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October 21, 2025

MTC Chair Sue Noack & MTC Commissioners
Bay Area Metro Center
375 Beale Street, Suite 800
San Francisco, CA 94105

Re: Opposition to the Metropolitan Transportation Commission's Transit Oriented Policy

Honorable MTC Chair Noack & MTC Commissioners,

The California Apartment Association (CAA) is the largest trade association representing rental housing providers, developers and operators in the State of California. Our members are diverse, with portfolios representing one unit of rental property to the largest rental housing providers. CAA members provide over 500,000 rental homes for Bay Area residents.

CAA is committed to ensuring that public policies and investments promote the production of housing to meet the growing demand of our diverse population. As a member of a Bay Area- wide coalition of housing, business, employment, and economic development leaders, we have grave concerns about the Transit-Oriented Communities (TOC) Policy, as outlined in our coalition letter dated October 14, 2025 (Attached).

This letter expands on that opposition, focusing specifically on the housing section of the TOC. CAA opposes the TOC because MTC's scoring rubric unfairly conditions transportation grants on compliance with burdensome regulations that are contrary to the production of, and investment in, housing. Specifically, the TOC should not promote anti-housing policies and encourage cities to adopt failed policies that do not serve to make housing more affordable or available to comply with the TOC.

Onerous housing regulations that restrict the housing market like rent control and inclusionary zoning, are long documented to have adverse effects on the quality and quantity of housing in a community. While these policies may purport to benefit current renter households, their long-term impact is clear--- they deter development and increase the overall cost of housing. Thus, continuing the cycle of unaffordability that MTC attempts to mitigate through its investments in housing, land use, and public transit.

CAA vehemently opposes the inclusion of these onerous policies because the process to develop the policy options was flawed at its inception. MTC staff stated to CAA that these policies were developed through a process of "negotiation and compromise". However, our review of the stakeholders invited to these discussions demonstrated that housing providers who build, own, and operate housing were shut out. There was no opportunity to present data or engage with MTC staff on the economic feasibility, compatibility in local cities, or consistency with state laws. The basic principle of public policy is that all sides should be represented. This was a critical misstep that undermines the credibility of the TOC.

MTC's current scoring framework is flawed as it is based on the promotion of a regulatory, top-down approach. MTC promotes these policies as viable which are then used to incentivize cities to comply with the TOC to be eligible for transportation funds. Regardless of MTC staff's declaration that the TOC is voluntary, significant resources are invested in training cities that compliance increases their competitiveness. MTC staff even developed model ordinances on these controversial and divisive housing policies and template presentations to train city staff on how they can encourage and obtain approval of the TOC from their city councils. By publishing model ordinances on rent control, just cause eviction, and tenant anti-harassment, for example, MTC appears to be endorsing a specific legislative platform that, to our knowledge, was never discussed or approved by the MTC Commissioners.

More concerning is that the MTC Commission hasn't voted on how to link the TOC with transportation funding. Yet, MTC has conveyed to local jurisdictions and third parties that the Administrative Guidelines and scoring rubric reflect thoroughly vetted policies that support housing development or preservation and carry the endorsement of the MTC Commission.

During this "adjustment" period, CAA requests that the MTC Commissioners direct staff to cease the current punitive and regulatory approach and move to a collaborative and incentive-based approach, focusing on rewards, not mandates.

If it is the goal of the commissioners to facilitate more housing through the TOC policy, then the TOC must not promote, endorse, or incentivize housing regulations that hurt housing. MTC Commissioners should re-evaluate the policy menu contained in the Administrative Guidelines and remove and/or devalue such policies from the scoring framework. Lastly, and most importantly, MTC needs to be consistent with its messaging on the applicability of the TOC in local cities and defer its promotional material until the MTC Commission decides how and if the TOC should be linked to transportation funding. There currently are too much mixed messaging and confusion that must be addressed.

CAA appreciates working closely with the MTC Commissioners on this important policy that serves to direct potential investments in transportation and housing infrastructure that are critical to the long-term vitality of our region. MTC's getting this policy right is a critical step towards building trust with the housing and business community so that we might work together on future housing and transportation efforts.

Sincerely,



Joshua Howard
Executive Vice President
California Apartment Association



Rhovy Lyn Antonio
Senior VP of Local Public Affairs
Greater Bay Area
California Apartment Association



Anil Babbar
Senior VP of Local Public Affairs
South Bay Area
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October 14, 2025

MTC Chair Sue Noack & MTC Commissioners
 Bay Area Metro Center
 375 Beale Street, Suite 800
 San Francisco, CA 94105

RE: OPPOSITION to the Metropolitan Transportation Commission’s Transit-Oriented Communities Policy

Dear MTC Chair Noack & MTC Commissioners,

I’m writing on behalf of the East Bay Leadership Council and this broad coalition of business organizations, collectively representing hundreds of employers, to express our concerns with the Metropolitan Transportation Commission’s Transit-Oriented Communities policy (TOC). While we commend MTC for their desire to improve housing affordability, we are concerned that the implementation of TOC will have the opposite effect, creating barriers to the development of desperately needed housing while also negatively impacting the region’s transportation infrastructure and competitive business environment.

There are three major reasons we believe MTC’s TOC policy poses a serious threat to the region. First, while we agree with many of the requirements that TOC includes, there are others we find particularly concerning. Second, we worry that the implementation framework will create a complex regulatory environment that will disincentivize development. Third, we are concerned about a funding scheme that withholds essential transportation funds from the One Bay Area Grant (OBAG) based on MTC’s

determination of city compliance, rather than incentivizing progress or supporting cities making genuine efforts to improve.

1. TOC Includes Problematic Policies

Housing

We support many of the housing policy requirements included in TOC, such as zoning for higher minimum and maximum densities, streamlining permit approval processes, developing mobility hubs, and creating funding programs for the production and preservation of affordable housing.

However, by requiring cities to pass *six* affordable housing policies, we are concerned that this may increase the use of policies that conflict with housing production goals. These include, for example, rent control, just cause eviction, and a 15% inclusionary zoning mandate without any offset incentives. While intended to protect tenants and expand affordability, these policies often instead deter investment in existing units, increase project risk, and render new developments financially infeasible, constraining both affordable and market-rate housing supply.

Since many of the policies MTC offers as options to fulfill the affordable housing component of the TOC requirements are funding programs (i.e. for the production of affordable housing, acquisition of public land, or tenant assistance), we are worried cities will be more likely to pass one of the concerning policies mentioned above because they will impose fewer costs.

This is especially true because MTC has determined funding tiers by jurisdiction and established minimum 4-year investment requirements for cities in each tier should they choose policies that require funding commitments. For example, if Walnut Creek chooses funding policies, the city would be required to allocate \$4 million towards affordable housing production policies, \$1.2 million towards affordable housing protection policies, and \$300,000 towards affordable housing preservation and anti-displacement policies. These are particularly large spending requirements in a time when many cities are experiencing major budget shortfalls.

On top of this, TOC also includes strict parking maximums, a requirement that not only risks deterring development because it limits a project's flexibility in meeting market demand and lender requirements, but is also inherently inequitable. One of TOC's primary goals is to create more affordable housing for low-income residents. Yet, restricting parking for these households undermines their ability to meet daily needs like work, childcare, and errands. Encouraging greater use of public transit is an important and worthwhile goal, but by tying strict parking limits to affordable housing, TOC pushes low-income residents to give up their cars instead of focusing that shift on residents who have the resources and flexibility to choose transit.

Business Competitiveness

Regarding the commercial stabilization policy that cities must implement under TOC, we are concerned about the small business and nonprofit preference policy option. As a coalition of business organizations

representing employers of all sizes, we recognize the need to support and protect small businesses. However, determining the best way to do so requires nuance and flexibility, which TOC does not account for in its policy requirements.

Not all transit-rich areas are the same. Some are situated in more residential areas well-suited to small businesses while others are located in larger commercial zones. Prioritizing small businesses and nonprofits in prime commercial areas may deter larger companies from locating there, devastating a city's tax base.

While there are other commercial stabilization policies cities could adopt that we find less harmful, and may even support, we have similar apprehensions here as with the funding requirements for the housing policies noted above. Because prioritizing small businesses and nonprofits is objectively the least expensive option in terms of direct costs, we worry it will be the most likely choice, even if its indirect costs to the city could be substantial.

One of the key indicators of the economic vitality of a region is its ability to help businesses start, stay, and grow. If this policy is adopted in cities across the region, it could have a severe impact on the area's status as a competitive place for business.

2. The Complexity of TOC Implementation will Deter Development

In addition to the specific policies we find concerning, TOC itself is complex, subjective, and vulnerable to inconsistent implementation, which is likely to disincentivize developers from building.

TOC is voluntary because MTC cannot establish standardized requirements across a region the way state legislation can. Thus, cities may pass resolutions stating their intent to comply with TOC but then lack the funding or political will necessary to make it happen, which would leave developers wondering what requirements they will be expected to follow. Other cities may decide not to adopt TOC altogether, deciding they are willing to lose out on OBAG funding. This patchwork implementation will leave developers caught in uncertainty, establishing an environment that discourages the very progress TOC intends to foster.

Moreover, many TOC policy requirements are inconsistent with established state laws already governing certain housing policies. For example, in contrast to TOC's inclusionary zoning policy, California's Density Bonus Law does not require a certain percentage of developments to be earmarked for affordable units but rewards developers who make those allocations with a variety of incentives (i.e. density bonuses and reduced parking, setback, and minimum square footage requirements). Conversely, TOC states that a successful inclusionary zoning policy should include incentives, but it does not require them. Further, under the Density Bonus Law, developers qualify with a 10% affordable set-aside, and even the Builder's Remedy threshold is only 13%, both well below the 15% required for an inclusionary zoning policy to align with TOC.

TOC requirements may also conflict with jurisdictions' Department of Housing and Community Development (HCD) approved housing elements. For example, a city may have concentrated its Regional Housing Needs Assessment (RHNA) sites in areas that meet HCD standards but fall outside of TOC

transit areas. Housing elements may also recognize constraints like environmental hazards, infrastructure limitations, or displacement risks and distribute housing accordingly, while TOC requirements do not necessarily accommodate these considerations. This all creates significant discord between state-mandated housing requirements and the narrow framework of TOC requirements. Further, conditioning OBAG eligibility on TOC compliance by early 2026 may penalize cities who are legally on track with the timeline of their housing elements.

Compelling cities to pass policies that conflict with state law and state approved housing elements will only add to the complexity, creating unnecessary confusion. Areas with clearly defined and consistent requirements and regulatory processes are far more attractive to developers.

3. TOC has a Counterproductive Funding Framework

Finally, we are concerned with the funding framework itself. In previous rounds of OBAG funding, MTC rewarded cities making progress on transit-oriented development, housing production, and sustainable transportation investments. TOC marks a reversal by punishing cities that do not or can not comply. Further, MTC is also looking for approval to apply this framework to other discretionary funding, which means this could be an issue for future funding opportunities beyond OBAG.

We believe improving transportation infrastructure is a regional economic imperative, especially with threats to public transportation already looming. With this funding framework, many transportation centers stand to lose out on critical transportation dollars. Given that many East Bay cities are likely lagging behind in TOC compliance, our region could face a disproportionate share of funding losses.

Next Steps

Addressing the region's housing availability and affordability crisis is imperative, and we appreciate that regional leaders like MTC recognize this pressing challenge and are working to identify solutions. The intent behind the TOC policy is commendable, but as outlined in our analysis, its current form risks creating barriers to development and eroding the region's infrastructure and economic competitiveness.

Our coalition calls on you to remove the TOC requirements and replace them with guidelines that truly incentivize cities to become more welcoming to affordable housing. This can be achieved by taking the following steps:

1. Remove the problematic affordable housing and commercial stabilization policies outlined above from the menu of policy options. Remove or incorporate greater flexibility around the parking maximums requirement to prevent it from impacting development and exacerbating inequities.
2. Provide greater flexibility on the funding commitments required by certain affordable housing policies to enable cities to choose these policies over alternatives that could hinder housing development.

3. Extend the implementation timeline to give cities more time to adopt well-researched policies. This approach would prevent rushed, short-term fixes driven by fear of critical funding losses, while also providing developers with enhanced predictability.
4. Allow for more flexibility on overall compliance to reward cities actively taking steps toward fostering a more development-friendly environment, instead of punishing those starting at a disadvantage. For example, this flexibility could involve considering OBAG funding eligibility for cities whose housing elements are approved by HCD and remain on track with their timelines, provided their land use plans actively encourage housing production and affordability even if they do not fully align with TOC requirements.
5. Provide timely, comprehensive, and transparent communications to all jurisdictions that may be eligible to receive OBAG funding on any changes made to funding eligibility requirements, the specific point thresholds required for compliance and how those thresholds translate into actual funding amounts, and any other important information that could impact their policy and budget decisions.

By making these changes, you would be replacing the current requirements with a constructive, incentive-based framework that would protect the region's transportation funding while also advancing real solutions to the housing crisis.

Please do not hesitate to reach out to me (mark@eblcmail.org) or EBLC's Policy Director, Meg Stern (meg@eblcmail.org), to further discuss these concerns. Thank you for your commitment to serving our region.

Sincerely,

Mark Orcutt
President & CEO
East Bay Leadership Council

Madlen Saddiq
President & CEO
Alameda Chamber & Economic Alliance

David Stark
Chief Public Affairs and Communications Officer
Bay East Association of REALTORS

Rhovy Lyn Antonio
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Kevin Cabral
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January 27, 2026

MTC Chair Sue Noack & MTC Commissioners
 Bay Area Metro Center
 375 Beale Street, Suite 800
 San Francisco, CA 94105

RE: Recommended Changes to the Metropolitan Transportation Commission’s Transit-Oriented Communities Policy

I’m writing on behalf of the East Bay Leadership Council and this broad coalition of business organizations, collectively representing hundreds of employers and housing providers, to share our recommendations regarding MTC’s Transit-Oriented Communities (TOC) Policy. Since the last time this coalition submitted a letter in October, we have expanded by five new members, including the Bay Area Council, Bridge Association of REALTORS, Building Industry Association of the Bay Area, San Jose Chamber of Commerce, and San Mateo Area Chamber of Commerce. This growth reflects both the clear strength of our coalition and the broad, unified support for our position on TOC.

We understand and share MTC’s intent behind TOC – encouraging transit-oriented development, supporting dense infill, expanding affordable housing production, and protecting tenants – but differ on approach.

With those common goals in mind, we recommend MTC replace TOC’s Production, Preservation, and Protection Policy (3-Ps) requirements with state Housing Element certification and ensure all TOC requirements are aligned with state law. In addition to the many state housing laws enacted in recent years, the Housing Element certification process already requires cities to apply the 3-Ps framework and implement policies that are both state-compliant and locally appropriate. Our recommended changes would therefore give TOC a genuine opportunity to achieve its intended outcomes and address the primary concerns we raised in our previous letter: that prescriptive and counterproductive policy mandates and intensified regulatory complexity will both discourage housing production. It would also help resolve significant issues embedded in the current TOC funding framework.

An L.A. Times analysis found that, over the same period, housing production increased by 10% in San Diego but fell by 33% in Los Angeles. The Times attributed San Diego’s growth to streamlined permitting, a clear general plan, and the absence of traditional rent control, while arguing that Los Angeles’s more restrictive regulations discourage new development.¹ Absent targeted reforms, TOC risks reinforcing the kinds of regulatory barriers that have constrained housing production in places like Los Angeles, undermining development and jeopardizing crucial transportation infrastructure projects.

1. Prevent Cities from Adopting Problematic Policies

We have serious concerns about several tenant protection and affordable housing policies included in the TOC menu, including rent control and just-cause eviction policies that exceed state requirements, and a 15% inclusionary zoning mandate without required offset incentives. While these policies are often well-intentioned, substantial economic research shows that when expanded beyond state standards or adopted without balancing incentives, they can deter investment in existing housing, increase financial risk for new projects, and render both affordable and market-rate developments infeasible, ultimately constraining overall housing supply. Reduced supply, in turn, exacerbates affordability challenges and displacement pressures rather than alleviating them.

Although the TOC framework characterizes these policies as optional “menu” items, in practice they are not meaningfully optional. The structure of TOC’s funding requirements and the political dynamics created by the policy menu strongly steer jurisdictions toward adopting these measures regardless of local market conditions or feasibility.

Funding Commitments

Many of the TOC menu options designed to satisfy affordable housing requirements are funding-based programs. As a result, jurisdictions facing fiscal constraints are more likely to select the problematic regulatory policies, regardless of their impacts on the housing market, because they appear to impose fewer immediate costs.

¹ <https://www.latimes.com/business/story/2026-01-20/san-diego-leads-california-cities-in-apartment-construction>

For example, if Walnut Creek chooses funding policies, the city would be required to allocate \$4 million towards affordable housing production policies, \$1.2 million towards affordable housing protection policies, and \$300,000 towards affordable housing preservation and anti-displacement policies. These are substantial obligations, particularly at a time when many cities are experiencing budget shortfalls and competing demands for essential services. You can review the full funding requirements on page 62 of MTC's TOC Administrative Guidance document.

Political Cover

The TOC menu also provides political cover for adopting policies that might not otherwise advance locally. When policies are framed as necessary to remain eligible for regional transportation funding, cities face strong incentives to adopt measures quickly, even when those policies conflict with local housing strategies, economic conditions, or state-certified Housing Elements.

2. Align TOC with State Requirements

Reducing overlap with state law is critical to addressing the regulatory complexity created by the current TOC framework. Complexity itself is a major deterrent to housing development. When jurisdictions are compelled to layer regional requirements on top of already comprehensive state mandates, the result is confusion and uncertainty, conditions that discourage and slow production.

Eliminating Overlap with HCD

The Regional Housing Needs Allocation (RHNA) and Housing Element processes already require jurisdictions to meet detailed, measurable standards related to housing production, preservation, and tenant protections, all of which are rigorously reviewed and certified by the California Department of Housing and Community Development (HCD). For example, San José's most recent Housing Element includes 137 HCD-vetted policies and programs explicitly focused on these objectives. These programs are not theoretical, they are enforceable commitments tied to state oversight and potential penalties. Jurisdictions with state-certified Housing Elements should not be subject to duplicative regional policy requirements in order to access crucial transportation funding. Recognizing Housing Element certification as satisfying TOC's 3-Ps would uphold policy integrity while avoiding unnecessary redundancies and confusion.

Moreover, most jurisdictions are already in the process of adopting Housing Element policies that reflect local needs and state law. If those policies do not align neatly with TOC's menu, cities may find it difficult or impossible to maintain eligibility for TOC-linked funding despite full compliance with state housing requirements.

Replacing the 3-Ps with Housing Element certification as a long-term condition of OBAG funding eligibility could also encourage jurisdictions to adopt their Housing Elements more quickly in future RHNA cycles. Aligning regional incentives with state housing requirements is an effective and efficient use of resources. It reinforces a strong, coordinated mandate for cities to address housing affordability, rather than imposing overlapping or conflicting requirements that ultimately slow progress.

Reducing Overlap with State Laws

Much of the TOC policy menu overlaps with state housing laws, including many that were enacted or expanded since TOC was first proposed in 2022. Housing Elements account for these laws in a coordinated and comprehensive way while the TOC framework does not. Below are just some examples of state laws that conflict with TOC.

Density Bonus Law and Inclusionary Zoning

California's Density Bonus Law incentivizes affordable housing by offering developers tangible benefits, such as additional density, reduced parking, and relaxed setback and square footage standards, in exchange for affordable set-asides. Developers can qualify with as little as a 10% affordable component, and even the Builder's Remedy threshold is only 13%.

By contrast, TOC's inclusionary zoning option requires a 15% set-aside and does not require jurisdictions to provide offset incentives, even though it acknowledges their importance. This distinction is critical. Inclusionary zoning works when affordability requirements are paired with incentives that maintain project feasibility. Without those incentives, projects often fail to pencil, leading to fewer units overall.

Rent Control and Anti-Displacement Protections

The state passed AB 1482 in 2019, and later strengthened it through SB 567 in 2023, to address price gouging in the state's rental market. They did so by limiting annual rent increases to no more than 5% plus CPI with a 10% maximum and requiring landlords to have "just cause" to evict tenants who have lived in a unit for more than a year. SB 330 (2019) further bolsters protections by preventing the loss of existing affordable and rent-restricted units and safeguarding tenants through protections such as a right of first refusal and a right to return to comparable units following redevelopment. These laws are substantial and apply across the rental market. Local policies that exceed these standards often create overlapping regulatory regimes and can discourage reinvestment in existing housing stock or the development of new rental units.

Ministerial Approval and Permit Streamlining

State laws such as SB 35 (2017), SB 330 (2019), and SB 423 (2023) already establish ministerial approval and streamlined processing pathways for qualifying housing developments. More recently in mid-2025, the Legislature advanced additional housing and CEQA reforms through AB 130 and SB 131. Taken together, these laws are designed to function in coordination with local Housing Elements and the state's broader housing accountability framework. In that context, we encourage MTC to closely review how TOC's requirements interact with these existing and newly enacted state provisions to avoid unintended overlap, conflicting standards, or added complexity that could undermine shared housing and transportation goals.

Density and Parking Requirements Near Transit

Although replacing the 3-Ps with Housing Element certification would resolve much of the TOC-related overlap, it is important to note that duplication extends beyond affordable housing policies. Several recent state laws now directly govern land use standards near transit, including both density and parking, and advance many of the same objectives as TOC through uniform, statewide requirements.

SB 79, enacted in 2025, establishes statewide minimum residential density requirements near major transit stops that must be reflected in local zoning and incorporated into Housing Elements when jurisdictions identify development capacity and suitable sites. Because these requirements are enforceable under state law and already integrated into the Housing Element process, they will shape how cities plan for growth near transit regardless of regional policy. Ensuring that TOC is aligned with SB 79 will help avoid redundancy and support a more coherent regulatory framework.

TOC's policies related to parking minimums and maximums similarly overlap with state law. AB 2097, which took effect in 2023, prohibits local governments from imposing minimum parking requirements on most developments within ½ mile of major transit stops. This statewide prohibition already removes parking minimums as a regulatory barrier to transit-oriented development and is incorporated into Housing Elements by default. In contrast, the state has deliberately avoided establishing mandatory parking maximums, reflecting an understanding that rigid caps can undermine project feasibility, complicate financing, and fail to account for wide variation in local conditions. Where parking maximums have appeared in state law, such as under SB 35, they are used only as an optional incentive tied to streamlined approval and set at levels (one space/unit) that preserve flexibility rather than constrain it. TOC's much lower maximums in tiers 1 and 2 therefore raise concerns about imposing inflexible standards in an area where the state has chosen a more measured approach.

Strict parking maximums also risk undermining equity goals by limiting mobility for lower-income households who may rely on vehicles for work, childcare, and daily needs, even in transit-rich areas. Encouraging transit use is an important objective, but doing so through rigid parking limits tied to affordable housing may place disproportionate burdens on residents with the fewest resources and flexibility to choose transit.

3. Resolve Funding Framework Concerns

Without adequate changes to the TOC Policy, jurisdictions face two undesirable outcomes. Some will simply opt out of funding tied to TOC, concluding that the cost and complexity of compliance outweigh the benefits. This would concentrate transportation funding in a small number of jurisdictions already positioned to comply, reducing regional equity and transportation access. Others may rush to adopt ill-fitting or counterproductive policies or even pass additional costs on to housing providers or taxpayers, solely to maintain eligibility. This would undermine housing production viability and create conflicts with state-approved Housing Elements. Neither outcome advances regional transportation or housing goals.

Replacing the 3-Ps with Housing Element certification would move the TOC Policy toward a more incentive-based and flexible framework. It would allow cities to demonstrate meaningful progress while accounting for differences in geography, capacity, and other local conditions.

Next Steps

We urge you to replace the TOC Policy's 3-Ps requirements with Housing Element certification and consider adjustments throughout the Policy that would bring it into alignment with state law. Regardless of the final structure, TOC cannot be used in its current form to determine eligibility for OBAG 4 funding

without posing a serious risk to housing development and critical transportation investments. By making these changes, MTC would preserve the TOC Policy while transforming it into a more constructive framework that protects regional transportation funding while fostering real, lasting progress on the Bay Area's housing crisis.

Please do not hesitate to reach out to me (mark@ebclmail.org) or EBLC's Policy Director, Meg Stern (meg@ebclmail.org), to further discuss these recommendations. Thank you for your commitment to serving our region.

Sincerely,

Mark Orcutt
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San Mateo Area Chamber of Commerce

Amy Buckmaster
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