result in increased support for integrated transportation and land use programs and services.

As many stakeholders have voiced concerns about integrating land use planning into a transportation agency, MTC would need to increase staff resources and demonstrate a much stronger commitment to increasing local government engagement and support for PBA. Because neither ABAG nor MTC have land use authority, regional plans are implemented jurisdiction by jurisdiction and local jurisdiction support will be critical to the successful implementation of this option. Additionally, MTC would be expected to continue ABAG's commitment to providing local government with a range of planning and other specialized assistance. Performance and expectations regarding these issues could be set forth in the contract and work program.

Consolidating administrative services and other functions would result in efficiencies and effectiveness and probably reduce costs to ABAG programs and services, including the JPAs. It would also provide additional resources and expertise to address ABAG's financial issues and provide long-term solutions. Further analysis as well as additional information would be required to understand the impact on MTC (administratively and financially) in this area. While a consolidated staffing function in a larger agency would provide additional depth and flexibility, transparency and accountability to ABAG's member agencies by staff would be paramount. Implementation of this option would significantly increase the overall number of staff in MTC and the career opportunities for staff.

Under the contract between MTC and ABAG, the executive director as the leader of MTC staff would be responsible for the oversight and management of the staff functions to carry out the duties and responsibilities of ABAG. ABAG would maintain its autonomy and policy role through an annual (or more) contract with MTC that sets forth expectations, responsibilities, a work program and annual budget for carrying it out. ABAG would retain authority to contract with consultants who can independently review issues or work if it deems necessary to do so. As an employee of MTC, the executive director would technically only report to one oversight body (in this instance, the Commission). Nonetheless, Management Partners has seen many agencies where executive directors (and other chief executive officers) are responsible to meet and balance the interests of many competing stakeholder groups.

In the Washington, DC and Chicago MPOs, regional agency executive directors have essentially two different governing boards whose interests they must address, and they have not indicated any significant issues in doing so. In other California major regional agencies, the executive directors must balance the MPO and COG policies, roles and responsibilities. Establishing a clear set of duties and responsibilities regarding the executive director's role with respect to the ABAG governing bodies will need to occur. Similarly, MTC legal counsel could agree to provide day to day services in support of ABAG functions and services but is also accountable to and reports to the Commission. ABAG may wish to retain outside legal counsel on contract to provide advice and counsel to the policy body.

B. Transparency in Policy Decision Making

Implementation of this option would establish clear lines of responsibility and decision making for staff, but leave policy divided between the two agencies. The combined staff would now report to the ABAG policy structure regarding those issues under ABAG's purview, and to the MTC policy structure for those issues under MTC's purview. Having only one staff and a clear line of staff authority over the process should lead to fewer conflicts needing governing body review. A combined staff can also better monitor the committee review process to try to limit the duplication of effort by committees and by staff reporting to committees. (ABAG and MTC could also consider a different committee structure to improve efficiency.)

While duplication of effort can be reduced, the existing official bifurcation of roles and responsibilities between the two policy bodies would continue, potentially leading to some continuation of the lack of transparency regarding decision making and continued inefficient use of elected officials' time. There could also be some inefficiency related to resolving disagreements between the two policy bodies about the allocation of staff resources for the PBA process and other ABAG programs. A conflict resolution process would need to be adopted as part of the contract to address this type of resource allocation issue.

Because the PBA process would still involve two agencies with their own committee/policy structure, issues identified by stakeholders regarding transparency of decision-making would not necessarily be resolved by this option. Whether PBA 2017 is seen as a product of "representative decision making" should be similar to PBA 2013 under this option, assuming both agencies choose to continue the current practice of joint adoption of PBA. However, should that practice change and MTC not receive ABAG's support for PBA, the perception that PBA is a product of representative decision making could be compromised.

This option could lead to an opportunity to address more complex regional issues, as it could increase the staff resources available for such work. Overall, this option should allow for more efficient allocation of staff with potentially significant cost savings. By reducing duplication of effort and allowing for a more streamlined PBA process, the level of staffing necessary for PBA 2017 should be reduced in comparison to PBA 2013. Assuming some increased efficiency and reduced costs, there should be increased staff resources available to undertake new initiatives. While MTC will have the ability and the resources to do more comprehensive regional planning, undertaking a wider range of planning activities will require MTC to redefine itself as more than a transportation agency, which it has already begun to do.

C. Core Service Delivery and Financial Sustainability

Option 7 assumes that all ABAG staff and MTC staff would be consolidated into a single agency under a single executive director. The impact on MTC finances of potentially absorbing ABAG liabilities will need to be fully assessed before this option is implemented. While we have not fully evaluated the fiscal impacts of consolidating all ABAG and MTC staff functions into MTC, we would assume the administrative savings would be roughly the same as for options 4 and 6: about $2.6 million in annual savings and a one-time cost of at least $500,000. There would likely be additional costs associated with a later evaluation of the effectiveness of the governance structure, and further costs to implement a decision to move forward with agency unification.

The unified staff will be under an agency with a comparatively secure financial foundation and strong administrative services and programs. Overall, the annual savings from this option should allow maintenance and expansion of core service programs, and provide adequate administrative support for programs and services, assuming continuation of current grants, service programs and dues revenue.

D. Implementation Viability

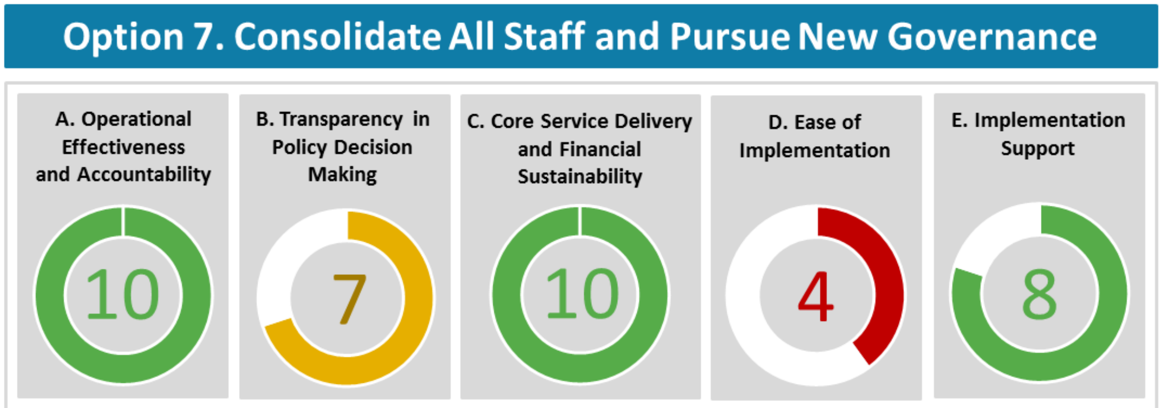
Option 7 would not require any immediate legislative action, although it would be required should the agencies decide to create a unified agency in the future. This option would require ABAG and MTC to enter into an agreement for the transfer of staff and financial resources. Such an agreement would also set forth the programs and services staff would perform for ABAG.

MTC may be perceived as a more attractive agency than ABAG with respect to compensation and some benefits by ABAG staff; however, the issue of non-affiliation with a union may be a negative factor. Also, leadership and a careful transition plan will be needed for a successful integration of ABAG and MTC staff into a single organizational culture. The consolidated staff will be in a more securely funded organization than ABAG, and this should address some of the uncertainties associated with ABAG's current financial state.

This option would only partially address stakeholder interest in a unified regional planning agency because it would leave intact the existing policy bifurcation. It is likely to be perceived as a step in the direction of a more unified agency, given the commitment to evaluate the effectiveness of the dual governance structure in the future. Based on the stakeholder meetings, this option would need extensive engagement to provide information about how ABAG will retain its independent role, and how it will provide policy direction to programs and policies under a consolidated staffing structure.

Based on the above criteria analysis, Figure 16 presents the overall numeric assessment for Option 7 across five major areas.

Figure 16. Criteria Assessment Overview for Option 7



These options are intended to frame possible approaches at this time. There may be elements or components of one that might be transferable or incorporated into another option, especially with respect to implementation mechanisms, e.g., a contract, resolution or MOU. The Executive Summary of this report provides a summary of Management Partners' conclusions regarding these options and our recommendation for a path forward.