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From: Tom Williams [REDACTED]
Sent: Monday, August 24, 2015 3:53 PM
To: Affordable Sales Program@DOT; Kosinski, Ron J@DOT
Cc: Roberto Flores; Roberto Flores; Christopher Sutton; Joanne Nuckols
Subject: 082415 Comments RE: Chptr. 9.5 Affordable Sales Program Regulations
Attachments: SR710SlesComments 0824.doc

DATE: August 24, 2015, 4:30pm
TO: Affordable Sales Program, 1120 N Street, MS 37, Sacramento, CA 95814
Contact: Kimberly Erickson,
Lauren Wonder Phone: (213) 897-9092
e-mail: Affordable_Sales_Program@dot.ca.gov
www.dot.ca.gov/dist07/business/710sales

FROM: Dr. Tom Williams, Sr.Techn.Advis., Citizens Coalition for A Safe Community
Sierra Club, Angeles Chptr., Transportation Committee

SUBJECT: SR-710 Surplus Property Sales
RE: Comments on Proposed Regulations and Process for Sales
Revised Deadline: "Affordable Sales Program Public Comment Period
Extended to August 24, 2015 (5PM)"

See attached file for comments

Proposed Revisions

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RE: Comments on Proposed Regulations and Process for Sales
Revised Deadline: "Affordable Sales Program Public Comment Period
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COMMENTS

1. Extension - Request extension to same date as DEIR Comments

Current extension was only announced after the earlier August 14, 2015 deadline was passed, and no direct communications were made to those that had submitted comments in accordance with the earlier deadline. This error represents a continuing policy and process of Caltrans to preclude public participations and may require other actions on the part of the Public.

As the proposed regulations are incorporated into the Draft Environmental Impact Report for the Sales of Surplus Properties in the SR-710 corridor and is subject to review and comment as part of the DEIR public process, separation of these comments from those of the DEIR is irresponsive to the policy and process for such review and CEQA. Inclusion of references and inclusions of related legislation, laws, and existing codes in the DEIR has no direct CEQA relationships as they have already passed through the CEQA process, while the implementation of the proposed regulations and their adverse community effects have not passed through this current CEQA process. The effects of implementing the proposed regulation must be subject to CEQA and must be included as the proposed "Project" (Actions). Therefore the Regulations must be part of the part of the DEIR and subject to public review and comments in accordance with CEQA and approval/certification of the FEIR and the Mitigation Monitoring and Reporting Plan and later discretionary approval of the FEIR and the Project (implementation of proposed regulations and MMRP).

As stated by Caltrans: "Questions about the sales process: will begin after regulations are approved and adopted this fall." appears to continue the attempt of separation of the implementation of the proposed regulations from the "Project" ("Actions") under review of the DEIR.

Extend the deadlines for the proposed current and future Sales Regulations drafts to accord with those of the CEQA process, certification, and final Project approval.

2. Separation of Regulations from DEIR Project Description and Actions

Proposed regulations are the only anticipated actionable document or plan requiring discretionary approval related to the CEQA documents for Sales of Surplus Properties in the SR-710 Corridor. Discretionary Approval of Regulation appears to be unclear and maybe by Caltrans or California Transportation Commission. However, Caltrans is an Administrative Body and is regulated by regulations and legislation/laws approved by the California State Legislature and California Transportation Commission. Virtually all Sales related discussion has precluded references to the parallel CEQA process regarding the effects of "Action" of the sales of surplus properties as required by these proposed Sales Regulations herein under review.

Clearly and explicitly incorporate the proposed regulations as the "Project" ("Action") within the current DEIR. Clearly provide the process for finalization of the DEIR, for preparation of the mitigation, monitoring, and reporting plan within the FEIR, for certification of the Final EIR, and for the California Transportation Commission's discretionary approvals of the certification of the FEIR and implementation of the final draft of the proposed regulations.

3. **Regulations do not reference any documents** for the delineation of properties to be sold under the different phases and project boundaries. Some properties are assigned to phases without reference to the implementation process by which Caltrans has taken the current draft regulations and other non-public documents and arrived at six (6) El Sereno, three (3) Pasadena, and 33 South Pasadena properties (being available for sale in Phases 1a and 1b) and "Estimated 148 households" (not up to, not about, but 148, not 145, not 150) to be displaced with full implementation of the proposed Sales Regulations. Such examples clearly demonstrate implementation has been "estimated" without providing the "estimating process" and all documents included to demonstrate the validity and appropriateness of their "estimates" either as part of the background materials for the regulations or as part of the implementation process in the DEIR.

All current "estimates" and their "estimating" process and bases must be provided as part of the proposed regulations and included as part of the "Project/Action Description" of the DEIR. Without such no regulatory process and its effects can be adequately and completely understood, reviewed, and commented upon.

4. **Sec. 1477 Conditional Offer Prior to Sale**

Subsection (d) "...may solicit..."

Use of "may solicit" requires provision of definition and itemization as to what constitutes grounds and requirements for choosing to solicit bids and proposals from "entities" and provide any appeal process and requirements if other eligible "entities" including current and past tenants, expressly request to submit bids and proposal for such prospective sales.

5. **Sec. 1488 and Sec. 1489 Differences of "May" and "Shall"**

Subsection (f) "Purchase funds must come..."

Remove "must" as inappropriate and inconsistent for regulatory instructions and contract documents and Replace with "shall". Such use and later "must" or "may" highly suggests that the regulations should be reviewed and revised by competent staff, experienced in contracts and regulations development and implementation.

6. **Sec. 1478 (d)(1)(C) "...entities will be monitored..."**

Remove "will" as inappropriate and inconsistent for regulatory instructions and contract documents and Replace with "shall". Such use and later "must" or "may" highly suggests that the regulations should be reviewed and revised by competent staff, experienced in contracts and regulations development and implementation.

7. **1486 (d) Contract for Sale also 1475 Purpose and Scope; 1476 Definitions - Reference to CTC**

As all contracts: "...for sale...are [~~shall be~~] subject to CTC approval" the entire basis for Title 21 Div. 2 Chptr. 9.5 Sec. 1475 - 1491 is founded herein the approval of sales, without stated exception, by the California Transportation Commission, discretionary body, and not solely or separately the Department. Therefore the approval of the Regulations, in total, must be based on the discretionary approval by the CTC and thereby is subject to CEQA and requirements of the CEQA process.

The term: CTC is not referred to elsewhere in the regulations, and is not defined, nor the acronym stated in the first usage...Sec. 1486 (d).

Since all transfers mentioned elsewhere are in fact "sales" use of "transfers" rather than "sales" appears to be an attempt to avoid or distract the reviewers from this provision.

The proposed Project for the DEIR related to the sale of surplus properties in the SR-710 corridor and its consideration for certification and approval must be approved by CTC, California Transportation Commission.

Change all references to "transfers" and insert the replacement "sale".

8. **Sec. 1481 "Must"**

Remove "must" as inappropriate and inconsistent for regulatory instructions and contract documents and Replace with "shall". Such use and later "may" highly suggests that the regulations should be reviewed and revised by competent staff, experienced in contracts and regulations development and implementation.

9. **Sec. 1487 "May"**

In 1487, Draft Regulations (DR) states: "...the Department may...grant..." without definitions and process as to how the Department shall decide under a "may" conditional implementation versus that with "shall" certainty.

Provide definition and itemization as to what constitutes "good cause" and any appeal process and requirements if the Department "...at its sole discretion..." chooses not to grant an extension.

10. Sec. 1488 and Sec. 1489 Differences of "May" and "Shall"

In 1488, Draft Regulations (DR) states: "...the Department may require..." while in 1489 the DR states: "...value shall be monitored..." without definitions and process as to how the Department shall decide under a "may" conditional implementation versus that with certainty. Although the latter "shall" implementation does not define "monitoring" and the process to "ensure" compliance. Similarly under 1488, no process is provided for an appeal for any "Department's determination of noncompliance" which may or may not be enforced by the initial statement of the section.

Revise and clarify conditions required for enforcement or not enforced.

Provide certainty and consistent application of the regulation and its requirement.

Provide process and grounds for appeal from "Determination of Noncompliance".

Provide the means of monitoring and require notice of such monitoring be provided to all of those to be monitored prior to the annual monitoring and the means of appealing or refuting any inaccurate monitoring findings.