EXECUTIVE COMMITTEE
AGENDA

Friday, November 3, 2006
→ 8 to 9 a.m. ←
SANDAG, 7th Floor Conference Room
401 B Street
San Diego

AGENDA HIGHLIGHTS

- ANNUAL PROPOSED AMENDMENTS TO BOARD POLICIES AND BYLAWS
- DRAFT 2007 LEGISLATIVE PROGRAM

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Welcome to SANDAG. Members of the public may speak to the Executive Committee on any item at the time the Committee is considering the item. Please complete a Speaker’s Slip, which is located in the rear of the room, and then present the slip to Committee staff. Also, members of the public are invited to address the Committee on any issue under the agenda item entitled Public Comments/Communications/Member Comments. Speakers are limited to three minutes. The Executive Committee may take action on any item appearing on the agenda.

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## EXECUTIVE COMMITTEE
Friday, November 3, 2006

<table>
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<th>ITEM #</th>
<th>RECOMMENDATION</th>
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<tr>
<td>+1.</td>
<td>APPROVAL OF OCTOBER 13, 2006, MEETING MINUTES</td>
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<td>PUBLIC COMMENTS/COMMUNICATIONS/MEMBER COMMENTS</td>
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Members of the public will have the opportunity to address the Executive Committee on any issue within the jurisdiction of the Committee. Speakers are limited to three minutes each and shall reserve time by completing a “Request to Speak” form and giving it to the Clerk prior to speaking. Committee members also may provide information and announcements under this agenda item.

### CONSENT ITEM (3)

| +3. | LEGISLATIVE STATUS REPORT (Kim Kawada) | INFORMATION |

This item summarizes activities completed during the 2005-2006 state legislative sessions and the second session of the 109th Congress.

### REPORTS (4 through 6)

| +4. | PROPOSED AMENDMENTS TO BOARD POLICIES (Julie Wiley) | DISCUSSION/POSSIBLE ACTION |

The General Counsel has attached a draft of amendments to current Board Policies proposed by staff over the past year or that are appropriate for updating purposes. The Executive Committee is asked to provide feedback and either recommend Board approval of the amendments at this meeting or direct staff to return to the next Executive Committee meeting before proceeding to the Board.

| +5. | DRAFT 2007 LEGISLATIVE PROGRAM (Kim Kawada) | DISCUSSION/POSSIBLE ACTION |

Each year, the Executive Committee recommends a legislative program in a priority order to the Board of Directors for the ensuing calendar year. Consistent with past programs, the Draft 2007 Legislative Program includes policies and proposals for possible federal and state legislation and local activities. The Executive Committee is asked to review and discuss the Draft 2007 Legislative Program and recommend Board approval.

| +6. | REVIEW OF NOVEMBER 17, 2006, DRAFT BOARD AGENDA | APPROVE |
7. UPCOMING MEETINGS

The next meeting of the Executive Committee is scheduled for Friday, December 1, 2006, at 9 a.m. Please note that the December Executive Committee meeting will be held on the first Friday of the month.

8. ADJOURNMENT

+next to an agenda item indicates an attachment
EXECUTIVE COMMITTEE DISCUSSION AND ACTIONS
OCTOBER 13, 2006

First Vice Chair Mary Sessom (East County) called the Executive Committee meeting to order at 8:11 a.m. The attendance sheet for the meeting is attached.

1. APPROVAL OF MINUTES

Upon a motion by First Vice Chair Sessom and a second by Councilmember Jim Madaffer (City of San Diego), the minutes of the September 8, 2006, Executive Committee meeting were unanimously approved.

2. PUBLIC COMMENTS/COMMUNICATIONS/MEMBERS COMMENTS

There were no public comments/communications/or member comments.

REPORTS (3 through 7)

3. FY 2007 BUDGET AMENDMENTS: CALIFORNIA TRANSPORTATION PLANNING GRANTS AND NEW ARJIS POSITION (APPROVE/RECOMMEND)

Tim Watson, Budget Program Manager, presented highlights of the proposed FY 2007 Overall Work Program (OWP) amendments. Caltrans has awarded grants to SANDAG totaling more than $1 million for six projects: Regional Bicycle Master Plan; Identifying Crime Patterns at Transit Stations; Access to Community Medical Transportation Services Planning; Tribal Transportation Demand Management Outreach; Implementing Early Action Strategies in Otay Mesa-Mesa de Otay Binational Corridor: the East Otay Mesa-Otay II Port of Entry; and a Short Distance Vanpool Feasibility Study. Another action that is part of this item is a recommendation for a new ARJIS (Automated Regional Justice Information System) position.

The six grants are funded from various state and federal programs. SANDAG applied for 16 grants in last year’s cycle, and the listing of the proposed grants was included in a section of the FY 2007 OWP. The new grants may be expended over a 2½-year time frame; therefore, much of the grant-funded work will continue into future years. No new staff positions are proposed; instead, the new work load will be distributed across existing staff members, including a limited term planning position that was hired earlier in the year. The addition of the new grant-funded work will not disrupt or delay the existing work elements in the FY 2007 OWP. Staff also recommends using up to $75,000 from contingency funds to provide the local match to the grants in FY 2007. This use of contingency funds is consistent with Policy No. 030, Section 2A. The balance in the contingency reserve would still exceed the minimum amount required by Board policy. Mr. Watson provided an overview of the
proposed grant projects. He stated that two would be passed through to other agencies, two would largely fund consultant efforts managed by staff, and two would be conducted primarily by SANDAG staff.

Mr. Watson said that the second recommended action is to approve a new ARJIS Senior Business Manager position. He reviewed the reasons for this additional position and its responsibilities. This position would be funded with existing and ongoing ARJIS fees. There would be no budget impact in 2007.

Councilmember Madaffer asked where the local match to the grant would come from in future fiscal years. He noted that an additional $85,000 would be needed for matching funds in next year’s budget. Mr. Watson replied that the continued funding for these grant-funded projects would be considered as part of the development of the FY 2008 Budget. Gary Gallegos, Executive Director, said that when the budget is put together each year, the Executive Committee and Board would be deciding which work efforts to fund.

Councilmember Madaffer asked that if we use this money from the contingency reserve are we then squeezing next year’s budget. Mr. Gallegos said that staff believes we will be able to fund the $85,000 within the budget for next year.

Councilmember Madaffer said he didn’t want to expand ongoing operations with nonrecurring contingency reserve funds. Mr. Gallegos responded that these are very specific one-time projects, which will require certain local matching funds this year and next; however, they are not ongoing, recurring efforts. Renee Wasmund, Finance Director, added that we are not adding staff resources; staff is careful not to add recurring costs based on nonrecurring funding.

Councilmember Madaffer asked how the new ARJIS Senior Business Manager position would be funded. Mr. Watson answered that an existing ARJIS-funded position is being funded through a separate grant, which has freed up funds for the new Senior Business Manager position this year. There are recurring fees to cover this position.

Councilmember Madaffer wondered if there is another similar program at the Sheriff’s Department or at the court system. Jeff Tayman, Director of Technical Services, stated that he was not aware of any duplication of what ARJIS is doing within the region. He explained that ARJIS deals with data sharing. There are a number of regional communication systems efforts that are spearheaded by the City of San Diego and the County of San Diego.

Mayor Crystal Crawford (North County Coastal) restated that that the money used to provide the local match for these grants would not put us below our minimum reserve requirements.

Action: Upon a motion by Councilmember Madaffer, and a second by Supervisor Bill Horn (County of San Diego), the Executive Committee voted to: (1) adopt FY 2007 state planning grants through the approval of Resolution No. 2007-12; (2) add four new work elements; (3) authorize the use of approximately $75,000 in contingency reserve funds; and (4) adjust three existing work elements. The Executive Committee also voted to recommend that the Board approve the addition of a new SANDAG position to support ARJIS.
4. 2007 ANNUAL SANDAG BOARD RETREAT (RECOMMEND)

Anne Steinberger, Communications Manager, said that the 2007 Board Retreat will be held in Borrego Springs, January 31 to February 2, 2007. She asked for input into the development of the retreat program. She reviewed several topics recommended for discussion. She noted that SANDAG will again offer an orientation for new Board members and refresher courses for returning Board members. She noted four possible speakers: Harvard Professor Herman “Dutch” Leonard to discuss governance and accountability; Ed Barlow, a futurist; Charles Schalliol, to discuss the Indiana experience with public/private partnerships; and Ruben Barrales, Deputy Assistant to the President and Director of the Office of Intergovernmental Affairs.

Second Vice Chair Lori Holt Pfeiler (North County Inland) said that regarding the topic to review the long-range plans for smart growth, she asked if staff could provide a statewide overview of regional blueprint plans. Mr. Gallegos suggested that we consider inviting someone from the Business, Transportation & Housing Agency that is overseeing the Regional Blueprint Planning Program at the state level.

Supervisor Horn encouraged all Committee members to attend the retreat.

Councilmember Madaffer asked if there would be a report on the topic of quality of life funding options. Mr. Gallegos said that we are looking for discussion topics. If this is chosen as a topic, we could come back and provide more information as we develop potential funding options. He noted some of the outstanding issues related to the development of a quality of life funding measure. Our current transportation sales tax authority has some limits on what we can do; for example, sand on beaches would not be an eligible use under our current tax authority. Therefore, we may need to amend legislation to provide us the authority to fund certain quality of life programs.

Mayor Crawford noted that staff was asking for input on the suggested speakers. Ms. Steinberger stated that if the Committee members like these types of speakers, staff will start pursuing them, and who we get will depend on who is available during the retreat timeframe.

Supervisor Horn said he liked the futurist person.

Mayor Crawford expressed a preference for Professor Leonard.

Mr. Gallegos asked if we should invite Mr. Barrales; the consensus was affirmative.

Mayor Crawford cautioned that whoever speaks should be dynamic, interesting, and contributes to the retreat experience.

Vice Mayor Ron Morrison (South County) said that he was not interested in the topic of the Indiana toll roads.

Action Upon a motion by Councilmember Madaffer and second by Supervisor Horn, the Executive Committee recommended that the SANDAG Board of Directors approve the 2007 Annual SANDAG Board Retreat agenda.
5. **LEGISLATIVE STATUS REPORT (INFORMATION)**

Kim Kawada, Executive Program Manager, reviewed the actions taken by the State Legislature and Governor during the 2005-2006 legislative session. She noted that SANDAG had a very good legislative year. All of the SANDAG-sponsored bills and other key bills (SB 1282 [Ducheny], SB 1296 [Kehoe], AB 372 [Nation], and SB 463 [Kehoe]) were passed and signed by the Governor.

On the federal side, there is nothing new to report. Both the House and Senate Transportation Committees passed their respective 2007 transportation appropriations bills, but Congress did not consider them before it recessed at the end of September. The House passed a SAFETEA-LU technical corrections bill prior to recessing. These bills are expected to be taken up by Congress during a lame duck session after the November 7 election. She reviewed the actions related to SANDAG projects, and noted that next month we will start discussing the draft 2007 Legislative Program with the Executive Committee.

**Action:** This item was presented for information only.

6. **ANALYSIS OF PROPOSITIONS 84, 87, AND 90 (INFORMATION/POSSIBLE ACTION)**

Victoria Stackwick, Legislative Analyst, reviewed Propositions 84 and 87 indicating their impacts to the San Diego region and their supporters and opponents. She noted that passage of Proposition 87 could create fiscal uncertainty in the State Transportation Improvement Program (STIP) if consumers purchase less gas.

John Kirk, Deputy General Counsel, reviewed Proposition 90, related to eminent domain, and explained the impacts to SANDAG if it passes. He said this measure would likely increase the cost of property acquisition, and it could have an impact on the Regional Comprehensive Plan and Regional Transportation Plan by increasing the cost of land acquisition. He reviewed the supporters and opponents of this measure.

Councilmember Madaffer noted that the City of San Diego has not taken a position on Proposition 84. He is personally opposed to all three of these propositions. Proposition 90 has crucial impacts to SANDAG. He is not sure how Propositions 84 or 87 affect much of what SANDAG does. He suggested that the Committee take no position on these propositions, or only take a position on Proposition 90.

Vice Mayor Morrison stated that Proposition 84 was a measure put together by environmental groups, and that water-related programs were tacked onto the measure to obtain political support. The proposition is a huge bond measure ($5.4 billion) that gives the public the impression it will do something for water in the State of California. However, it will not provide enough funding to substantially improve our water supply systems. He suggested an opposition position on Proposition 84.

Vice Mayor Morrison said that Proposition 87 sounds great, but it would put a severance tax on all oil products produced in California. An unanticipated consequence is that it may cause more oil to be imported into the state, because imported oil would not be subject to the severance tax.
Vice Mayor Morrison also supported taking an oppose position on Proposition 90.

Councilmember Madaffer noted that newspapers throughout the state have published opposing views on Proposition 90.

Councilmember Madaffer asked staff’s perspective on these propositions. Mr. Gallegos responded that Proposition 90 will be problematic for SANDAG, Proposition 87 has a lot of unintended consequences, some of which may impact transportation funding to the region, and Proposition 84 is a mixed bag of assorted funding programs.

Mayor Crawford suggested taking a “no” position on Proposition 90. She felt that we should alert folks that this is a bad measure.

Vice Mayor Morrison agreed that bringing attention to the negative impacts of Proposition 90 would not be a bad thing. Any education at all should turn people away from it.

**Action:** Upon a motion by Mayor Christy Guerin (North County Coastal), and a second by Vice Mayor Morrison, the Executive Committee voted unanimously to take an oppose position on Proposition 90 and to take no positions on Propositions 84 and 87.

7. **REVIEW OF OCTOBER 27, 2006, DRAFT BOARD AGENDA (APPROVE)**

Diane Eidam, Chief Deputy Executive Director, reviewed the items on this agenda. She noted that there would be an additional consent report on the California Biodiversity Council’s quarterly meeting.

Mayor Pfeiler asked if there would be a written report for Item No. 9, Regional Beach Sand Project Update. Mr. Gallegos answered that there would be a written report; however, he recommended moving this item to a future Board agenda as it is worthy of a discussion.

Mayor Crawford agreed that this would be a good Policy Board discussion item. The Executive Committee agreed to move Item No. 9 to a future Policy Board meeting.

Ms. Eidam continued her review of items on the draft agenda. She said there will be an additional Reports item related to the modification of the State Route (SR) 54 high occupancy vehicle lane.

First Vice Chair Sessom suggested that we notify Board members that this October 27 meeting will be long.

**Action:** Upon a motion by Councilmember Madaffer, and a second by Supervisor Horn, the Executive Committee voted unanimously to approve the agenda for the October 27, 2006, SANDAG Board of Directors meeting as revised.

8. **UPCOMING MEETINGS**

The next meeting of the Executive Committee is scheduled for November 3, 2006, at 8 a.m.

9. **ADJOURNMENT**

First Vice Chair Sessom adjourned the meeting at 9:07 a.m.

Attachment: Attendance Sheet
<table>
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<th>GEOGRAPHICAL AREA</th>
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<th>NAME</th>
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<td>Christy Guerin</td>
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<td></td>
<td>City of Del Mar</td>
<td>Crystal Crawford</td>
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<td>North County Inland</td>
<td>City of Poway</td>
<td>Mickey Cafagna</td>
<td>Member</td>
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<td>City of San Marcos</td>
<td>Pia Harris-Ebert</td>
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<td>East County</td>
<td>City of Lemon Grove</td>
<td>Mary Sessom</td>
<td>Member</td>
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<td>City of Santee</td>
<td>Hal Ryan</td>
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<td>South County</td>
<td>City of National City</td>
<td>Ron Morrison</td>
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<td>City of Chula Vista</td>
<td>Steve Padilla</td>
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<td>Jerry Sanders</td>
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<td>Jim Madaffer</td>
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<td>Bill Horn</td>
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<td>Ron Roberts</td>
<td>Alternate</td>
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<tr>
<td>Ex Officio, 2nd Vice Chair</td>
<td>City of Escondido</td>
<td>Lori Holt Pfeiler</td>
<td></td>
<td>Yes</td>
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Introduction: In the 2005-06 two-year session 4,929 bills were considered. Many were amended as many as a dozen times before they were passed or defeated. Successful measures were typically approved by at least two committees -- a policy committee and then the Appropriations committee before being considered on the floor in their house of origin. Then each bill had to repeat that process in the other house and if amended had to be returned to Floor of the first house to get “concurrence” in any changes. Only then did a bill go to the Governor for signature or veto.

In the first year of the session, 961 bills were sent to the Governor of which 729 were signed and 232 vetoed. In 2006, 1,172 bills were passed including some introduced in 2005 and carried over. In 2006, Governor Schwarzenegger signed 910 bills and vetoed 262.

It was a great year for SANDAG at the Capitol. Set forth below is a summary of bills that SANDAG sponsored as well as other legislation of importance to SANDAG.

SANDAG Sponsored Bills

**SB 463 (Ducheny) Toll roads: State Highway Route 125. (SIGNED)**

Summary: SB 463 was a critically important bill for SANDAG. It allows tolls to be collected on State Highway Route 125 in San Diego County, for a period of up to 45 years, rather than 35 years. The bill also authorizes SANDAG to continue the collection of tolls thereafter subject to a 2/3 vote of the SANDAG board, with excess toll revenues to be used for various projects that improve the operation of the SR 125 corridor.

**SB 1282 (Ducheny) Transportation: federal funds: border infrastructure program. (SIGNED)**

Summary: SB 1282 requires federal funds apportioned to the state under the coordinated border infrastructure program of SAFETEA-LU to be programmed, allocated, and expended in the same manner as other federal transportation funds in the state transportation improvement program, except that these federal funds would be exempt from being included in the transportation funds
subject to the distribution and fair share formulas. The bill authorizes these funds to be used for projects located in Mexico. The bill authorizes any nonfederal funds needed to match these federal funds to be programmed from any available local source or any available state transportation funding source, with the concurrence of the applicable regional transportation planning agency.

**SB 1296 (Kehoe) San Diego Consolidated Transportation Agency: governance. (SIGNED)**

**Summary:** SB 1296 revises the law to allow the Mayor of the City of San Diego to continue to serve on the SANDAG board and expands the board of directors to 21 members by adding a second representative from the San Diego County Board of Supervisors.

**SB 1539 (Kehoe) San Diego Association of Governments Energy Working Group. (DIED)**

**Summary:** This bill would have stated the intent of the Legislature that regional planning and implementation of energy-related policy by the SANDAG Energy Working Group, or a coalition of entities in the San Diego region, or both, should occur. The bill would have stated the further intent of the Legislature that the development and implementation of energy management plans to advise local governments in the effective implementation of renewable energy projects, green building options, and energy efficiency should occur.

**AB 372 (Nation) Public contracts: transit design-build contracts. (SIGNED)**

**Summary:** This bill wasn’t sponsored by SANDAG. However, we were able to significantly amend it to have SANDAG included in the extension of design build authority provided by the bill. As passed the bill allows transit agencies to use design build until January 1, 2011 and expands the definition of a transit operator to include a consolidated agency. This bill specifies that a transit operator is required to establish a labor compliance program only for a design-build contract and only if the transit operator does not already have a labor compliance program. This bill requires a transit operator to select the design-build entity, for non-rail transit projects that exceed $2,500,000, based on either the lowest responsible bidder or best value. This bill authorizes the design-build method of procurement for a capital-maintenance or capacity-enhancing rail project with project costs of $25,000,000, or more. This bill requires a transit operator to prepare specific documents regarding a project that will be let to a design-build entity.

**Transportation Bills**

**AB 1020 (Hancock) Transportation planning: improved travel models. (VETOED)**

**Summary:** AB 1020 would have required the CTC, by December 31, 2007, to adopt guidelines related to the travel demand models used in the development of regional transportation plans by regional transportation planning agencies. The bill would have required a regional transportation planning agency for a region with a population of 800,000 or more to use those guidelines. The bill would have specified certain policy choices that a travel demand model be capable of evaluating. The bill would have required the Department of Transportation to assist the commission, on request, in this regard, and would have imposed other related requirements. Because the bill would
have imposed additional duties on local agencies, it would have imposed a state-mandated local program.

In vetoing this bill the Governor stated: My administration is already moving forward with a comprehensive approach to integrating land use and transportation planning through the Strategic Growth Plan that I proposed earlier this year. The Department has already begun implementation of a key element of this plan, the Regional Transportation Blueprint Program. This grant program is funding development of the very types of travel demand modeling and land-use forecasting that this bill envisions. I am extremely concerned that the requirements in AB 1020 would drain critical resources from the important work that is already underway, and would result in substantial duplication of effort among state as well as regional agencies.

AB 2538 (Wolk) Transportation funds: planning and programming: regional agencies. (SIGNED)

Summary: This bill authorizes transportation planning agencies or county transportation commissions to request and receive up to 5% rather than 1% of transportation monies for the purposes of project planning, programming, and monitoring. The bill changes the references to "regional improvement funds" to instead refer to "county share."

SB 1587 (Lowenthal) Transportation planning: federal funds (SIGNED)

Summary: Existing law requires transportation planning agencies to adopt and submit an updated regional transportation plan to the California Transportation Commission and the Department of Transportation every 3 years, except that a transportation planning agency that does not contain an urbanized area may, at its option, submit an updated plan every 4 years. This bill instead requires a transportation planning agency to submit an updated regional transportation plan every 4 years, except that a transportation planning agency located in a federally designated air quality attainment area or that does not contain an urbanized area could, at its option, submit an updated plan every 5 years.

SB 1611 (Simitian) Congestion management fees. (DIED)

Summary: SB 1611 would have authorized a congestion management agency, or where there is no congestion management agency, the board of supervisors, to place a majority vote ballot measure before the voters of a county authorizing the imposition of an annual fee of up to $25 on each motor vehicle registered within the county for transportation projects and programs with a relationship or benefit to the persons paying the fee. The bill was held under submission in the Assembly Appropriations committee.

SB 1694 (Aanestad) Transportation: federal funds: allocation to counties. (DIED)

Summary: SB 1694 would have dedicated 15% of the state's discretionary portion of federal equity bonus transportation funds for use by counties for transportation projects until October 1, 2009. It was held under submission in the Senate Appropriations Committee.
SB 1703 (Lowenthal) California Transportation Commission. (VETOED)

Summary: This bill would have expanded the CTC to 13 members by adding one additional voting member appointed by the Speaker of the Assembly and one appointed by the Senate Rules Committee.

In vetoing this bill the Governor stated: This bill…represents a fundamental change to the longstanding and historically successful process whereby the Legislature makes appropriations to state transportation funds, such as the State Transportation Improvement Program, and the CTC, appointed solely by the Governor, allocates funding for specific projects. The fundamental changes proposed by this measure require additional scrutiny and discussion.

AB 3047 (Canciamilla) Toll facilities. (DIED)

Summary: AB 3047 would have authorized a regional transportation agency to construct and operate high-occupancy vehicle lanes as toll facilities. It passed the Assembly but died in the Senate Transportation and Housing Committee.

SB 371 (Torlakson) Public contracts: design-build contracting: transportation entities. (DIED)

Summary: This bill would have declared the intent of the Legislature to enact legislation that would develop an alternative and optional procedure for bidding on highway, bridge, tunnel, or public transit construction projects in the jurisdiction of any county, local transportation authority, or local or regional transportation entity, and would have authorized the Department of Transportation to develop an alternative bidding procedure for highway, bridge, or tunnel projects on the state highway system. The bill passed the Senate but was held at the desk in the Assembly.

SB 1161 (Alarcon) State highways: design-sequencing contracts. (DIED)

Summary: This bill would have authorized Cal Trans, until January 1, 2012, to award contracts for projects using the design-sequencing contract method, if certain requirements were met. The bill would have required the department to continue the use of a peer review committee to assist the department in preparing an annual report to the Legislature describing and evaluating the outcome of the design-sequencing contracts until December 31, 2011. The bill was held under submission in the Assembly Appropriations Committee.

SB 1812 (Runner) Department of Transportation: surface transportation project delivery pilot program. (DIED)

Summary: Under federal law, transportation projects in California that use federal funds or require a federal permit are subject to environmental review under NEPA. The Federal Highway Administration (FHWA) has responsibility for reviewing and approving NEPA documents prepared for federal-aid highway projects proposed for construction in California. The U.S. Department of Transportation (U.S.DOT) assumes liability for the project in the
event lawsuits are filed under NEPA. The most recent federal transportation authorization act - the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) - established the Surface Transportation Project Delivery Pilot Program. This program designates the State of California as one of five states eligible to apply to participate in a multi-year pilot program that delegates to the state the responsibilities of U.S. DOT (via FHWA) under NEPA. The state may also apply for the assumption of U.S. DOT’s responsibilities under other federal environmental laws, such as the Clean Water Act, the Endangered Species Act, and others. The responsibilities delegated to the state are subject to the same procedural and substantive requirements as if they were carried out by U.S. DOT. By accepting this authority, the state accepts the financial costs associated with this authority, as well as full liability for lawsuits filed under NEPA in federal court.

This bill would have until January 1, 2009, authorized the director of Cal Trans to consent to the jurisdiction of the state and federal courts with regard to the compliance, discharge, or enforcement of the responsibilities assumed pursuant to the surface transportation project delivery pilot program. The bill would also have required the department to submit a report to the Legislature by January 1, 2008, relating to the surface transportation project delivery pilot program. SB 1812 was held under submission in the Senate Appropriations Committee.

**Transit bills**

**AB 713 (Torrico) Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century. (SIGNED)**

**Summary:** AB 713 moved back two years from this November to November 2008 the vote on the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century. Subject to voter approval, the act would provide for the issuance of $9.95 billion of general obligation bonds, $9 billion of which would be available in conjunction with any available federal funds for planning and construction of a high-speed train system pursuant to the business plan of the High-Speed Rail Authority, and $950 million of which would be available for capital projects on other passenger rail lines to provide connectivity to the high-speed train system and for capacity enhancements and safety improvements to those lines.

**SCR 123 (Florez) Joint Legislative Committee on High-Speed Trains. (DIED)**

**Summary:** This measure would have established, until December 31, 2008, the Joint Legislative Committee on High-Speed Trains, which would have been composed of 5 Members of the Senate and 5 Members of the Assembly, as specified, to hold public hearings to receive public comment and review the work of the High-Speed Rail Authority and the plans for a high-speed train system in California. The measure prescribed the powers and duties of the committee and authorized the Senate Committee on Rules and the Assembly Committee on Rules to make money available to the Joint Legislative Committee on High-Speed Trains from the Senate and Assembly Operating Funds. The resolution passed the Senate but was held at the desk in the Assembly.
**AB 1157 (Frommer) Rail Safety and Traffic Mitigation Bond Act of 2006. (DIED)**

**Summary:** AB 1157 would have stated the intent of the Legislature to enact legislation providing for a general obligation bond act in the amount of $500 million to be submitted to the voters for approval in order to provide funding for a program to eliminate the most dangerous railroad-highway grade crossings in the state, as identified by the Public Utilities Commission, with funds to be allocated by the California Transportation Commission. It died in the Senate Transportation and Housing Committee.

**AB 2630 (Benoit) Grade separation project funding. (SIGNED)**

**Summary:** Existing law requires the Public Utilities Commission to adopt a priority list for railroad-highway grade separation projects and requires the California Transportation Commission to allocate available funding to projects pursuant to that priority list. Existing law generally limits to $5,000,000 an allocation to a single project; except that if the project meets certain criteria it may receive an allocation up to $20,000,000. Existing law prohibits an agency that receives an allocation pursuant to that exception from receiving an allocation for another project pursuant to that exception for a period of 10 years. This bill provides that an agency that receives an allocation pursuant to that exception may be eligible for an allocation for another project if the Department of Transportation determines that funds are available for allocation.

**AB 1699 (Frommer) Commuter and intercity passenger trains: push-pull operation: study. (VETOED)**

**Summary:** This bill would have required the Department of Transportation to contract with the Institute of Transportation Studies to conduct a study of the safety of push-pull commuter rail and intercity rail passenger operations in California, and would have required the study to be submitted to the Legislature by June 1, 2008. The bill would have appropriated $475,000 from the Public Transportation Account in the State Transportation Fund to the department for these purposes.

In his veto message the Governor stated: _Recently, the Federal Railroad Administration completed a comprehensive study of this very subject, making this bill largely unnecessary. Given the comprehensive nature of the federal report, we should use our state resources to build upon, not duplicate, that study. I am signing legislation this year, AB 158, which creates a new task force that will, among other tasks, identify deficiencies for responding to railroad emergencies._

**AB 158 (Bermudez) Railroads: safety study. (SIGNED)**

**Summary:** This bill creates the Special Railroad Safety Task Force (Task Force) to identify vandalism and terrorism concerns not addressed by current safety programs, land use planning deficiencies, and railroad emergency response problems. This bill requires the Task Force to submit a report to the Public Utilities Commission (PUC) that recommends corrective actions for each rail safety area, and requires the PUC to incorporate the recommendations in its report to the Legislature. These provisions will become inoperative on July 1, 2008, and will be repealed on January 1, 2009, unless a later enacted statute deletes or extends that date.
Redevelopment and Eminent Domain

**AB 782** (Mullin) Redevelopment: project area. (SIGNED)

Summary: This bill deletes as a criterion for the definition of "blight" the criterion that the land in the project area is characterized by the existence of subdivided lots of irregular form and shape and inadequate size for proper usefulness and development that are in multiple ownership.

**SB 1206** (Kehoe) Redevelopment. (SIGNED)

Summary: This bill revises the definition of "predominantly urbanized" and revises the conditions that characterize a blighted area. The bill prohibits the inclusion of non-blighted parcels in a redevelopment project area for the purpose of obtaining property tax revenue from the area without substantial justification for their inclusion.

**SB 1210** (Torlakson) Eminent domain. (SIGNED)

Summary: This bill prevents issuance of a pre-judgment order of possession without prior notice and an opportunity to respond for the property owner or occupants. It requires an entity seeking to take property by eminent domain to offer to pay the property owner's reasonable costs in ordering an independent appraisal of the property. It defines litigation expenses to include reasonable attorney's fees and reasonable expert witness and appraiser fees.

The bill also changes certain laws that relate to redevelopment plans. Specifically, the bill requires a finding of continuing "substantial blight" prior to any exercise of eminent domain pursuant to a redevelopment plan longer than 12 years after the adoption of the plan, and would enact a new conflict-of-interest prohibition applicable to board members of public entities.

Public Safety/ Homeland Security Bills

**AB 1848** (Bermudez) Homeland security: interoperable public safety communication network. (SIGNED)

Summary: Specifies that the Public Safety Radio Strategic Planning Committee's (PSRSPC) annual report to the Legislature shall serve as the state's strategic plan for establishing a statewide integrated, interoperable public safety communications network. Requires the PSRSPC to include specified information in the report, including data formats, and to update the report annually. Authorizes the PSRSPC to consult with and make recommendations to local, regional, state or federal agencies to advance the integration of local, regional, and statewide public safety communication networks.
AB 2041 (Nava) Public safety: communications. (SIGNED)

Summary: This bill adds the Military Department, State Department of Health Services, and Department of Finance to, and removes the Department of the Youth Authority from the Public Safety Radio Strategic Planning Committee and requires that a representative of the Office of Emergency Services serve as chairperson. It requires that interoperability be developed to include first response agencies as the committee deems appropriate. It also requires the committee to meet at least twice a year, with one being a joint meeting with the California Statewide Interoperability Executive Committee.

AB 2116 (Cohn) Emergency services: disaster assistance: equipment. (SIGNED)

Summary: This bill specifies that the Public Safety Radio Strategic Planning Committee recommended equipment be public safety radio subscriber equipment that conforms to governmental standards for interoperability and, as technology evolves, that the equipment or systems be nonproprietary and have open architecture and backward compatibility. The bill authorizes the committee to recommend this equipment to any other federal, state, regional, or local entity with responsibility for developing, operating, or monitoring interoperability of the public safety spectrum.

AB 2140 (Hancock) General plans: safety element. (SIGNED)

Summary: This bill prohibits the state share for any eligible project from exceeding 75% of total state eligible costs unless the local agency is located within a city, county, or city and county that has adopted a local hazard mitigation plan in accordance with the federal Disaster Mitigation Act of 2000 as part of the safety element of its general plan, in which case the Legislature may provide for a state share of local costs that exceeds 75% of total state eligible costs.

AB 2231 (Pavley) Accessibility of emergency services information: working group. (SIGNED)

Summary: This bill requires the Director of the Office of Emergency Services to convene a working group consisting of a specified membership to consider and make recommendations with respect to a system for the transmission of emergency alerts to the public through a public-private partnership, subject to specified criteria. It requires the director to report the working group’s findings and recommendations to the Legislature within one year of the date the working group is convened.

SB 927 (Lowenthal) Ports: congestion relief: security enhancement: environmental mitigation: regulatory fee. (VETOED)

Summary: This bill would have required the Ports of Los Angeles and Long Beach to develop a process for collecting a user fee on the owner of container cargo moving through the Port of Los Angeles or the Port of Long Beach at a rate of $30 per twenty-foot equivalent unit (TEU).
In vetoing this bill the Governor stated: *This measure is flawed in its construction, application, lack of accountability and failure to coordinate with other public and private financing sources ignoring opportunities to leverage additional funding. [It] provides no mechanism for the usage of the fees collected to favorably leverage the billions of dollars in available funding to develop public private partnerships. Although SB 927 does generate funds, if done in a more coordinated fashion with the public and private sector, funding for additional congestion relief and mitigation could be increased geometrically. Additionally, this measure is drafted to include only two ports and applies only to goods shipped in containers, ignoring all other forms of shipping and ports of entry. Finally, my goods movement task force is developing a comprehensive report that will provide more thorough and strategic direction and insight on what the best options are to address goods movement and port related challenges.*

**SB 1451 (Kehoe) Emergency preparedness: disabled community. (SIGNED)**

**Summary:** This bill requires the Governor's Office of Emergency Services to ensure representation of the disabled community on all pertinent Standardized Emergency Management System Specialist Committees. The bill requires the Director of Emergency Services to report to the Legislature, not later than January 1, 2009, recommendations regarding preparedness, planning, procedures and other items, as specified, to prepare and disseminate sample brochures on those matters, and to make those brochures available in accessible formats, as specified. The bill requires the director and the State Fire Marshal's office to seek research funds to assist in the development of new technologies and information systems that will assist in the evacuation of disabled persons. The bill expresses the intent of the Legislature that funds be used from funds received from the federal Department of Homeland Security.

**Public Utilities and Energy Bills**

**AB 2021 (Levine) Public utilities: energy efficiency. (SIGNED)**

**Summary:** This bill requires the Energy Commission, on or before November 1, 2007, and every 3 years thereafter, in consultation with the commission and local publicly owned electric utilities, in a public process that allows input from other stakeholders, to develop a statewide estimate of all potentially achievable cost-effective electricity and natural gas efficiency savings and establish statewide annual targets for energy efficiency savings and demand reduction over 10 years. The bill requires the commission to base its estimate at least in part on the most recent targets established by the commission and local publicly owned electric utilities. The bill requires the Energy Commission to include in the integrated energy policy report, for each electrical corporation and each gas corporation, a comparison of the public utility's annual energy efficiency targets, and the public utility's actual energy efficiency savings and demand reductions.

**AB 2778 (Lieber) Electricity: self-generation incentive program. (SIGNED)**

**Summary:** This bill requires the PUC, in consultation with the Energy Commission, to administer, until January 1, 2012, a self-generation incentive program for distributed generation resources. The program in its currently existing form, is applicable to all eligible technologies, as determined by the commission, until January 1, 2008, except for solar
technologies, which the commission is required to administer separately, after January 1, 2007, pursuant to the California Solar Initiative. The bill, commencing January 1, 2008, until January 1, 2012, limits eligibility for non-solar technologies to fuel cells and wind distributed generation technologies that meet or exceed the emissions standards required under the distributed generation certification program adopted by the State Air Resources Board. The bill requires the Energy Commission, on or before November 1, 2008, in consultation with the commission and the board, to evaluate the costs and benefits of providing ratepayer subsidies for renewable and fossil fuel "ultraclean and low-emission distributed generation," as defined, as part of the Energy Commission's integrated energy policy report.

**SB 1 (Murray)** Electricity: solar energy: net metering. (SIGNED)

**Summary:** SB 1 requires beginning January 1, 2011, a seller of production homes, as defined, to offer the option of a solar energy system, as defined, to all customers negotiating to purchase a new production home constructed on land meeting certain criteria and to disclose certain information. The bill also requires the Energy Commission to develop an offset program that allows a developer or seller of production homes to forgo the offer requirement on a project by installing solar energy systems generating specified amounts of electricity on other projects. The bill requires the Energy Commission, not later than July 1, 2007, to initiate a public proceeding to study and make findings whether, and under what conditions, solar energy systems should be required on new residential and nonresidential buildings and to periodically update the study thereafter.

**SB 1250 (Perata)** Energy: cost-effective energy efficiency programs: renewable energy resources. (SIGNED)

**Summary:** The bill revises and recasts the public interest energy research, demonstration, and development program, and the renewable energy resources program, including the purposes for which money in the Renewable Resource Trust Fund may be used.

**Housing Bills**

**AB 2158 (Evans)** Regional housing needs. (VETOED)

**Summary:** Existing law requires that at least 2 years prior to a scheduled revision of a city or county housing element of its general plan, each council of governments or delegate sub-region shall develop a proposed methodology for distributing the existing and projected housing need to cities, counties, and cities and counties within the region or sub-region. The methodology includes a list of specified factors. This bill would have added to that list the factors of adopted spheres of influence for all local agencies in the region and adopted policies of the local agency formation commission.

In vetoing this bill the Governor stated: This bill requires new criteria be added to the factors considered by councils of governments (COGs) when developing regional housing needs. As COGs can already include these criteria in their needs assessments, this bill is unnecessary. Furthermore, significant changes to the development of housing needs assessments were made in
2004. We should judge the effectiveness of these changes before adding significant new mandates on local governments.

**AB 2307 (Mullin)** State mandates: housing element. (DIED)

**Summary:** AB 2307 would have repealed the authority of councils of government to charge a fee to local governments for their role in determining housing needs. It also would also have required the Commission on State Mandates to reconsider its decision regarding the regional housing need mandate and determine whether joint powers agencies are eligible claimants. The bill was held under submission in the Assembly Appropriations Committee.

**AB 2572 (Emmerson)** Housing element: colleges. (SIGNED)

**Summary:** Existing law requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. As part of a revision of a general plan, each council of governments or delegate sub-region is required to survey each of its member jurisdictions regarding specified housing factors for use in developing a methodology for distributing existing and projected regional housing need. This bill requires each council of governments or delegate sub-region to include among factors to develop this methodology the housing needs generated by the presence of a private university or a campus of the California State University or the University of California within any member jurisdiction.

**AB 2634 (Lieber)** Housing elements. (SIGNED)

**Summary:** This bill provides that the required analysis of population and employment trends and quantification of the locality's existing and projected housing needs for all income levels shall include extremely low income households, thus imposing a state-mandated local program. This bill deletes obsolete provisions and provides that any amendment that alters the required content of a housing element shall apply to any housing element or housing element amendment the first draft of which is submitted to the department or where the city, county, or city and county fails to submit the first draft before a specified date.

**AB 3042 (Evans)** Regional housing. (DIED)

**Summary:** AB 3042, would have provided until January 1, 2018, an additional procedure by which a city or county could agree to transfer a percentage of its share of the regional housing needs to another city or county. The bill died in the Senate Transportation and Housing Committee.
**SB 1322** (Cedillo) **Housing.** (VETOED)

**Summary:** This bill would have required local governments to include in the housing element of their general plan an analysis of the need for emergency shelters and also to accommodate the need on sites zoned to allow their use by right.

In vetoing the bill the Governor stated: *This measure would preclude a local government from considering the overall needs and concerns of its community by limiting its authority to condition or deny certain projects as would otherwise be allowed by law. Such mandated, or by right, zoning not only presumes that all California cities and counties have a need for these facilities, but also usurps local government discretion and denies the impacted population groups the right to have their voice heard. Further, this measure would facilitate an unnecessary increase in litigation brought against cities and counties that would only result in a depletion of local government resources, rather than helping improve the availability of such facilities.*

**SB 1754** (Lowenthal) **Housing and infrastructure zones.** (DIED)

**Summary:** This bill would have established a pilot project allowing for the formation of 100 housing and infrastructure zones in the state under criteria developed by specified councils of governments, including SANDAG and the Secretary of Business, Transportation and Housing. A city or county would be eligible to apply to its council of governments or the agency, as applicable, in order to establish a housing and infrastructure zone, subject to approval by the bank, and specified reporting requirements. By requiring the councils of governments to develop criteria and requiring the councils and local governments to perform other duties with respect to the selection and establishment of zones, the bill would have imposed a state-mandated local program. SB 1754 was held under submission in the Senate Appropriations Committee.

**SB 1800** (Ducheny) **General plans: housing.** (DIED)

**Summary:** SB 1800 would have significantly revised procedures for the adoption of local and regional housing needs. It died in its first committee without a hearing.

**Miscellaneous bills.**

**AB 2987** (Nunez) **Cable and video service.** (SIGNED)

**Summary:** AB 2987 enacted the Digital Infrastructure and Video Competition Act of 2006. The Act establishes a procedure for the issuance of state franchises by the PUC for the provision of local cable and video service. The commission would be the sole franchising authority for state franchises to provide video services. The bill would require any person or corporation that seeks to provide video service in this state to file an application with the commission for a state franchise with specified information, signed under penalty of perjury.
**AB 966 (Saldana) Water quality: California-Baja California border region (VETOED)**

**Summary:** This bill would have required the California EPA, the state board, the San Diego Regional Water Quality Control Board, and the Colorado River Basin Regional Water Quality Control Board to take all necessary action under the act to establish effective water quality control programs for the California-Baja California border region; to work with appropriate organizations on both sides of the California-Baja California border to establish cooperative water quality monitoring, inspection, and technical assistance programs to protect the environment of the border region; and to work with the International Boundary and Water Commission, United States Section (IBWC), to develop feasible mechanisms to permit discharges from Mexico into California surface waters, in accordance with California water quality objectives. The bill would have required those boards to expedite the development of water quality objectives and certain "total maximum daily loads" for surface waters along the border.

In his veto message the Governor said: *This bill is unnecessary because it gives no additional authority to any agency or board. However, by mandating specific activities and timeframes it will create additional requirements and costs to the state.*

**AB 2442 (Klehs) Personal taxes: corporation taxes: petroleum industry: sales tax exemption: gasoline. (DIED)**

**Summary:** AB 2442 would have imposed a tax, subject to specified guidelines, at the rate of 2% on that portion of taxable income or net income, respectively, in excess of $10,000,000, on a taxpayer engaged in certain business activities in the petroleum industry for taxable years on or after October 1, 2005, and before October 1, 2010. The revenue derived from the excess profits tax would have been used to partially reduce the sales tax on gasoline. The bill died on the Assembly Floor.

**ACA 36 (Nation) Transportation: motor vehicle fuel taxes. (DIED)**

**Summary:** This measure would have imposed an additional excise tax of 5 cents per gallon on distributors of motor vehicle fuel beginning on January 1, 2007, and would annually increase this tax in 5 increments to 25 cents per gallon on January 1, 2011, and thereafter. This measure would specify that the additional revenues from the tax shall be used, upon appropriation by the Legislature, only for purposes of regional transportation improvements and alternative energy. The proposal was never heard.

**Conclusion:**

We had an extremely successful legislative session with three bills sponsored by SANDAG all passed and signed into law by the Governor. With respect to AB 372 (Nation) we were able to insert a critical amendment benefiting SANDAG.

On December 4th, a new Legislature will convene in Sacramento to be sworn in. As a result of term limits, over one-third of the members will be new. Many of the Committee Chairs
will be taking the gavel for the first time. Critical new Chairs will include Assembly Transportation Committee, the Senate Budget Committee, and the Appropriations Committees in both houses.

There are many challenges ahead in 2007 and we are confident that together we can meet them as we did this year. We look forward to continuing to represent SANDAG in Sacramento.

Respectfully Submitted

BROOKS ELLISON and BOB WILSON
CONGRESS EYES THE FINISH LINE FOR THE 2006 SESSION: Some Issues Done, Others Undone

As Congress wrapped-up its pre-election work on September 29, it completed work on numerous pieces of legislation. It also left numerous bills unfinished, including most of the spending bills for the fiscal year just begun (FY 07). Blank Rome Government Relations is following closely the action on Capitol Hill. This report will review the actions taken by Congress before it recessed and take a look ahead at issues that remain on the congressional plate for the post-election session expected to begin on November 13.

Legislation Cleared Before Recess

In the last few weeks, the 109th Congress passed almost a dozen major initiatives ranging from homeland security and defense, to financial services and internet gambling, to elderly care and child welfare. Some bills followed a logical path to enactment, and other provisions hitched a ride on seemingly unrelated legislation (i.e. gambling and port security).

Defense

Congress passed both the defense authorization and appropriations bills. The defense bills were fairly straightforward, but the defense appropriations bill also included language to keep the government running until Congress returns to complete the rest of the required spending bills. Among the defense provisions in the bills were increases in pay and health benefits for military personnel; funding for the wars in Iraq and Afghanistan; money for surveillance aircraft; funds for technology aimed at jamming signals of devices designed to set off (roadside-type) bombs; $3.5 billion for the Army’s Future Combat Systems modernization program; and funding for major equipment such as the F22 Raptors fighter aircraft, modern Navy destroyers (the DDG-1000), 34 F/A-18 Super Hornet fighter aircraft, and Boeing C-17 transport aircraft.

Congress also passed the terrorist detainees/military tribunals bill that defines "enemy combatants," prohibits the use of evidence obtained through torture, establishes an appeals process, and specifies "war crimes" that would violate the Geneva Conventions and could be prosecuted in federal court under the War Crimes Act.

Homeland Security

Congress passed the Homeland Security Appropriations bill but not the major homeland security authorization bill. As a result, there were a few authorizing provisions included in the homeland security appropriations bill such as chemical plant security and reorganization of the Federal Emergency Management Agency (FEMA). Congressional leadership and the Bush Administration were especially invested in the border security elements of the bill, which includes $1.2 billion for a 700 mile border fence and an extra $1.5 billion (over the $7.8 billion budget request) for the Customs and Border Protection Bureau.

The bill also postponed the Western Hemisphere Initiative deadline to June 1, 2009, from its previous deadline of January 1, 2008. Once that deadline is in effect, Western Hemisphere citizens traveling from the United States to Canada, Mexico, the Caribbean, etc., will need to present passports, not just drivers licenses and birth certificates, which has been the common practice.
Also related to Canada, legislators included language in the final bill that allows individuals to bring prescription drugs to the United States from Canada if the drugs are for personal use and do not exceed a 90 day supply. U.S. border agents may not confiscate prescriptions that meet those criteria.

The chemical plant security language included in the appropriations bill was contentious, because it gives DHS the authority to regulate the security practices of high risk chemical plants, yet the regulations sunset after three years. Many business interests opposed the language, arguing that complying with the new regulations will require large investments for short-term rules that could change dramatically.

Other major homeland security legislation Congress passed in the last few weeks were the Coast Guard reauthorization and port security legislation. The Coast Guard bill provides $9 billion dollars with $1.7 billion directed to completing the Deepwater program, which is aimed at modernizing Coast Guard ships, planes, and communications systems. The bill increases the number of Coast Guard officers by 500 and enhances the Coast Guard’s authority to work with the Nuclear Regulatory Commission to protect nuclear plants. The cruise industry scored a victory in this bill with final language that caps penalties for ship workers’ wage disputes and limits the time frame for filing class-action wage dispute claims.

Passage of the Port Security bill was an important bipartisan accomplishment. The final bill authorizes $400 million per year for local port security grants, another $443 million for container security, and $212 million for the Customs-Trade Partnership Against Terrorism (C-TPAT), which is a public private partnership aimed at improving baseline standards for supply chain and container security. The legislation also imposes a deadline on the 22 largest U.S. ports to screen incoming containers for radiological weapons by the end of next year.

There were strong attempts to attach other non-related provisions to the port security bill, but the only ones to survive were a telecom provision known as the Warning Alert and Network Response Act (WARN Act) and language restricting Internet gambling. The WARN Act gives wireless carriers (cellular phone companies) the authority to send government-initiated emergency alerts to its subscribers; opt-out of sending emergency alerts as long as the carrier conveys that fact to current and prospective customers; and lets customers opt-out of receiving emergency alerts, except those from the President of the United States. It also limits wireless carriers’ liability in delivering emergency alerts and gives the Federal Communications Commission the job of setting standards for wireless emergency alerts.

The Unlawful Internet Gambling Enforcement Act of 2006 was attached to the port security bill in order to prohibit online gaming businesses from taking credit cards, electronic transfers, or other payment for betting, other than bets on horses, which are legal. The Treasury Department and Federal Reserve are tasked with issuing regulations governing how financial institutions can identify and prevent the processing of illegal gambling transactions. The banking industry opposed the legislation because of associated technology challenges and also the required oversight of their customers’ spending.

Miscellaneous
While they may not have fared as well as hoped on the port security bill, the banking industry was at least consoled by the passage of the Financial Services Regulatory Relief Act. The bill removes
burdensome, outdated regulations and gives the Federal Reserve more flexibility in setting reserve requirements for banks. Congress also passed a bill to promote competition in the credit rating industry by directing the Securities and Exchange Commission to designate "nationally recognized" rating organizations. Currently, Standard & Poor's and Moody's Investors Service are the dominant firms rating corporate and municipal bonds.

The reauthorization of the Older Americans Act and the "Promoting Safe and Stable Families" program were two other accomplishments Congress completed before recess. The Older Americans Act authorizes approximately $1.8 billion of services including "Meals on Wheels," health screenings, and counseling and support for those caring for elderly relatives. The families bill is directed at younger Americans and renews child welfare programs for five years. It contains funding to combat methamphetamine abuse, prevent child abuse and neglect, and support foster care. The bill also provides $200 million per year in discretionary grants for the Promoting Safe and Stable Families program.

Outstanding Legislation for the Lame Duck

Before recess, the GOP leaders of the House and Senate expressed differing views on the anticipated length of the post-election session to begin in November 13. Outgoing Sen. Majority Leader Bill Frist (R-TN) indicated he expects a brief session with a focus on appropriations bill. House Majority Leader John Boehner (R-OH) said he expects a longer session that would last well into December. Adding to the uncertainty about the length and scope of the post-election session is the potential that the upcoming election might require leadership changes in one or both Houses. In any case, the leaders of the outgoing 109th Congress and incoming 110th Congress could take fairly quick action on any of several pieces of legislation. Here is a look ahead at some of those issues.

Appropriations
The first priority after the election will have to be the remaining appropriations bills funding the federal government. The continuing resolution attached to the defense appropriations bill only funds all non-defense and non-homeland security programs through November 17, 2006.

Homeland Security
This electronic surveillance bill is a Bush Administration priority because it establishes the extent to which the National Security Agency can conduct warrant-less electronic surveillance on suspected terrorists. The Senate is expected to consider the house-passed version during the lame duck session. The Biomedical Advanced Research and Development Authority (BARDA) bill, which passed the House but not the Senate, would create a new agency within the Department of Health and Human Services dedicated to researching and producing vaccines for pandemic diseases. Sen. Burr (R-NC) intends to include BARDA as part of his pandemic preparedness legislation, which the Senate Health Education Labor and Pensions Committee approved in July. It is unclear whether the Senate will take up the Burr bill in November.

SAFETEA-LU Technical Corrections
This bill would make technical corrections to the highway and transit reauthorization bill enacted last year. The corrections bill makes mostly budget-neutral changes and includes modifications to well over 100 highway and transit projects earmarked in SAFETEA-LU. The House passed its version of the bill in late June, while the Senate Environment and Public Works Committee passed its own version in mid-September. After informal negotiations with the Senate, the House passed a revised
version of the corrections bill just before the session ended on Friday, September 29. However, there was still at least one objection on the Senate side to one or more provisions in the House version, and the Senate has yet to pass the bill. Many expect the House and Senate to resolve the few remaining issues and pass the corrections bill during the lame duck session.

**Water Resources Development Act**
House and Senate Conferees were also unable to reach an agreement on the reauthorization of the Water Resources Development Act (WRDA) before recess. This legislation authorizes hundreds of Army Corps of Engineers projects, and many hold out hope that conferees will come to agreement in order to pass it during the lame duck session.

**CFIUS Reform**
Established in 1975 by Executive Order, the Committee on Foreign Investment in the United States (CFIUS) exists to review and approve acquisitions of critical U.S. infrastructure by foreign-owned companies. Last year’s controversy over the attempt by Dubai Ports World to purchase the company managing services for several U.S. ports, spurred the House and Senate to pass their own CFIUS reform measures. Both bills codify the role of the committee and subject sensitive acquisitions to a preliminary 30-day investigation that could lead to a more in-depth 45-day investigation, if warranted. While the House bill requires CFIUS to notify Congress at the end of the 45-day national security investigation, the Senate bill gives Congress much greater oversight of the CFIUS process. The Business Roundtable and U.S. Chamber of Commerce support the House version. Business interests are concerned the Senate-passed bill might unnecessarily restrict foreign investment and open the review process to political interference. The Bush Administration also prefers the House-passed bill. It is difficult to predict whether or not CFIUS reform will be enacted when Congress returns.

**Telecommunications Reform**
Sen. Ted Stevens (R-AK), Chairman of the Senate Commerce Committee, believes the Senate can pass his comprehensive bill, work out differences with the House of Representatives, and get a bill to the President before the holidays. Most others believe there are still too many areas of disagreement to accomplish telecom reform this year. Additionally, Senate Majority Leader Frist wants to have 60 signatures of supporting Senators before he will schedule floor consideration of the bill. That is yet another hurdle telecom reform is unlikely to clear this year.

We will continue to track developments on these and other issues of interest to our clients and will report further as events warrant.

*For more information, please contact Peter Peyser, (202) 772-5806 or peyser@blankrome.com*

**About Blank Rome Government Relations LLC**
Blank Rome Government Relations LLC, an affiliate of Blank Rome LLP, includes 29 legal, lobbying and strategic communications professionals to manage virtually every aspect of a governmental issue facing a client. The firm’s areas of experience include election and campaign law, corporate and tax, defense and national security, education and non-profit, energy and the environment, financial services, government contracts, health care, homeland security, maritime and transportation, housing and urban development, international trade, and technology.
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San Diego Association of Governments

EXECUTIVE COMMITTEE

November 3, 2006

AGENDA ITEM NO.: 4

Action Requested: DISCUSSION/POSSIBLE ACTION

PROPOSED AMENDMENTS TO BOARD POLICIES

File Number 8000100

Introduction

Staff has conducted a review of the current Bylaws and Board Policies and determined that some updates are necessary to reflect changes over the past year and that some additions are necessary to clarify roles and responsibilities. If these proposed changes are acceptable to the Executive Committee, they will go to the Board for approval on November 17, 2006. If the Executive Committee would like to make significant changes or requests that the amendments come back to the Executive Committee for further review, then the changes will be brought back to the Executive Committee on December 1 and taken to the Board for final approval on December 15, 2006.

Discussion

Highlights of the proposed amendments are discussed below. Changes proposed to the policies that are grammatical in nature are not discussed, but are tracked for reference in the attachments.

Board Policy No. 001 Operations Policy - Staff has requested that delegation of duties be modified for three of the Policy Advisory Committees (PACs) in this policy. With the proposed amendments, the Executive Committee would maintain responsibility for reviewing proposed amendments to the Bylaws or Board Policies prior to the changes going to the Board for approval, however, the Transportation Committee also could assume this responsibility as to Board Policies that concern subjects within the Transportation Committee’s purview.

Several other duties are proposed for delegation to the Transportation Committee. With these changes the Transportation Committee would be given authority to approve State Transit Assistance claim amendments. Staff recommends that the Transportation Committee also be given authority to give approvals for fare changes and amendments to the comprehensive fare ordinance. Since the Transportation Committee already has authority to approve certain projects, staff additionally recommends that it be given authority to hold public hearings and approve environmental documents for these projects. The Transportation Committee currently has authority to approve RTIP amendments. From time to time, a member agency proposes an RTIP amendment that calls for a loan of TransNet funds in exchange for funds from another source. In order to expedite the RTIP amendment approval process, staff recommends that the Transportation Committee be authorized to approve TransNet loans that are part of an RTIP amendment.

Finally, in order to formalize new responsibilities given by the Board to the Transportation and Borders Committees earlier this year, staff also proposes to add to the Transportation Committee’s authority the oversight functions for the Coordinated Transportation Services Agency (CTSA) and to the Borders Committee the authority to review and comment on regionally significant projects in adjoining counties.
**Board Policy No. 002 Policies and Procedures for Policy Advisory Committees** – Section 1.5 of this policy has been updated to show changes approved earlier this year to the membership of the Public Safety Committee. Staff proposes amendments to Sections 4 and 6 of the policy to clarify that even though there are deadlines for appointments of members and officers for the PACs, the appointments are effective as soon as they are made by the member agency or the Board Chair; there is no need to wait for the January 31 deadline to pass for the appointees to take their positions.

**Board Policy No. 004 Rules of Procedure for the Board of Directors, PACs, and Other Legislative Bodies** – Changes are proposed throughout Section 1 of this policy to effectuate anticipated changes to Board Policy No. 001 concerning the Transportation Committee’s authority to adopt amendments to the comprehensive fare ordinance. Staff also is recommending changes to Section 6.6 of this policy concerning creation of new committees by staff. Under the Brown Act, committees that are approved by formal action of the Board or a PAC are presumptively also covered by the Brown Act. Although many SANDAG committees are appropriately open to the public, there is sometimes a need to create a new committee that will not have a level of responsibility that merits the extra staff time needed to prepare and post agendas and comply with all of the provisions of the Brown Act. Staff does, however, recognize the need to have a check and balance process for creating new committees in order to ensure the committee structure at SANDAG does not become too cumbersome. Therefore, staff is proposing that formation of new committees be approved by the Board or a PAC, or if the application of the Brown Act would not otherwise be triggered, approved by the Executive Director with the concurrence of the Board Chair.

**Board Policy No. 008 Legal Matters** – Because of its increased responsibilities, particularly in the area of construction, SANDAG is more likely to be named as a party to litigation. The Office of General Counsel requests that Section 5 of the policy be added to clarify that the Office of General Counsel, the Executive Director, and staff designated by the Executive Director are authorized to sign pleadings, discovery, and other litigation-related documents on behalf of SANDAG.

**Board Policy No. 011 Travel Expenses** – Staff requests a change to Section 2.1 of this policy to clarify that Board member expense reports must be approved by the Chief Deputy Executive Director. Additionally, Section 2.5.11 needs to be updated to state that SANDAG will use the average exchange rates posted by the Federal Reserve rather than the Wall Street Journal for travel in a foreign country.

**Board Policy No. 015 Records Management** – SANDAG records are increasingly the subject of public records requests, which include requests for e-mails between staff, contractors, and Board members. Staff requests that language be added to Section 1.1 of this policy as a reminder to treat the use of, and messages included in, e-mails with due care by reviewing them for professionalism, accuracy, and objectivity before distribution. Staff also wishes to add language to Section 3.2 to clarify that the storage periods for public records do not begin until a document is finalized.

**Board Policy No. 016 Procurement of Services** – Public Utilities Code section 132352.4 (which is part of Senate Bill (SB) 1703) permits SANDAG to utilize a simplified competitive procurement process for procurements of services up to $100,000. Because SB 1703 only permits use of the simplified procurement method for construction, equipment and supplies up to $50,000, however, Board Policy No. 016 was originally drafted such that the simplified procurement limit for services also was set at $50,000 for consistency purposes. Currently, the Executive Director must give special
permission under Section 6.1 of the policy to use the simplified method for service procurements in excess of $50,000. Staff requests that it be granted the maximum authority permitted by the Public Utilities Code for services procurements in order to improve efficiency and flexibility in the procurement process. Therefore, changes are proposed to Section 2, 3 and 6.1 of Board Policy No. 016 in order to increase the simplified procurement limit for services from $50,000 to $100,000.

Staff also requests changes to Sections 6.4 and 12.2 of this policy to clarify that the Executive Director’s authority to approve contract amendments that exceed the project budget is limited to $100,000. Staff further requests changes to Sections 6.5 and 9.1 of this policy to allow use of purchase orders up to the amount of $50,000 and requiring use of a contract for amounts in excess of $50,000.

Section 7.7 of this policy currently requires that the Executive Committee review both actual and potential conflicts that arise due to concurrent legal representation of SANDAG and other parties. The Office of General Counsel anticipates that in most cases the conflict will be potential, not actual, and that staff can take measures to ensure potential conflicts do not become actual in nature. In order to reduce the number of instances that the Executive Committee is called upon to review these matters, staff requests that it only be required to bring the issues to the Executive Committee where an actual conflict has arisen that staff was unable to resolve.

As the SANDAG staff has grown larger and its use of contractors has broadened, it has become more difficult to ensure conflicts of interest are avoided. The Office of General Counsel therefore requests that the language proposed in new Section 7.1.5 be added to spell out exactly what types of conflicts must be avoided for current employees and persons employed by SANDAG within the previous 12 months.

Board Policy No. 017 Delegation of Authority – The only change requested in this policy would allow the Executive Director to accept reimbursement from member agencies for use of SANDAG on-call contracts. Staff anticipates that the transit operators and other member agencies will want to use the SANDAG on-call contracts from time to time. Currently, if the amount of on-call use exceeds $100,000, Board or PAC approval would be needed to accept reimbursement from a member agency. This provision would allow the Executive Director to accept reimbursement from a member agency in any dollar amount.

Board Policy No. 023 Procurement and Contracting - Equipment & Supplies and Board Policy No. 024 Procurement and Contracting - Construction – The changes requested for these two policies are consistent with the changes requested for Board Policy No. 016. The proposed amendments would allow use of purchase orders up to $50,000, and would add a new section that spells out exactly what types of conflicts must be avoided for current employees and persons employed by SANDAG within the previous 12 months.

Board Policy No. 030 Contingency Reserve Policy – Staff requests that the language in Section 2 under “Qualifying Uses of the Reserve Fund” be reorganized to clarify that the reserve fund should only be used for one-time nonrecurring purposes unless approved by the Executive Committee.

Board Policy No. 031 TransNet Ordinance and Expenditure Plan Rules – Many of the tracked changes in this policy simply show a change of the word “Policy” to “Rule” in order to make reference to the provisions of this policy less confusing. The first substantive change is to Rule 7 concerning the “Program of Projects Approval Process and Amendments.” Due to issues that arose
with timing and sufficiency of documentation during the last Regional Transportation Improvement (RTIP) update, staff requests that the changes in this section be implemented to prevent future problems. The new language clarifies that SANDAG will not approve a member agency’s project list until the member agency has held a clearly noticed public hearing and its governing body has passed a resolution approving the specific list of projects and provided the resolution to SANDAG. The proposed changes also would apply to RTIP amendments.

The other substantive changes to this policy are in new rules 18 and 19. Rule 18 codifies the 70 percent/30 percent split applicable to member agency use of TransNet funds for local street and road maintenance projects. Rule 19 is proposed to clarify the Board’s interpretation of the conflict of interest requirement in the document entitled “Statement of Understanding Regarding the Implementation of the Independent Taxpayer Oversight Committee for the TransNet Program,” which is an attachment to the TransNet Extension Ordinance. That document states in part, “ITOC members shall not have direct commercial interest or employment with any public or private entity, which receives TransNet sales tax funds authorized by this Ordinance.” Staff would like the Board to clarify that it interprets this language to impose the same level of restrictions on the ITOC representatives as those that apply to SANDAG Board members pursuant to California state law found at Government Code sections 87100 et seq. and 1090, rather than some stricter standard than that required by state law. This change will assist the Office of General Counsel in applying a legal analysis of conflict of interest matters to ITOC members, reduce confusion for ITOC members regarding their responsibilities, and potentially prevent the unnecessary loss of ITOC members.

JULIE D. WILEY
General Counsel

Attachments: Proposed Amendments in Track Changes Mode
1. Board Policy No. 001 Operations Policy
3. Board Policy No. 004 Rules of Procedure for the Board of Directors, PACs, and Other Legislative Bodies
4. Board Policy No. 008 Legal Matters
5. Board Policy No. 011 Travel Expenses
6. Board Policy No. 015 Records Management
7. Board Policy No. 016 Procurement of Services
8. Board Policy No. 017 Delegation of Authority
9. Board Policy No. 023 Procurement and Contracting - Equipment & Supplies
10. Board Policy No. 024 Procurement and Contracting – Construction
11. Board Policy No. 030 Contingency Reserve Policy
12. Board Policy No. 031 TransNet Ordinance and Expenditure Plan Rules

Key Staff Contact: Julie Wiley, (619) 699-6966, jwi@sandag.org
BOARD POLICY NO. 001

OPERATIONS POLICY
Board and Policy Advisory Committees Responsibilities

Shown below are responsibilities for the Board of Directors and each of the five Policy Advisory Committees (Executive, Transportation, Regional Planning, Borders, Public Safety) of the new Agency. Selected responsibilities are delegated by the Board to the Policy Committees to allow the Agency to effectively address key public policy and funding responsibilities. All items delegated to the Policy Advisory Committees are subject to Board action upon request of any member.

All functions not specifically delegated by the Board to a Policy Advisory Committee may be delegated to a Policy Advisory Committee on a one-time basis upon request by the Executive Director and approval by the Chair. Such actions shall be reported to the Board at its next regular meeting.

Board Responsibilities

1. Approve Regional Comprehensive Plan (RCP) and plan components and other regional plans (e.g. Regional Energy Plan, MHCP, etc.)
2. Approve Regional Transportation Plan (RTP), Regional Transportation Improvement Program (RTIP) and corridor studies
3. Fulfill responsibilities of SB 1703 as consolidated agency
4. Fulfill the responsibilities of the San Diego Regional Transportation Commission (RTC)
5. Approve programming of funds (TDA, CMAQ, STIP, etc.)
6. Approve project environmental reports
7. Approve Overall Work Program and Program Budget
8. Approve amendments to the Budget and Work Program and authorize contracts with consultants for amounts equal to or greater than the amounts to be determined for administrative and policy committee authorization.
9. Approve the annual legislative agenda
10. Provide policy direction through Policy Development Board meetings
11. Appoint Committees and Board officers
12. Delegate responsibilities to Policy Advisory Committees and approve Committee actions. All items delegated to the five Policy Advisory Committees are subject to direct Board action upon request of any members.
13. Delegate responsibilities to Board Chair consistent with Board criteria. Conference sponsorships and proclamations are hereby delegated subject to current or subsequently approved criteria.

Executive Committee Membership and Responsibilities

The Executive Committee shall consist of six voting members with board members representing East County, North County Coastal, North County Inland, South County, and the representative, or the representative’s alternate in their absence, from the City of San Diego and the County. The Chairperson of the consolidated agency shall be one of the six voting members. The First and
Second Vice Chairpersons of the consolidated agency shall serve as voting members if one or both of the Vice Chairpersons represent an area of the region that is different from the area of the region represented by the Chairperson or the other Vice Chairperson.

1. Set agenda for Board
2. Review and recommend annual work program and program budget
3. Approve amendments to the Budget and Overall Work Program and authorize contracts up to amount approved by the Board
4. Review and act on state and federal legislation
5. Comment on project EIR/EIS
6. Act upon and evaluate dispute resolution
7. Advise on personnel actions
8. Act on behalf of Board when timing requires
9. Make policy recommendations to the Board
10. Perform other duties as assigned by the Board
11. Approve financial/contracting transactions, including selection of vendors, acceptance of funding, stipulations of any nature, and any resulting budget amendment up to $500,000, subject to increase by Board action.
12. Annually review a list of all the SANDAG's lower-level committees and working groups to determine the need to maintain the committee or working group and approve any revisions in functions or membership.
13. Review all proposed amendments to the Bylaws or Board Policies and make recommendations to the Board regarding those amendments, except Board Policy amendments that may be approved by the Transportation Committee.
14. Conduct expedited reviews and approvals of Energy Working Group actions on an as-needed basis.

Transportation Committee Membership and Responsibilities

The Transportation Committee shall consist of nine voting members with board members or alternates representing East County, North County Coastal, North County Inland, South County and the mayor or a council member from the City of San Diego, a supervisor from the County of San Diego, a member of the Board of the MTS appointed by the Board of the MTS, a member of the Board of the NCTD appointed by the Board of the NCTD, and a member of the San Diego County Regional Airport Authority appointed by the airport authority.

1. Provide oversight for consolidated transit responsibilities
2. Provide policy oversight for transportation plans and corridor and systems studies
3. Establish/approve transportation prioritization criteria
4. Establish/approve policies and monitor “Use it or lose it” project funding
5. Approve TDA and STA Claim amendments and, RTIP, and STIP amendments
6. Recommend funding allocations to the Board
7. Approve transit operator budgets for funding
8. Approve Short Range Transit Plan
9. Consistent with the transition plans, approve regional fare policy

To ensure seamless transit service for the transit users of the region the consolidated agency, in consultation with the transit agencies, will be responsible for the development of a Regional Fare Policy. The Regional Fare Policy will incorporate a uniform fare structure, a transfer policy, and agreement for revenue sharing of regional tickets, tokens, and passes, while also allowing the consolidated agency to adopt specialized fare procedures for travel within each operator’s service area. Additionally, the consolidated agency will adopt a Comprehensive Fare Ordinance setting forth all fares for all operators, including their special fares.
10. Conduct public hearings as delegated by Board
11. Approve contracts for transit up to amount approved by the Board
12. Advise Board on other transportation policy-level issues
13. Recommend legislative program for transportation and transit
14. Approve financial/contracting transactions, including selection of vendors, acceptance of funding, stipulations of any nature, and any resulting budget amendment up to $500,000 for transportation items, subject to increase by Board action
15. To convene closed sessions and make final decisions with regard to real property transactions related to transportation projects, however, this delegation does not include the authority to make a Resolution of Necessity or to commence litigation.
16. Approve the Congestion Management Program (CMP) and any updates to the CMP
17. Conduct hearings regarding fare setting and approve comprehensive fare ordinance amendments
18. Accept for distribution, hold public hearings regarding, and adopt/certify environmental documents where items can be approved through actions of the policy committee
19. Approve loans of TransNet funds when such loans are incorporated into an RTIP amendment requiring an exchange of TransNet funds for funds from another source
20. Provide oversight and approvals for Coordinated Transportation Services Agency (CTSA) matters and appoint Transportation Committee representative to the CTSA board
21. Review proposed amendments to Board Policies concerning subjects within the Transportation Committee’s purview and make recommendations to the Board regarding those amendments

**Regional Planning Committee Membership and Responsibilities**

The Regional Planning Committee shall consist of six voting members with board members or alternates representing East County, North County Coastal, North County Inland, South County, and the mayor or a council member from the City of San Diego, and a supervisor from the County of San Diego.

1. Provide oversight for preparation and implementation of the RCP and its components
2. Recommend regional infrastructure financing strategies to the Board
3. Represent the Board for outreach and public information on the RCP and its components
4. Advise Board on regional planning policy issues

**Borders Committee Membership and Responsibilities**

The Borders Committee shall consist of seven voting members with board members or alternates representing East County, North County Coastal, North County Inland, South County and the mayor or a council member from the City of San Diego, a supervisor from the County of San Diego, and a mayor, council member, or supervisor from the County of Imperial.

1. Provide oversight for planning activities that impact the borders
2. Provide oversight for the preparation of binational and interregional planning programs
3. Recommend border infrastructure financing strategies to the Board
4. Establish closer SANDAG working relations with surrounding counties and Mexico
5. Advise Board on binational and interregional policy-level issues
6. Review and comment on regionally significant projects in adjoining counties.
Public Safety Committee Membership and Responsibilities

The membership, authority and responsibilities for this committee are set forth in Board Policy No. 026.

Distribution of Meeting Materials

1. All agendas for meetings of the Board of Directors, Policy Advisory Committees, and all other SANDAG legislative bodies covered by the Brown Act (Government Code § 54950 et seq.) shall be posted on the SANDAG’s Web site and copies of such agendas will be available for viewing by the public in the SANDAG’s business office reception area.

2. All closed session items shall be provided to appropriate Board and/or Policy Advisory Committee members prior to the closed session. Closed session meeting materials will be sent in sealed envelopes and clearly labeled as confidential. If a representative will not be able to attend a meeting he/she should ensure the closed session materials are given to the appropriate alternate to review prior to the meeting. All closed session meeting materials must be returned to the Office of General Counsel at the end of the closed session.

Adopted January 2003
Amended November 2004
Amended January 2006
Amended December 2006
Policies and Procedures for Policy Advisory Committees

1. Membership

1.1 Executive Committee: Six members to include the City and County of San Diego Board members, and a Board member from each subregion (South County, East County, North County Coastal, North County Inland).

1.1.1 Alternates may be the second City of San Diego Board member or Board alternate, the County of San Diego Board alternate, and alternates selected from each subregion who shall be members of the Board.

1.2 Transportation Committee: Nine members to include the mayor or a councilperson from the City of San Diego; a member of the County of San Diego Board of Supervisors, a Board member or alternate from each subregion, and a member of NCTD, MTS and the Airport Authority appointed by those agencies. There may be nine alternates chosen in the same manner.

1.3 Regional Planning Committee: Six members to include the mayor or a councilperson from the City of San Diego, a member of the County of San Diego Board of Supervisors, and a Board member or alternate from each subregion. There may be six alternates chosen in the same manner.

1.4 Borders Committee: Seven members to include the mayor or a councilperson from the City of San Diego, a member of the County of San Diego Board of Supervisors, a Board member or alternate from each subregion, and a mayor, councilmember, or supervisor from the County of Imperial. There may be seven alternates chosen in the same manner.

1.5 Public Safety Committee: Six members to include the mayor or a councilperson from the City of San Diego, a member of the County of San Diego Board of Supervisors, a Board member or alternate from each subregion. The five-eight Associate Member organizations taking part in this committee shall have the following representation: two members from the County Chiefs'/Sheriff’s Association, a member selected by the County Sheriff, a member of the Regional Homeland Security Committee, and a member selected by the State public safety agencies, a member representing the San Diego County District Attorney’s Office, a member from regional Fire/Emergency Medical Services, and a member from the regional transit agencies. In addition, there will be four nonvoting Advisory Members selected as follows: Two persons selected by the Federal public safety agencies, one person selected from the San Diego County District Attorney’s or Probation Department Offices, and one person selected by the courts or military. There may be alternates chosen in the same manner.
2. Limitation on Committee Memberships

No Board member or alternate may serve as the primary member of more than two Policy Advisory Committees ("PACs") at any one time. Committee membership may be expanded by the Board.

3. Ex Officio Members

A PAC may include ex officio members if appropriate to roles and responsibilities of the committee. The Board Chair, first Vice Chair, and Second Vice Chair may serve as ex officio members on any of the PACs. Unless otherwise stated in a Board Policy or Board action applicable to a particular committee, all ex officio members on SANDAG’s Board or committees shall be nonvoting members.

4. Appointments

4.1 Public Agencies

4.1.1 The mayor and council of the City of San Diego and the governing body of each of the other member agencies Board of Supervisors of the County of San Diego will make their appointments annually by January 10, and when vacancies occur. Each member agency shall confirm the appointment of its primary and alternate Board members by sending a written letter to the SANDAG Clerk of the Board. All such appointments shall go into effect immediately following approval by the member agency’s governing body.

4.1.2 The SANDAG Chair will provide notice requesting that Board members from each of the subregions appoint a Board member or alternate as authorized to serve as a primary member on each PAC and one to serve as an alternate to each PAC. At the time this notice is given, all primary and alternate Board members will be provided with an attendance record for all primary and alternate members currently serving on the Board or a PAC. Each subregion shall ensure that SANDAG staff is notified of the date, time and location for that subregion’s meeting. After the meeting is set by the primary members of each subregion, SANDAG staff shall provide Board alternates from each subregion advance notice of the meeting. A majority of the primary members present at the subregion meeting shall make a selection. An alternate member may vote in the absence of the primary member. The Chair shall be sent a letter from the subregion’s representatives informing him/her of the names of the persons who have been selected for appointment to each PAC. Appointments will be made by January 31 or as vacancies occur. Appointments shall go into effect immediately upon approval by the subregion.

4.2 Associate Members

In addition to the members appointed pursuant to Section 4.1, the Public Safety Committee shall have voting members appointed from the organizations listed below by their respective appointing authorities by January 31 of each year:

4.2.1 County Chiefs'/Sheriff’s Association – 2 voting members
4.2.2 County Sheriff – 1 voting member
4.2.3 Regional Homeland Security Committee – 1 voting member
4.2.4 State Public Safety Agency Association – 1 voting member
4.3 Advisory Members

In addition to the voting members appointed pursuant to Sections 4.1 and 4.2, the Public Safety Policy Advisory Committee shall have the following nonvoting members appointed from the following organizations by their respective appointing authorities by January 31 of each year:

4.3.1 County Criminal Justice Association - 1 advisory member

4.3.2 Federal Justice Agency Association - 2 advisory

4.3.3 Courts - 1 advisory member

4.3.4 If any subregion fails to make an annual appointment to a PAC by January 31 or within three weeks of mailing of the notice to proceed to appoint to fill a vacancy, the Chair of SANDAG shall make the appointment. If any organization referred to in Sections 4.1, 4.2 or 4.3 fails to make an appointment to the Public Safety Policy Advisory Committee, the current representative shall continue to serve until a replacement appointment is made by his/her organization.

5. Vacancies

Vacancies on PACs shall be filled as they occur in the same manner as appointments.

6. Chair/Vice Chair

The Chair and Vice Chair of the PACs, other than the Executive Committee, shall be appointed by the Board Chair in February or as vacancies occur. The appointments shall go into effect immediately unless otherwise directed by the Board Chair. The Board Chair, First Vice Chair, and Second Vice Chair when serving as a member of the Executive Committee, shall serve as the Chair, First Vice Chair, and Second Vice Chair of the Executive Committee. The Vice Chair conducts the meetings in the absence of the Chair. In the event of the absence of the Chair, First Vice Chair and Second Vice Chair for the Executive Committee or both the Chair and Vice Chair for a PAC or other standing committee, the quorum of members present shall elect a chairperson pro tempore to preside for that meeting. The Executive Director or a Chief Deputy Executive Director, with a quorum present, shall call the meeting to order and preside during such election of chairperson pro tempore; he/she shall immediately relinquish the chair upon completion of the election.

7. Attendance

7.1 Primary and alternate members are strongly encouraged to attend all Committee meetings. Roll call shall be taken by the Chair at the beginning of the meeting to determine the voting members present at that time. The voting members shall be seated collectively in order for the public to recognize them as such. Other nonvoting alternates in attendance may participate in Committee discussion but shall not be authorized to act on any item.

7.2 If an organization with voting rights or a subregion is unrepresented at three consecutive Committee meetings a letter will be sent to that organization’s governing board members, all other members and alternates of the Committee, and the Board of Directors members and alternates concerning the absences.
7. 3 In order to ensure a quorum, full participation, fairness, and comprehensive knowledge of the items discussed at SANDAG meetings, members who are eligible for compensation for attendance at a SANDAG meeting must be present for at least 1/2 of the time set for the meeting or the duration of the meeting, whichever is less, in order to be eligible for compensation in accordance with Article III, Section 5 of the Bylaws.

8. **Quorum**

A simple majority of members (either primary or alternates) constitute a quorum.

9. **Voting**

Primary members vote on all committee actions. Alternates vote only when their corresponding primary member from their area is absent. A simple majority of the quorum of primary and eligible alternate members voting constitutes approval. A quorum shall be required for the conduct of any business of a PAC.

10. **Compensation**

Primary and alternate members of the PACs will be compensated $100 per meeting attended subject to the limitations on number of meetings per month set forth in the SANDAG Bylaws.

11. **Meetings**

PAC meetings should normally be held on Fridays or when called by the committee Chair. Parliamentary procedure at all meetings shall be governed by Roberts Rules of Order, Newly Revised.

12. **Working Groups & Subcommittees**

The PACs shall have the authority to appoint PAC working groups and may provide for the appointment of alternates to these working groups. Ad hoc working groups may be appointed by the Board or PACs as the need arises to accomplish specific tasks. Upon completion of its assignment, each working group shall disband. Standing subcommittees may be appointed by the Board as may be required to carry out general and continuing functions and may be abolished only upon specific action by the Board. As the Board creates standing subcommittees, it shall specify the method for appointing persons to those subcommittees.

Adopted January 2003
Amended December 2003
Amended November 2004
Amended December 2005
Amended December 2006
RULES OF PROCEDURE FOR BOARD OF DIRECTORS, POLICY ADVISORY COMMITTEES AND OTHER LEGISLATIVE BODIES

This policy is intended to define and clarify Rules of Procedure for the Board and incorporate them in Board policy.

From time to time over the last 30 years the Board has utilized and amended rules of procedure. It is desirable to have these rules contained in Board Policy for ease of reference.

Procedures for the Board and Policy Advisory Committees

1. **Ordinances**

   1.1 Every ordinance shall be signed by the Chair of the Board, or for the comprehensive fare ordinance the Chair of the Transportation Committee, and attested by the Clerk of the Board.

   1.2 Upon the passage of an ordinance, the votes of the Board members or Transportation Committee members, as appropriate, shall be entered in the minutes.

   1.3 Ordinances shall not be passed within five days of their introduction, nor at any meeting other than a regular meeting. An urgency ordinance may, however, be passed immediately upon introduction and either at a regular or special meeting. Except when, after reading the title, further reading is waived by regular motion adopted by unanimous vote of the Board or Transportation Committee members present, all ordinances shall be read in full at the time of introduction or passage. When ordinances, other than urgency ordinances, are altered after introduction, they shall be passed only at a regular or at an adjourned regular meeting held at least five days after alteration. Corrections of typographical or clerical errors are not alterations within the meaning of this section.

   1.4 The Clerk of the Board shall cause a proposed ordinance or proposed amendment to an ordinance, and any ordinance adopted by the Board or Transportation Committee to be published at least once in a newspaper of general circulation in SANDAG’s the Board’s area of jurisdiction.

   1.5 The publication of an ordinance as required by this policy, may be satisfied by either of the following actions:

   1.5.1 **Publication of The Board may publish** a summary of a proposed ordinance or proposed amendment to an ordinance. The summary shall be prepared by the Clerk of the Board and the Office of General Counsel. The summary shall be published and a certified copy of the full text of the proposed ordinance or proposed amendment shall be posted in the office of the Clerk of the
Board at least five days prior to the Board meeting at which the proposed ordinance or amendment is to be adopted. Within fifteen (15) days after adoption of the ordinance or amendment, the Clerk of the Board shall publish a summary of the ordinance or amendment with the names of the Board or Transportation Committee members voting for and against the ordinance or amendment and the Clerk of the Board shall post in the office of the clerk a certified copy of the full text of the adopted ordinance or amendment along with the names of those Board members voting for and against the ordinance or amendment; or

1.5.2 If the person designated by the Board determines that it is not feasible to prepare a fair and adequate summary of the proposed ordinance or amendment, and if the Board or Transportation Committee so orders, a display advertisement of at least one-quarter of a page in a newspaper of general circulation in SANDAG’s area of jurisdiction shall be published at least five (5) days prior to the Board meeting at which the proposed ordinance or amendment is to be adopted. Within fifteen (15) days after adoption of the ordinance or amendment, a display advertisement of at least one-quarter of a page shall be published. The advertisement shall indicate the general nature of, and prove information regarding, the adopted ordinance or amendment including information sufficient to enable the public to obtain copy of the complete text of the ordinance or amendment, and the name of those Board members voting for and against the ordinance amendment.

1.6 Ordinances and amendments shall take effect thirty (30) days after their final passage. Exceptions to this effective date are: 1. When the ordinance is for the immediate preservation of the public peace, health or safety, and contains a declaration of facts constituting urgency, and is passed by a two-thirds vote of the Board or Transportation Committee, the ordinance or amendment will take effect immediately; and 2. If otherwise provided by law.

2. Board Policies

2.1 Board policies shall be reviewed to determine if updates are needed no less often than every three years.

2.2 Once updated, policies shall contain a footer identifying the last date they were modified by the Board.

3. Public Comment

3.1 Persons wishing to provide comment or testimony shall be permitted to address the Board or Policy Advisory Committee after submitting a written request to speak, identifying themselves and the agenda item on which they want to be heard. Ordinarily, each speaker will be allowed no more than three minutes. The Chair, however, may extend or limit the time for each presentation or may permit additional time to speakers representing a group of individuals or organizations to avoid duplicative testimony or for other reasons that are in the best interest of the
Board or committee in the Chair’s discretion. Testimony must be limited to issues relevant to the agenda item.

3.2 Public comment on matters not on the agenda will be permitted on items of interest to the public that are within the subject matter jurisdiction of the Board or committee. Persons wishing to comment during the general public comment period must submit a written request in advance identifying themselves and the subject matter on which they wish to speak. The Chair may limit the time for each speaker. Ordinarily, each speaker will be allowed no more than three minutes.

4. Standards of Conduct & Ethics Applicable to All of SANDAG’s Legislative Bodies

4.1 This policy shall be supplemental to the SANDAG’s Conflict of Interest Code and is not intended to supersede such Code or any provisions thereof. All Board and Policy Advisory Committee members, and all other members of committees or working groups covered by the Brown Act, including alternates, shall file a Statement of Economic Interests with SANDAG upon request by the SANDAG’s Office of General Counsel.

4.2 Each Board member and alternate occupies a position of public trust that demands the highest moral and ethical standards of conduct. All references to “Board members” in Section 4 of this Policy shall be read to include all Board and Policy Advisory Committee members, and all other members of committees or working groups covered by the Brown Act, including ex officio members and alternates.

4.3 Board members shall not engage in any business or transaction or have a financial or other personal interest, actual, potential, or apparent that is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independence of judgment or action in the performance of such duties. Such business, transaction, or interest shall constitute a conflict of interest.

4.4 Generally, no Board member shall engage in any enterprise or activity that will result in any of the following:

4.4.1 Using the prestige or influence of the Board office for private gain or advantage of the member or another person.

4.4.2 Using time, facilities, equipment, or supplies of the Board for the private gain or advantage of the member or another person.

4.4.3 Receiving or accepting money or other consideration from anyone other than the Board or another government agency for the performance of acts done in the regular course of duty.

4.4.4 Receiving or accepting, directly or indirectly, any gift or favor from anyone doing business with the Board under circumstances from which it could reasonably be inferred that such was intended to influence such person in their duties or as a reward for official action.
4.4.5 Soliciting any gift or favor in the member’s official capacity, either directly or indirectly, when such solicitation might reasonably be inferred as to have a potential effect on the member’s duties or decisions, or when the individual’s position as a Board member would in any way influence the decision of the person being solicited.

4.5 Prohibited Interests

4.5.1 It is unlawful for any current SANDAG Board member to render a decision where a party to the decision has given the SANDAG Board member, promised to give the SANDAG Board member, or acted as an intermediary for the SANDAG Board member to have, an opportunity for compensation. For purposes of this section, opportunities for compensation provided to a SANDAG Board member include opportunities for compensation provided to the SANDAG Board member’s immediate family. When such an opportunity for compensation is provided to a member of the SANDAG Board member’s immediate family, the SANDAG Board member shall not participate in a decision involving a party to the decision unless the SANDAG Board member had no knowledge or involvement in securing the opportunity for compensation.

4.5.2 It is unlawful for any current SANDAG Board member to make, participate in making, or use his or her Board member position to influence a decision involving the interests of a person with whom he or she is seeking, negotiating, or securing an agreement concerning future employment.

4.5.3 It is unlawful for any current SANDAG Board Member to be financially interested in any contract made by them in their Board member capacity. It is also unlawful for any contract to be made by SANDAG or any board or commission established by SANDAG if any individual member of the body has a financial interest in the contract.

4.5.4 Definitions

4.5.4.1 For purposes of the prohibitions set forth in this section, the term “financial interest” means any interest, other than a remote interest as prescribed in California Government Code section 1091 or a noninterest prescribed in California Government Code section 1091.5, that would prevent SANDAG Board members involved from exercising absolute loyalty and undivided allegiance to the best interests of SANDAG.

4.5.4.2 For purposes of this section, "material financial effect" has the same meaning as that term is used in title 2, sections 18705 through 18705.5 of the California Code of Regulations.

4.5.4.3 For purposes of this section, "render a decision" means to take part personally and substantially in the project by rendering a decision, approval, or disapproval; by making a formal written
recommendation; by conducting an investigation; by rendering advice on a significant basis; or by using confidential information.

4.5.4.4 For purposes of this section, "project" means any matter where a private business has made an application to SANDAG for discretionary funding or discretionary entitlements, or where SANDAG exercises discretion to enter into a lease, agreement, or contract with a private business.

4.5.5 Any SANDAG Board Member with a remote financial interest in a prospective contract of SANDAG must disclose the existence of the remote interest to the body of the board in which the SANDAG Board member is a member if that board has any role in creating, negotiating, reviewing, or approving the contract; and the SANDAG Board member must abstain from influencing or participating in the creation, negotiation, review, or approval of the contract.

4.5.6 It is unlawful for any SANDAG Board member to knowingly influence a decision of the SANDAG Board if it is reasonably foreseeable that the decision will have a material financial effect on:

4.5.6.1 the SANDAG Board member or a member of his or her immediate family, if the material financial effect is distinguishable from its effect on the public generally; or any of the following economic interests:

4.5.6.1.1 any business entity in which SANDAG Board member or a member of SANDAG Board member’s immediate family has invested $2,000 or more; and

4.5.6.1.2 any business entity for which a SANDAG Board member or a member of the SANDAG Board member’s immediate family is a director, officer, partner, trustee, employee, or holds any position of management; and

4.5.6.1.3 any real property which SANDAG Board member or a member of SANDAG Board member’s immediate family has invested $2,000 or more; and

4.5.6.1.4 any person from whom a SANDAG Board member or a member of the SANDAG Board member’s immediate family has received (or by whom you have been promised) $500 or more in income within twelve months prior to the decision; and

4.5.6.1.5 any person from whom a SANDAG Board member or a member of the SANDAG Board member’s immediate family has received gifts that total $300 or more within twelve months prior to the decision;
4.5.6.1.6 the personal expenses, income, assets, or liabilities of a SANDAG Board member or a member of SANDAG Board member's immediate family.

4.5.7 Prohibitions Applicable to Former Board Members

4.5.7.1 It is unlawful for any former SANDAG Board Member who received compensation from SANDAG to render a decision on a particular project during his or her SANDAG service to engage in direct communication with SANDAG, for compensation, with regard to any pending application for discretionary funding or discretionary entitlements before SANDAG relating to that particular project on behalf of any person other than a public agency for a one year period immediately following the last payment from SANDAG to the Board Member.

4.5.7.2 It is unlawful for any former SANDAG Board member, for compensation, to knowingly counsel or assist any person other than a public agency in connection with an appearance or communication in which the former SANDAG Board Member is prohibited from engaging pursuant to subsection 4.5.7.1 for a one year period immediately following termination of service with SANDAG.

4.6 Lobbying and Campaign-Related Activities

4.6.1 It is unlawful for any SANDAG Board Member to engage in campaign-related activities, such as fund-raising, the development of electronic or written materials, or research, for a campaign for any elective office using SANDAG facilities, equipment, supplies, or other SANDAG resources. Nothing in this section, however, shall prohibit the use of SANDAG resources to provide information to the public about the possible effects of any bond issue or other ballot measure relating to SANDAG activities, operations, or policies, provided that:

4.6.1.1 the use of public resources is otherwise legally authorized; and

4.6.1.2 the information provided constitutes a fair and impartial presentation of relevant facts to aid the electorate in reaching an informed judgment regarding the bond issue or ballot measure.

4.6.2 It is unlawful for any former SANDAG Board Member to engage in direct communication for the purpose of lobbying SANDAG if all of the following circumstances apply:

4.6.2.1 the former SANDAG Board Member served as a SANDAG Board Member within the previous twelve months; and

4.6.2.2 the former SANDAG Board Member received compensation from SANDAG for his or her service as a SANDAG Board Member; and
4.6.2.3 the former SANDAG Board Member is receiving compensation from a private business to engage in the direct communication with SANDAG.

4.6.3 The prohibitions contained in 4.6.2 shall not apply:

4.6.3.1 to prevent a former SANDAG Board Member from making or providing a statement, based on the former SANDAG Board Member’s own special knowledge in the particular area that is the subject of the statement, provided that no compensation is thereby received other than that regularly provided for by law or regulation for witnesses;

4.6.3.2 to prevent any former SANDAG Board Member from representing himself or herself, or any member of his or her immediate family, in their individual capacities, in connection with any matter pending before SANDAG;

4.4.6.3 to the activities of any former SANDAG Board Member who is an elected or appointed officer or employee of any public agency, or a consultant of any public agency, when that former SANDAG Board Member is solely representing that agency in his or her Board Member capacity as an officer, employee, or consultant of the agency;

4.4.6.4 to any ministerial action. A ministerial action is one that does not require a SANDAG Board Member to exercise discretion concerning any outcome or course of action; or

4.4.6.5 to any individual who terminated status as a SANDAG Board Member prior to July 1, 2003, except that any such individual who returns to service as a SANDAG Board Member on or after July 1, 2003, shall thereafter be subject to the provisions of this section.

4.7 If a Board member has an actual, potential, or apparent conflict of interest in the subject of an agenda item, and the Board will be making a decision regarding the agenda item during an open session meeting, the Board member must recuse himself or herself or, in the case of uncertainty, request a binding determination from the Board’s legal counsel. If the Board member has a conflict, he or she may observe, but not participate, in the decision-making process.

4.8 If a Board member has an actual, potential, or apparent conflict of interest in the subject of an agenda item to be discussed during a closed session meeting, the Board member must state that he or she has a conflict of interest and shall be disqualified and shall leave the room during such discussion so as not to make, participate in making, or in any way attempt to use his or her official position to influence the decision or discussion. In the case of uncertainty, the Board member must request a binding determination from the Board’s legal counsel. In accordance with the Brown Act, any Board member who is disqualified shall be entitled to any information that is publicly reported. The Board member will not, however, be privy
No Board member shall disclose to any person, other than members of the Board and other Board staff designated to handle such confidential matters, the content or substance of any information presented or discussed during a closed session meeting unless the Board authorizes such disclosure by the affirmative vote of a majority of the Board.

No Board member may disclose confidential or privileged information or communication to any person other than a Board member, counsel to the Board, or other Board staff designated to handle such matters, unless disclosure is mandated by law or the Board authorizes such disclosure by the affirmative vote of a majority of the Board.

Confidential or privileged information concerning threatened, anticipated, or actual litigation or claims will not be disclosed to a Board member if he or she has an actual, potential, or apparent conflict of interest. In the case of uncertainty as whether a conflict of interest exists, the Board’s legal counsel will issue a binding determination.

No Board member shall represent a position on an issue to be the Board’s position unless the Board has formally adopted such position at a public meeting.

Any violation of this policy shall constitute official misconduct if determined as such by an affirmative vote of the majority of the Board in an open and public meeting. The Board may elect to censure the Board member and the violation may be subject to criminal and/or civil penalties as provided for by applicable law.

All SANDAG Board or committee members (including alternates) who may receive any type of stipend, compensation, salary, or reimbursement for travel expenses from SANDAG must attend at least two hours of ethics training every two years. All such persons who hold office with SANDAG as of January 1, 2006, must complete their first course no later than January 1, 2007. The ethics training course materials must be approved by the Fair Political Practices Commission and Attorney General’s Office in compliance with the requirements of Government Code § 53234 et seq. Proof of attendance may be issued by SANDAG or any other local government agency providing an ethics training course that complies with these requirements.

5. Additional Advisory Membership on Board

5.1 From time to time, the Board may determine it is in SANDAG’s best interest to supplement the Board with additional members that can provide beneficial advice and information to the Board on matters of interest to the region.

5.2 The criteria for selection of additional advisory members shall be as follows:

5.2.1 Agency/group has land use or eminent domain authority;
5.2.2 Agency/group has regional authorities and responsibilities important to SANDAG’s mission;

5.2.3 Membership by the agency/group would enhance SANDAG’s regional decision-making;

5.2.4 Agency/group desires representation, submits a written request, and commits to participation; and

5.2.5 Agency/group is able to agree on the form of representation and who will represent it.

6. Procedures Applicable to SANDAG’s Legislative Bodies Other Than the Board and Policy Advisory Committees

The Brown Act is a state law which governs open meetings for local governmental bodies. The Brown Act (also “Act”) is contained in the Government Code at § 54950 et seq., and establishes rules designed to ensure that actions and deliberations of public bodies of local agencies are taken openly and with public access and input. The Brown Act governs the meetings of all local “legislative bodies,” that is, all multi-member committees and the like, of a local governmental agency such as SANDAG. Bodies created by ordinance, resolution, or formal action of the SANDAG’s Board or one of the Policy Advisory Committees are covered by the Act.

6.1 All of the SANDAG’s Legislative Bodies are required to comply with the requirements of the Act, including but not limited to the following:

6.1.1 Agendas for all regular meetings must be posted at least 72 hours in advance of the meeting and all meetings must be open to the public.

6.1.2 The Act applies whenever a majority of the voting members of the legislative body meet to discuss, deliberate or acquire information about a matter within the subject matter of the body.

6.1.3 A public comment period must be provided at each meeting.

6.1.4 Secret ballots and anonymous voting are prohibited.

6.1.5 An attendance, registration, or sign-in sheet may be used at public meetings to document the presence of persons other than the members of the legislative body, however, the sheet must clearly state that its completion is voluntary and not a precondition for attendance.
6.1.6 Meetings may not be held in facilities that are inaccessible to disabled persons or in facilities that prohibit the admittance of any persons on the basis of race, religious creed, color, national origin, ancestry or sex.

6.1.7 Meetings must be held within the County of San Diego, unless some exception under the Act applies. Questions regarding the applicability of the Act should be directed to the SANDAG's Office of General Counsel.

6.1.8 The agenda must list all items that will be discussed or acted upon by the legislative body. That listing should be described in an informative way so that members of the body as well as members of the public understand the general nature of the agenda item and can make an informed decision whether to attend the meeting or not. The Act provides that this description need not exceed 20 words, but as many words as necessary to give adequate notice should be used.

6.1.9 Members may take action to add an item to the agenda of a regular meeting if, by two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, the body determines that there is a need to act immediately, that the body's consideration of the matter cannot await the next meeting and that the need for immediate action arose after the posting of the agenda. This should only occur in very rare occasions, and the SANDAG's Office of General Counsel should be consulted before relying on this exception.

6.2 In addition to the requirements of the Act, SANDAG legislative bodies must also comply with the following requirements:

6.2.1 Only the regular members, or in their absence, a designated alternate, may vote on action items. Seating or placards at meetings should be arranged so that it is clear which persons in the room are voting members, as compared to nonvoting members, alternates, speakers, or members of the public. Nonvoting members and alternates in attendance may participate in the body's discussion, but may not vote.

6.2.2 The members of a legislative body may only designate an alternate if their service on the legislative body is based on their capacity as a representative of another group; members selected for their individual qualifications do not act as a representative of another group and may not designate an alternate.

6.2.3 A quorum shall be a majority of the voting members of a legislative body. A majority of the quorum must approve all actions taken by the legislative body.

6.2.3 Unless otherwise provided by the Board or Policy Advisory Committee, each legislative body should select a chair and vice chair by a vote of the majority of a quorum on an annual basis.
6.2.4 Roberts Rules of Order should be used by legislative bodies for guidance on procedural matters such as the making of motions and voting.

6.2.5 The chair of a legislative body may direct that comments from the public shall be limited to no more than three minutes per person. Comments from the public should be requested following introduction of each agenda item. Efforts should be made to make it clear to the members of the legislative body and audience when a comment is being made by a member of the public versus a member of the legislative body.

6.2.6 In the event a legislative body is having difficulty taking action on items due to lack of attendance to create a quorum, the legislative body may make a recommendation regarding changes to membership and seek approval of these recommendations from the Board or Policy Advisory Committee that created the legislative body.

6.3 The scope of topics within the jurisdiction of the legislative shall be limited to those issues delegated to the legislative body by the Board or relevant Policy Advisory Committee.

6.4 Legislative bodies created by the Board or a Policy Advisory Committee do not have authority to take action on behalf of SANDAG, make a final determination on behalf of SANDAG, and/or take a position on behalf of SANDAG.

6.5 The SANDAG’s Committee and Working Group Guidelines should be used for additional guidance.

6.6 New standing committees shall not be created by SANDAG staff without approval of Staff may request approval for creation of a new standing committee from either (1) the Board, (2) a Policy Advisory Committee, or (3) the Executive Director with the concurrence of the Chair of the Board. Staff may create ad hoc (temporary) committees or working groups subject to the approval of the Policy Advisory Committees. A Policy Advisory Committee or the Board must approve all charter or membership changes for committees that are created by ordinance, resolution, or formal action of the Board or one of the Policy Advisory Committees. An informational report shall be provided to the Board on an annual basis concerning the status of all standing and ad hoc committees and working groups.

Adopted June 2003
Amended November 2004
Amended January 2006
Amended December 2006
LEGAL MATTERS

To establish procedures for the filing of claims and institution of claims and lawsuits, for obtaining the review and concurrence or comment from the Office of General Counsel on all requests to the Board for authority to file lawsuits in court, and for handling process servers or individuals serving other legal documents.

Under Public Utilities Code section 132354(a), SANDAG can sue or be sued. All claims for money or damages against SANDAG are governed by Part 3 (commencing with section 900) and Part 4 (commencing with section 940) of the Government Code (the Tort Claims Act). Government Code section 935 authorizes SANDAG to adopt local claims procedures for claims that are not governed by any other statutes or regulations. From time to time it may be necessary for SANDAG to initiate litigation in order to resolve issues of significant concern to SANDAG. The Board desires to have the concurrence or written review from the Office of General Counsel relative to the merits of such lawsuits prior to their consideration by the Board. For these reasons, it is necessary to establish these procedures.

Procedures

1. Claims and Actions Against SANDAG

   Any and all claims for money or damages against SANDAG must be presented to, and acted upon, in accordance with the following procedures. Compliance with these procedures is a prerequisite to any court action, unless the claim is governed by statutes or regulations which expressly free the claimant from the obligation to comply with this policy and the claims procedures set forth in Government Code 900 et seq.

   1.1 Form of Claims

   All claims must be presented to SANDAG using the form entitled “Claim Against SANDAG” available on SANDAG’s Web site or upon request.

   1.2 Time Limitations

   1.2.1 Claims for money or damages relating to a cause of action for death, injury to person or personal property, or growing crops, shall be presented to the Board not later than six (6) months after the accrual of the cause of action (Government Codes 905, and 911.2).

   1.2.2 Claims for money or damages as authorized in Government Code 905 that are not included in Paragraph 1 above shall be filed not later than one year from the date the cause of action accrues (Government Codes 905 and 911.2).
1.2.3 Claims for money or damages specifically excepted from Government Code 905 shall be filed not later than six (6) months after the accrual of the cause of action (Government Codes 905, 911.2, and 935).

1.3 Late Claims

1.3.1 Claims under "Time Limitations" Paragraphs 1.2.1 and 1.2.3 above, which are filed outside the specified time limitations, must be accompanied by an application to file a late claim. Such claim and application to file a late claim must be filed not later than one year after the accrual of the cause of action. If a claim is filed later than the specified time limitation and is not accompanied by an application to file a late claim, the Board or Executive Director may, within forty-five (45) days, give written notice that the claim was not filed timely and that it is being returned without further action.

1.3.2 The application shall state the reason for the delay in presenting the claim. The Board shall grant or deny the application within forty-five (45) days after it is presented. By mutual agreement of the claimant and the Board, such forty-five (45) day period may be extended by written agreement made before the expiration of such period. If the Board does not take action on the application within forty-five (45) days, it shall be deemed to have been denied on the forty-fifth (45th) day unless such time period has been extended, in which case it shall be denied on the last day of the period specified in the extension agreement.

1.3.3 If the application to present a late claim is denied, the claimant shall be given notice as required by Government Code section 911.8 (Government Codes 911.3, 911.4, 911.6, 911.8, 912.2, and 935).

1.4 Delivery and Form of Claim

1.4.1 A claim, any amendment thereto, or an application for leave to present a late claim shall be deemed presented when delivered to the office of the Executive Director or deposited in a post office, sub-post office, substation, or mail chute or other like facility maintained by the U.S. Government in a sealed envelope properly addressed to SANDAG’s offices with postage paid (Government Codes 915 and 915.2).

1.4.2 Claims must contain the information set forth in Section 910 and 910.2 of the Government Code (Government Codes 910, 910.2, and 910.4).

1.5 Notice of Claim Insufficiency

The Executive Director shall cause all claims to be reviewed for sufficiency of information. The Executive Director or designee may, within twenty (20) days of receipt of claim, either personally deliver or mail to claimant a notice stating deficiencies in the claim presented. If such notice is delivered or sent to claimant, the Board shall not act upon the claim until at least fifteen (15) days after such notice is sent (Government Codes 910.8, and 915.4).
1.6 Amendments to Claim

Claims may be amended within the above time limits or prior to final action by the Board, whichever is later, if the claim, as amended, relates to the same transaction or occurrence which gave rise to the original claim.

1.7 Action on Claim

1.7.1 If the Board acts properly to reject the claim, the claimant has only six (6) months from such rejection to institute a lawsuit. If the Board takes no action, the claim is deemed rejected after forty-five (45) days, but the claimant has two (2) years to institute a suit against the SANDAG. The notice of rejection must comply with requirements of Government Code 913 unless the claim has no address on it.

1.7.2 If the claim is filed late and not accompanied by an application to file a late claim, then the Board or its agent must notify the claimant that no action was taken due to the claim being filed late.

1.7.3 Within forty-five (45) days after the presentation or amendment of a claim, the Board shall take action on the claim. This time limit may be extended by written agreement before the expiration of the forty-five (45) day period or before legal action is commenced or barred by legal limitations. The Executive Director or designee shall transmit to the claimant a notice of action taken. If no action is taken by the Board, the claim shall be deemed to have been rejected (Government Code 945.6).

1.7.4 The Board delegates to the Executive Director the authority to take action on claims under one hundred thousand dollars ($100,000) (Government Code 935.4).

1.8 Retroactivity of This Policy

This policy is intended to apply retroactively to any existing causes of action and/or claims for money and/or damages. Any claim filed later than twelve (12) months following accrual of the cause of action is barred, regardless of whether the cause of action accrued before the effective date of this policy. (First Adopted by Board Resolution March 22, 2002.)

2. Claims & Actions Initiated by SANDAG

It is the policy of the Board that except as may be otherwise determined by the Board, prior to Board authorization and direction to the Office of General Counsel to file a lawsuit in court, the Office of General Counsel shall be consulted as to the merits of such a lawsuit. Any request for authorization and direction from the Board to the Office of General Counsel to file a lawsuit in court shall be accompanied by written views of the Office of General Counsel with regard to the merits of the case, provided however, that the Office of General Counsel may, in lieu of such written concurrence or written views, request that the matter be discussed with the Board in Closed Session. As part of this attorney-client review, all requests or recommendations on potential lawsuits will be
reviewed for comment by the Executive Director prior to being submitted to the Office of General Counsel.

3. Legal Counsel for SourcePoint and ARJIS

SANDAG shall provide legal counsel to SourcePoint and the Automated Regional Justice Information System Joint Powers Agency (ARJIS) to the extent time allows, and as long as no potential conflict of interest exists. In general, SANDAG’s Office of General Counsel should ensure consistent legal treatment of all matters. In areas involving a need for special expertise, substantial time commitments, or separate counsel, SANDAG, on behalf of SourcePoint or ARJIS, may contract with an outside firm and SourcePoint or ARJIS will pay for those services out of its own funds. Such contracts shall be reported to the SANDAG Board.

4. Acceptance of Garnishments, Wage Attachments, Summons & Complaints

4.1 The SANDAG’s Office of General Counsel will accept service of a summons and complaint upon SANDAG and/or any Board members being sued in his or her official capacity as a member of SANDAG’s Board of Directors.

4.2 In compliance with California Civil Code of Procedure 415.20, SANDAG will also accept service of a summons and complaint upon one of its employees at its offices under the substituted services of process method provided for in that statute.

4.3 Whenever SANDAG, as employer, is served with a garnishment and wage attachment, the server should be instructed to present such document to SANDAG’s Office of General Counsel.

5. Execution of Litigation or Alternative Dispute Resolution Documents

5.1 All pleadings, discovery, and other documents that are filed with a court, arbitrator, or other alternative dispute resolution authority on behalf of SANDAG shall be signed by the Office of General Counsel and/or the Executive Director or his/her designee.

Adopted June 2003
Amended November 2004
Amended December 2006
CLAIM AGAINST SANDAG

TO THE HONORABLE BOARD OF DIRECTORS OF THE SAN DIEGO ASSOCIATION OF GOVERNMENTS:

The undersigned respectfully submits the following claim and information relative to damage to persons and/or personal property:

1. NAME OF CLAIMANT: ____________________________________________
   ADDRESS OF CLAIMANT: ____________________________________________
   PHONE NO.: HOME ______ WORK ________

2. Name, telephone and post office address to which claimant desires notices to be sent if other than above:

3. Occurrence or event from which the claim arises:
   a. DATE: _____________________
   b. TIME: _____________________
   c. PLACE (exact and specific location):

   d. Specify the circumstances of the occurrence, event, act or omission which you claim caused the injury, damage or loss (use additional paper if necessary):

   e. State how or in what manner SANDAG or its employees were at fault:

4. Give a description of the injury, property damage or loss incurred so far as is known at the time of this claim. If there were no injuries, state "no injuries." (If your claim involves a vehicle, include license, year, make and model.)
5. Give the name(s) of the SANDAG employee(s) causing the injury, damage or loss, if known:

6. Name and address of any other person injured:

7. Name and address of the owner of any damaged property:

8. Damages claimed:
   a. Amount claimed as of this date: $ ____________________
   b. Estimated amount of any future costs: $ ____________________
   c. Total amount claimed: $ ____________________
   d. Basis for computation of amounts claimed (include copies of all bills, invoices, estimates, etc.):

9. Names and addresses of all witnesses, hospitals, doctors, etc.

10. Any additional information that might be helpful in considering claim:

WARNING: IT IS A CRIMINAL OFFENSE TO FILE A FALSE CLAIM
(Penal Code § 72; Insurance Code § 556.1)

I have read the matters and statements made in the above claim and I know the same to be true of my own knowledge, except as to those matters stated upon information or belief and as to such matters I believe the same to be true. I certify under penalty of perjury that the foregoing is TRUE and CORRECT.

Signed this day of ____________________ 20__ at __________________________________________

Claimant’s Signature:_________________________________________________________________________
TRAVEL EXPENSES

This policy is intended to establish a basis for budgeting Board member and employee attendance at conferences, training, seminars, or other meetings and provide guidelines for Board members and employees who have been approved to travel on behalf of SANDAG.

It is desirable and beneficial to SANDAG and its constituents to have Board members and employees participate in state and national activities, training, and conferences related to SANDAG’s subject matter jurisdiction.

Procedures

1. **Budgeting**

   1.1 Each year the Executive Director will survey the Board and committee (Board) members to ascertain their interest in attending upcoming conferences and meetings. These conferences may include legislative and annual meetings for the California Transit Association, the American Public Transit Association, and the National Association of Regional Councils, as well as California Transportation Commission meetings and legislative hearings. The Chair of the Board will make the final decision regarding who should attend all conferences and meetings. Upon return, Board members will be asked to present their experiences to the Board in order to share the knowledge obtained from their attendance.

   1.2 Employees also may attend conferences related to their respective disciplines. Each year, the department directors will submit a list of desired conferences and other meetings to be attended to the Executive Director. The Executive Director will make the final decision regarding which employees should attend conferences and meetings within the adopted budget. Upon return, employees will submit a report to their director in order to share the knowledge obtained from their attendance.

   1.3 Board member and employee attendance will be funded in the annual budget subject to the availability of funds and based on the results reported by previous attendees. As part of the budgeting process, the Executive Director or his/her designee will set objectives to ensure minimum representation at key conferences, and to make sure that cumulative attendance by Board members and employees at any one conference is not excessive.

   1.4 The number of Board members or committee members attending any conference or meeting should not exceed a quorum unless this provision is specifically waived by the Board after seeking advice from legal counsel.

   1.5 Basic travel arrangements for flights, hotels, and rental cars will be made by the Clerk of the Board or other designated staff. Board members and employees are
responsible for contacting the Clerk of the Board or the designated staff if itinerary changes are needed. Board members or employees desiring different travel arrangements will contact the Clerk of the Board or other designated staff to place her/him on notice and will be financially responsible for any costs over and above those determined by SANDAG’s travel agent for the basic trip.

1.6 If a Board member or employee initiates a change in travel plans that is not due to a medical/death emergency by the Board member or employee, or his/her immediate family, then the Board member or employee will be responsible for the cost impacts of those changes.

1.7 Employees must fill out a travel request form prior to traveling out of San Diego County on SANDAG business. The project Overall Work Program code, purpose of travel, and trip budget must be filled in on the form. The form must be approved by a department director prior to the time of travel, unless a department director is the traveler, in which case the Chief Deputy Executive Director must approve the travel. The Clerk of the Board or Executive Assistant will fill out the top portion of the travel request form for Board members. The expense report must document that expenses meet existing SANDAG policy. All documents related to reimbursable expenditures are public records subject to disclosure under state and federal law.

1.8 Penalties for falsifying expense reports include, but are not limited to the following:

   1.8.1 Loss of reimbursement privileges
   1.8.2 Restitution to SANDAG
   1.8.3 Civil penalties for misuse of public resources
   1.8.4 Prosecution for misuse of public funds
   1.8.5 Disciplinary action for employees

2. Out-of-Town Travel Expense Reimbursement

2.1 The lower portion of the travel request form must be used by Board members and employees to record actual trip expenses. The report must be completed within one week from the return date. For employees, the actual expenses must be approved by a department director unless a department director is the traveler, in which case the Chief Deputy Executive Director must approve the expenses. For Board members, the actual expenses must be approved by the Chief Deputy Executive Director. The form should then be forwarded to the Finance Department for processing, with a personal check attached for any funds due to SANDAG. Failure to submit expense reports within the required time frame may result in the traveler not being reimbursed or collection action being taken if money is owed to SANDAG. Late expense reports must be approved by the Chief Deputy Executive Director. Extensions may be granted by the Executive Director.

2.2 All expenses should be itemized, including items SANDAG may have paid for in advance so that the report provides a complete record of expenses. It is the traveler’s responsibility to submit a completed report in order to receive prompt reimbursement.
2.3 Receipts for expenditures must be attached to the expense report for all expenses where a receipt is practicably attainable. A receipt is mandatory for all expenses in excess of $10 unless a written satisfactory explanation is provided. Such written explanations are subject to approval by the Finance Department.

2.4 Travel advances may be requested. Any travel advance shall not exceed the total estimated amount of the trip, minus any items prepaid by SANDAG, such as airfare and registration.

2.5 Board members and employees will be reimbursed for reasonable travel expenses up to the reimbursement amounts stated in IRS Publication 1542, as updated by the IRS. The expenditure guidelines in IRS Publication 1542 should be observed as upper limits unless the circumstances dictate otherwise and the expense is approved by a department director or the Chief Deputy Executive Director. Notwithstanding the foregoing, travel to Sacramento, California and Washington, D.C. will be reimbursed up to a maximum daily rate of $300 per day for lodging and food expenses instead of the amounts listed in IRS Publication 1542.

2.5.1 Air Travel – Air travel is to be coach class for the most direct route. Travelers are encouraged to book at least 21 to 14 days in advance to qualify for the lowest airfares. SANDAG will cover the cost if it is more cost-effective (i.e., difference in airfare as compared to the additional cost for hotel and meals) to include a Saturday stay. Travelers should consider this option, when practical.

2.5.2 Personal Auto Use – In the event that a private auto is used for the trip, mileage shall be paid at the currently established Internal Revenue Service rate. Maximum reimbursement shall not exceed the cost of using a rental car, train, or commercial airline to reach the same destination.

2.5.3 Ground Transportation – In using surface transportation, the least expensive alternative must be utilized where practical. For example, an airport shuttle should be used instead of a taxi. Such transportation should be used for travel to and from the airport and for reasonable business-related trips at the location.

2.5.4 Parking – SANDAG will reimburse the lesser of the parking cost for a personal auto left at the airport or the cost of a shuttle service or cab to and from the airport.

2.5.5 Personal Travel – If a traveler wishes to combine SANDAG travel with personal travel, or to travel with family members, the traveler may do so, provided that it does not exceed the cost equivalent of a single-person trip.

2.5.6 Rental Car – Use of rental cars must be pre-approved. SANDAG will only reimburse for the cost of renting the least expensive size vehicle necessary for the number of people traveling. SANDAG will not reimburse for rental car insurance coverage because employees are included under SANDAG general automobile insurance coverage.
2.5.7 Meals – SANDAG will pay for meals while the traveler is in travel status.

2.5.8 Business Meals – Reasonable business meals involving outside persons or when necessary to conduct SANDAG-related business are permitted. All such meals must be itemized with justification on the Expense Report to determine if eligible for reimbursement.

2.5.9 Hotel – Travelers will be reimbursed for the cost of a moderate and reasonably priced single occupancy hotel room. Travelers should request the “government rate” when making hotel reservations. If a hotel stay is needed in connection with a conference or other education activity, lodging costs shall not exceed the maximum group rate published for the conference. If the group rate is not available, the traveler must use comparable lodging.

2.5.10 Other Business-Related Expenses – Other business-related expenses that arise when traveling such as supplies, equipment rental, reprographics, facsimiles, and other documented business-related expenses may be reimbursed when traveling on SANDAG business and used for SANDAG purposes.

2.5.11 Travel Outside of the U.S. – Reimbursement for travel to a foreign country will be calculated at the average exchange rate during the trip as posted by the Federal Reserve in the Wall Street Journal. All reimbursement for any Value Added Taxes (VAT) charged for hotel accommodations must be reimbursed to SANDAG.

2.5.12 Telephone Calls – Reimbursement for telephone calls made while traveling are permitted, provided that such calls are directly related to SANDAG business. Personal calls are permitted to a maximum of $10 per day. Calls charged to personal calling cards or wireless phone accounts may be submitted for reimbursement no later than thirty days for the time that the expense report is submitted.

2.5.13 Registration – Travelers requesting to attend a conference or training that requires registration should do so in sufficient time to take advantage of any discounts.

2.5.14 Cancellation Penalties – In the event that registration, airfare, hotel deposit, or similar items that require prepayment are paid and nonrefundable and the traveler is unable to attend, then the traveler will be responsible for reimbursing SANDAG for all prepaid amounts, unless the inability to attend is for valid medical reasons or personal emergencies, as approved by the Executive Director for employees or the Executive Committee for Board members.

2.5.15 Nonallowable Expenses – SANDAG will not provide any reimbursement for personal entertainment expenses, travel expense for family members, movies in hotels, personal items, charitable contributions, alcohol, air travel insurance, or any other expenses not deemed necessary for business
purposes. SANDAG also will not provide reimbursement for the purpose of attending political events or for expenses incurred with any private club that discriminates on the basis of race, gender, religion, sexual orientation, disability, or any other discriminatory criteria in its membership policy.

3. **Local Expense Reimbursement**

3.1 Expense reports must be submitted that record any potentially eligible expenses. The form must be submitted together with all receipts and should be submitted within thirty days of the expense being incurred. The report must describe the item or the destination (if mileage reimbursement is requested) and the purpose. The traveler should indicate which project number each item should be charged to.

3.2 Expenses are eligible for reimbursement if they are related to and necessary to carrying out SANDAG business. They may include, but are not limited to: phone calls, business meals or meetings, mileage, parking, and miscellaneous out-of-pocket expenses. The Director of Finance or Executive Director may disallow any extraordinary or inappropriate expense. Whenever possible, travel should be by public transportation.

3.3 All necessary approvals must be obtained in advance and the form must be submitted to the Finance Department for processing. Reimbursement will ordinarily occur within thirty days.

Adopted June 2003  
Amended January 2006  
Amended December 2006
RECORDS MANAGEMENT

These procedures are intended to ensure the safekeeping of SANDAG records with administrative, legal, fiscal, programmatic or historical value; provide ease of access to SANDAG records by staff; provide ease of access to SANDAG records by members of the public in accordance with SANDAG’s Public Records Request Guidelines; and provide the necessary guidance to ensure proper records management, including retention and disposition.

SANDAG’s records are a valuable resource. This policy provides procedures to ensure SANDAG’s records are maintained in a consistent, orderly, secure and accessible manner.

Procedures

1. Policy Statement

1.1 Records kept by a SANDAG employee because they are necessary or convenient to the discharge of that employee’s duties for SANDAG are public records. Any and all records generated in the course of SANDAG business are the property of SANDAG. These records include, but are not limited to, correspondence, memoranda, emails, phone logs, reports, maps, tapes, contracts, project files, photographic files, digital imagery data, prints, charts, drawings, machine-readable records, videos, and audio tapes. Persons to whom this policy applies should pay particular attention when using e-mail or other less formal forms of communication to ensure that matters discussed are handled with due care and reviewed for professionalism, accuracy and objectivity as they are discoverable public records that can be used as evidence in litigation.

1.2 Records must be maintained in accordance with the SANDAG Records Retention Schedule until their retention period expires, after which the records should be disposed of promptly and appropriately. The periods shown in the Records Retention Schedule are minimum time periods that do not start until the document and/or project is complete. Records can be maintained for time periods in excess of the retention period in the schedule if the records are still needed for reference.

2. Application

This policy applies to all persons, including employees, consultants, and contractors, responsible for the generation and/or maintenance of SANDAG records.

3. Public Records

3.1 Records that pertain to “housekeeping” matters that will not be needed for future reference may be disposed of immediately. For example, preliminary drafts, notes, and interagency and intra-agency memoranda that have been retained for less than
60 days and that are no longer needed for use or reference should be disposed of immediately.

3.2 All records that are kept for more than 60 days for use or reference by an employee must be treated as a public record. All public records must be kept for a minimum of two years after the date they are finalized. Some records must be kept for longer than two years and the retention period for most records is contained in the Records Retention Schedule. The time periods shown in the Records Retention Schedule should be followed unless a document needs to be retained for a longer time period than that shown because the custodian believes the record is still needed for reference. All of the time periods shown for retention begin on the date the record is put in its final form.

3.3 Records that are purely personal in nature such as shopping lists, personal email, or correspondence from a friend should not be treated as public records. In order to prevent a claim that such records are subject to disclosure, and to prevent an unnecessary burden on SANDAG’s resources, however, records unrelated to SANDAG’s business should be purged from SANDAG’s computers and files.

3.4 After a public record has been maintained for the required time period it should be disposed of promptly. If records contain confidential or trade secret information, steps should be taken to ensure the records are not disclosed when they are destroyed.

3.5 At least once each year the Records Retention Schedule will be reviewed and revised as needed. The Schedule will be circulated to the department directors for recommended changes and additions and reviewed by the Office of General Counsel. Changes to the Records Retention Schedule must be approved by the Office of General Counsel.

3.6 Records may be kept in electronic form instead of hardcopy form if the following conditions are met:

3.6.1 The media on which the electronic form of the record is kept does not permit additions, changes, or deletions of the information or image in or on the original record.

3.6.2 The media selected for storing the records in electronic form is considered permanent and reliable.

3.6.3 The media selected for storing the records in electronic form does not prevent the records from being easily accessible.

3.6.4 The copy must be kept in a safe and separate place for security purposes.

3.7 Retention periods for records required for current litigation, audit, or environmental review must be suspended and the records maintained in their original condition and format until the matter is resolved.
3.8 Duplicates of hardcopy records may be destroyed at any time as long as at least one accurate and legible copy is maintained for the time period set forth in the Records Retention Schedule.

4. Project File Maintenance

The project manager(s) and Contracts and Procurement personnel (“project team members”) should maintain a centralized file for each project. The project files should not contain preliminary drafts, working papers, notes, or “housekeeping” memoranda or emails that are not needed for future use or reference (as these records should be discarded if they are less than 60 days old). The project team members should keep the following documents in the centralized file:

- Project authorization
- Original purpose and justification documentation
- Project team responsibilities and goals
- Budget and source of funding documentation
- Schedules
- Work Products
- Consultant/Contractor deliverables
- Final project evaluation
- A list of the names and job positions of the members of the evaluation committee
- Conflict of Interest Declarations from outside evaluators
- The evaluation forms and score sheets for all proposers
- Any protests or other complaints filed with SANDAG concerning the contract award, and any responses thereto
- Correspondence with proposers and potential proposers
- Questions from proposers and SANDAG’s responses
- Notices and correspondence with the selected consultant/contractor
- The RFP and/or RFQ
- Independent Cost Estimate
- Sole source approval forms (if necessary)
- Written approval of funding source (if necessary)
- Copy of Board Resolution (if necessary)
- Mailing list for RFP/RFQ
- Copies of newspaper advertisements
- The recommendation memo and approval to begin contract negotiations
- Notice of Intent to Award
- Notices of Intent to Proceed With Another Proposer
- Copy of selected consultant’s proposal
- Cost Analysis (if applicable)
- Any record of negotiations
- The negotiated agreement with all exhibits
- Amendments to the agreement
- Certificates of Insurance
- Pre-award audit request and audit results documentation
- Notice to Proceed
- Work Orders or Task Orders
- Notice of Completion
- DBE documentation
5. **Records Containing Confidential or Trade Secret Information**

Records created at or received by SANDAG containing confidential or trade secret information must be marked as such and filed in a locked cabinet or other location where the records will be secure and inaccessible to third parties. Staff should take all necessary steps to ensure that such records are not copied or disclosed to third parties. Once a record is submitted to SANDAG by a company or individual it immediately becomes a public record unless that party has expressly designated the record or portion thereof as confidential, proprietary, or trade secret. For example, unless a proposal or price list from a consultant or contractor is clearly marked as confidential or trade secret it will automatically become a public record. Note, however, that even if a consultant or contractor marks a document as “confidential,” “proprietary,” or “trade secret” this will not necessarily exempt the document from disclosure under the California Public Records Act or other applicable laws.

6. **Public Records Requests**

6.1 Generally, the following types of records can be provided to persons based on a simple verbal request to a staff member:

- Bound SANDAG reports
- Information bulletins
- Fact sheets
- Board agendas, resolutions, and reports
- Committee agendas and reports
- Letters in support of, or opposition to, bills

6.2 Requests from members of the public for compilations of SANDAG records, a large number of copies, or records that contain confidential or sensitive information should be referred to the SANDAG’s Office of General Counsel pursuant to the Public Records Request Guidelines. The Office of General Counsel will serve as the SANDAG’s Public Records Officer and will respond to these requests with the assistance of SANDAG’s Public Information Office. If the following types of records are requested, the staff member should refer the request to the Office of General Counsel:

- Requests for all records of a certain type or category
- Requests for compilations of data
- Requests for accounting or financial records
- Requests for records containing trade secret, confidential, or proprietary information or marked “confidential” or “trade secret” or “proprietary”
- Requests for records containing social security numbers or private individual’s phone number or addresses
- Requests for copies of proposals and/or cost estimates from proposers
- All written requests for SANDAG public records referring to the California Public Records Act or the federal Freedom of Information Act
- All requests from attorneys for records

6.3 Keep in mind the above list is not exhaustive. If a staff member is unsure whether a particular type of record should be released, the staff member should refer the request to the Office of General Counsel who will prepare an appropriate response.
Timing on responses to public record requests is very important. Under the law a response must be provided to the requester within ten (10) calendar days. If a staff member is unable to meet this deadline, the staff member should immediately contact the Office of General Counsel for assistance.

Adopted June 2003
Amended December 2006
PROCUREMENT OF SERVICES

Pursuant to Public Utilities Code section 132352.4, the following statutory requirements apply to procurements of services. If the estimated total cost of required services exceeds one hundred thousand dollars ($100,000), the services will not be performed by another government entity, and the services are not within the category of services defined in Section 4525 of the Government Code, SANDAG must solicit bids in writing and award the work in a competitive procurement process that is in the best interest of SANDAG’s best interest. Services defined in Section 4525 include: architectural, landscape architectural, engineering, environmental, land surveying services, and construction project management services, as those terms are defined in Government Code section 4525 (hereinafter "Section 4525 Services"). If Section 4525 Services with a contract value in excess of $50,000 must be procured or the contract will be funded with federal money SANDAG will make the procurement pursuant to the provisions of Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code. SANDAG must use the procedures of the Brooks Act if federal funds are used and the services are architectural or engineering in nature (hereinafter "A&E Services"). Contracts that do not exceed these statutory limitations may be procured using simplified procedures. All references to the Executive Director in this policy also apply to the Executive Director’s designee.

Procedures

1. Micro Service Agreements ($2,500 or less). These procedures apply to the procurement of all services excluding Section 4525 Services funded with federal money.

   1.1 For purchases below $2,500 a micro purchase procurement method may be used. A micro purchase is a non-competitive purchase technique; however, the price of the item must still be fair and reasonable.

   1.2 There should be equitable distribution among qualified service providers in the local area and no splitting of procurements to avoid competition.

   1.3 A bid is only required from the vendor of choice and a purchase order, invoice, or simple letter agreement may be used instead of the standard services agreements.

2. Minor Service Agreements ($2,501 - $10,000). These procedures apply to the procurement of all services excluding Section 4525 Services funded with federal money.

   2.1 If the estimated value of the contract is $10,000 or less, staff may select a qualified proposer whose proposal is most advantageous to the Board, price and all other factors considered, with the approval of their division director or department director.

   2.2 The Executive Director shall determine the selection procedure for contracts valued between $10,001 and $100,000,999 to distribute work in a fair and equitable manner. Prior approval of the selection procedure shall be obtained from the
applicable level of management. An informal competitive process shall be followed with price or rate quotations obtained from an adequate number of qualified sources to ensure that SANDAG is obtaining a fair and reasonable price. The informal competitive process must be documented by staff. In obtaining price or rate quotations, a scope of work shall be developed and supplied to all bidders.

3. Major Service Agreements ($105,000 and greater). These procedures apply to the procurement of all services including procurement of Section 4525 Services.

3.1 Normally, a "one-step" selection procedure will be used for service contracts in excess of $1050,000. The "one-step" competitive process is as follows:

3.1.1 Firms shall submit a response to a SANDAG Request for Proposals (RFP). The RFP shall include:

3.1.1.1 Pass/fail criteria to be used as an initial screening of responses. Such criteria shall include, but not be limited to, insurance requirements, licensing, and any other consideration which would make the proposer ineligible to perform the work.

3.1.1.2 All evaluation factors and their relative importance.

3.1.1.3 The standard contract language that the successful proposer will be required to comply with, including applicable federal clauses and certifications.

3.1.2 Notice of the professional services required shall be published at least once in a newspaper of general circulation in San Diego County and in community newspapers, as appropriate, at least three weeks before the proposal due date. For federally funded projects, notice shall also be published in one or more DBE-certified newspapers and in such other minority newspapers as appropriate in San Diego County. The notice shall state that the Board is interested in receiving responses from qualified firms, and indicate how additional information can be obtained, and the time and place for receiving responses.

3.1.3 Notice shall also be sent to firms or individuals previously known to be interested in providing the required services, including small and emerging businesses on SANDAG’s various interested party lists, and to appropriate DBE firms or individuals listed in the SANDAG DBE Directory (for federal procurements).

3.1.4 Responses to an RFP shall list all proposed subconsultants and subcontractors, their area of the work, and identify which of them are certified DBEs.

3.1.5 Responses to an RFP shall include a cost estimate.

3.1.5.1 For Section 4525 Services, separately bound or sealed cost proposals shall be submitted as part of the process and shall not be opened.
until after the evaluation committee has ranked the proposers. Cost proposals shall be excluded as an evaluation factor and will only be used by the Executive Director, or his/her designee, when negotiating within the prescribed budget, except as provided in 3.1.8 below.

3.1.5.2 For all other services, the cost proposal shall be submitted along with the technical proposal and will be used as an evaluation factor by the evaluation committee.

3.1.6 The responses shall be evaluated by an evaluation committee. The evaluation committee should consist of SANDAG staff and at least one person from outside the agency.

3.2 The top-ranked firm(s) shall then be interviewed, if deemed necessary. The final list of qualified firms shall be based on the response to the RFP, references, the interview, and other relevant factors. The project manager will summarize the findings of the evaluation committee in a recommendation memo to the Executive Director. The memo shall include the evaluation committee’s recommendation for negotiations with one or more firms in the competitive range.

3.2.1 The Executive Director will approve or reject the recommendation based upon information provided by the evaluation committee, and other factors as deemed appropriate, including, but not limited to, qualifications, ability to meet schedule and budget, cost of work, meeting insurance requirements, and DBE participation (for federally funded projects). The Executive Director may also interview one or more of the firms prior to making a selection.

3.2.2 Approval by the Executive Director of the recommendation shall be deemed approval to enter into negotiations with one or more firms in the competitive range.

3.2.2.1 For contracts for Section 4525 Services, the separately submitted cost proposal shall be used as a basis for negotiation. Negotiations will be conducted by the Executive Director, or his/her designee, and can include factors other than cost, such as staffing levels, project schedule, etc. Should negotiations fail, the Executive Director, or his/her designee, will enter into negotiations with the next ranked firm. Once negotiations are complete, a contract incorporating the negotiated terms and conditions will be prepared for the approval of the Executive Director or his/her designee. Only the cost proposal of the firm in negotiations shall be opened. At the end of the process, all unopened cost proposals shall be disposed of, unopened.

3.2.2.2 For all other service contracts, the cost proposals from the firm(s) in the competitive range shall be used as a basis for negotiation. Negotiations will be conducted by the Executive Director, or his/her designee, and can include factors other than cost, such as staffing levels, project schedule, etc. If negotiations are only conducted with
one firm and those negotiations fail, staff will enter into negotiations with the next ranked firm. If negotiations are conducted with more than one firm in the competitive range, then staff attempt to obtain the most favorable terms by negotiating with all of the firms. Once negotiations are complete, a contract incorporating the negotiated terms and conditions will be prepared for the approval of the Executive Director or his/her designee.

3.3 For those services that are able to be defined with a very explicit scope of work containing detailed, straight-forward specifications that will allow consistent responses (i.e., freeway service patrol contracts), proposers will be considered qualified or not qualified based on predetermined criteria. Cost proposals will then be opened for those proposers considered qualified and the consultant with the lowest bid will be awarded the contract. The department directors will determine whether the nature of any of the services within their purview lend themselves to using this low bid procedure.

3.4 If desired, a “two-step” selection process may be followed, as follows:

3.4.1 Letters of Interest/Statements of Qualifications (LOIs/SOQs) shall be solicited from the current SANDAG consultant list for the particular services specialty.

3.4.2 Notice of the professional services required shall be published at least once in a newspaper of general circulation in San Diego County and in one or more DBE-certified newspapers in San Diego County at least three weeks before the proposal due date and in such other minority and community newspapers, as appropriate. The notice shall state that the Board is interested in receiving LOIs/SOQs from qualified firms, and indicate how additional information can be obtained, and the time and place for receiving responses.

3.4.3 Requests for LOIs/SOQs may be sent to firms or individuals previously known to be interested in or capable of providing the required services. Reasonable effort shall be made to send requests to minority firms known to be capable of providing the required services.

3.4.4 “Pass/fail” criteria will be established by staff and clearly stated in the LOI/SOQ to be used as a screening of responses. Such criteria shall include, but not be limited to: adherence to project budget, insurance requirements, and DBE participation.

3.4.5 An evaluation committee will be formed, which should consist of SANDAG staff and at least one person from outside the agency.

3.4.6 The evaluation committee will evaluate the SOQs and the project manager will prepare a memo to the Executive Director summarizing the evaluation committee’s findings and recommending one or more qualified firms to be invited to receive an RFP. Following approval by the Executive Director, staff shall then issue an RFP to the qualified firm(s). The RFP shall include all evaluation factors and their relative importance and the contract that the
successful proposer will be expected to execute (including all applicable federal clauses and certifications).

3.4.7 From this point, the steps above for a one-step procurement should be followed.

4. Compliance with Brooks Act Provisions for Federally Funded Contracts. If federal funds are used and the services are A&E in nature, SANDAG shall comply with the provisions of the Brooks Act.

5. Non-Competitive Procurements (More than $2,500)

5.1 Also known as sole source acquisitions, these shall only be permitted when the conditions below are met.

5.2 When the acquisition will be paid for in whole or in part by federal funds, one of the following conditions must be met:

5.2.1 There is an urgent need for the service due to an emergency or some other exigency that will not permit a delay resulting from competitive solicitation. Examples of such need include a danger to the public or loss of use of a transportation facility used by the public.

5.2.2 Staff solicited competitive bids and was unable to obtain a responsive bid from a responsible bidder.

5.2.3 The grantor agency providing funds for the project has approved sole source acquisition.

5.2.4 The service is only available from a single source.

5.3 When there are no federal funds involved one of the following additional factors may be utilized to justify a sole source acquisition:

5.3.1 There is only one consultant capable of providing the services because the services are unique or highly specialized.

5.3.2 The services should be purchased from a particular consultant in the interest of economy or efficiency as a logical follow-on to services already in progress under a competitively awarded contract.

5.3.3 The cost to prepare for a competitive procurement exceeds the cost of the services.

5.3.4 The services are essential to maintain research or operational continuity.

5.3.5 The service is one with which staff members who will use the deliverables have specialized training and/or expertise and retraining would incur substantial cost in time and/or money.
6. General Conditions

6.1 In the event that circumstances dictate other than the processes indicated above for procurements that do not exceed $100,000, the Executive Director may authorize a variation within the limits of Public Utilities Code section 132352.4. For procedural variations on procurements that will exceed $100,000, prior Board concurrence shall be obtained following submittal of a written statement by staff setting forth the reasons for not pursuing all or part of any of the processes.

6.2 Where proposals received are deemed inadequate by the Executive Director, the Board may authorize a negotiated contract with a recommended firm based on a newly approved scope of services, performance schedule, and/or instructions and conditions.

6.3 The Executive Director is not required to make a contract award if he/she determines that the proposals received or contract terms negotiated by SANDAG staff are not in SANDAG's best interests.

6.4 The Executive Director may approve contract amendments that exceed the project budget totaling up to $100,000 that are necessary to complete services as originally contemplated subject to the limitations set forth in Section 12.2 of this policy. The Board will be notified of all such amendments. Contract amendments that will cause the project budget to be exceeded by more than in excess of $100,000 or those contemplating a significant change in the original scope of services, must be processed in accordance with the SANDAG's procurement manual and policies.

6.5 For purchases involving no federal funds and not exceeding $25,000, a purchase order may be used. For purchases in excess of $2,500 involving federal funds, all applicable federal requirements and certifications must be attached to the purchase order or contract. For purchases that exceed $510,000, a contract must be used in order to ensure provisions are included to protect the interests of SANDAG.

6.6 The Board's Equal Employment Opportunity Program will be incorporated by reference in all services contracts. The Board's Disadvantaged Business Enterprise (DBE) Program shall be incorporated by reference in all services contracts that are federally funded. DBEs shall have every possible opportunity to participate in the procurement of services as set forth in the Board's DBE program.

7. Conflicts of Interest

7.1 A consultant is eligible for award of service contracts by SANDAG so long as the contract in question does not create an actual, potential, or apparent conflict of interest. A prohibited conflict of interest exists when a firm is or may be unable to render impartial, objective assistance or advice to SANDAG or where a firm would receive an unfair competitive advantage. Prohibited conflicts of interest include, but are not limited to, the following situations:
7.1.1 Any firm that provides design services to SANDAG for a design-bid-build project will be ineligible for award of a construction contract to construct the improvements, which are the subject of the design services.

7.1.2 Any firm, except for General design/Engineering Consultants, for a design-bid-build project, that provides design services to SANDAG will be ineligible for award of any contract to provide construction management services resulting from the specific project for which design services were provided.

7.1.3 Any General design/Engineering Consultant for a project is eligible for award of a contract to provide the following general construction management services for that project so long as a SANDAG employee will oversee the project and make all final decisions and approvals: Office Engineer, Assistant Resident Engineer, Inspector, and Administrative/Clerical Assistant. General design/engineering consultants for a project are not eligible for award of a contract to provide the following construction management services for that project: Project Manager and Resident Engineer.

7.1.4 Any firm that provides construction management services to SANDAG for a design-bid-build project will be ineligible for award of a construction contract for which construction management services were or will be provided.

7.1.5 SANDAG shall not contract with, and will reject any bid or proposal submitted by, the following persons or entities, unless the Executive Director finds that special circumstances exist which justify the approval of such contract:

7.1.5.1 Persons employed by SANDAG;

7.1.5.2 Profit-making firms or businesses in which SANDAG employees serve as officers, principals, partners or major shareholders;

7.1.5.3 Persons who, within the immediately preceding twelve (12) months, were employed by SANDAG and (1) were employed in positions of substantial responsibility in the area of service to be performed by the contract, or (2) participated in any way in developing the contract or its service specifications; or

7.1.5.4 Profit-making firms or businesses in which the former employees described in subsection 7.1.5.3 serve as officers, principals, partners or major shareholders.

7.2 General consultants or subconsultant firms may provide services on other SANDAG projects. A consultant shall not, however, participate in the review and analysis of, or render opinions regarding, its work performed on other SANDAG projects or as limited in this section. Unless otherwise defined by the Executive Director, a general consultant is a consultant whose procurement is typically for a two-year period with an option for one or more one-year option extensions to provide services as needed.
for various assigned projects from time to time on a work order or task order basis, rather than for one specific predefined project. General consultants support SANDAG staff in managing other SANDAG consultants. General consultants are prime consultants to SANDAG. Subconsultants to general consultants are not classified as general consultants. General consultant procurements are identified as such during the RFP process.

7.3 A Notice of Potential for Conflict of Interest shall be included within any RFP for services issued by SANDAG. The Notice shall be the policy of the Board as listed herein. Any major service agreement issued in accordance with this policy shall include or make reference to the policy listed herein.

7.4 A “firm” shall be defined as any company or family of companies where there is a single parent board of directors or staff of officers who can influence the policies and actions of the design company, construction management company, and the construction company.

7.5 “Ineligible” firms shall include the prime consultant for the services, subcontractors for portions of the services, and affiliates of either. An affiliate is a firm that is subject to the control of the same persons through joint ownership or otherwise.

7.6 If there is any doubt by a firm regarding a potential conflict of interest for a specific project or function, the appropriate member of management staff, depending on type of project, will, upon written request, provide a written ruling. This procedure is encouraged prior to submittal of RFPs. In the event a conflict of interest is determined to exist, a written appeal may be made by the affected firm to the Executive Director within five calendar days of notice from SANDAG the conflict. The Executive Director shall determine the adequacy of the appeal and make a subsequent final decision. No further appeal shall be considered.

7.7 The Executive Committee shall review and, if appropriate, waive any actual, potential, or apparent conflict of interest that may exist or arise as a result of concurrent legal representation of SANDAG and parties whose interests may conflict.

8. Protests to Solicitation, Bid, or Award

8.1 SANDAG shall include in all contracts a procedure to be followed by interested parties who wish to protest a specification or procedure. The procedure shall include the following:

8.1.1 A requirement that protest submittals shall be in writing, be specific to the specification being protested, state the grounds for protest, and include all documentation needed to enable SANDAG to reach a decision.

8.1.2 A statement that the protest shall be submitted within clearly defined time limits prior to receiving proposals or opening bids or prior to award of contracts.
8.1.3 A statement specifying the review and determination process by SANDAG, including time limits for response.

8.1.4 Requirements for submittal of a protest reconsideration.

8.1.5 A statement that the initial protest will be reviewed by a protest review committee and that protest reconsiderations will be reviewed by the Executive Director.

9. Procedure for Consultants with Claims Against SANDAG on Service Contracts

9.1 On all SANDAG services contracts estimated to cost more than $5025,000, a section shall be included in the contract provisions that specifies how a consultant should file a "Notice of Potential Claim" and the procedures for review and disposition thereof.

9.2 Written notice of the potential claim must be given to the project manager prior to the time the consultant shall have performed the work giving rise to the potential claim, if based upon an act or failure to act of the project manager; or in all other cases, within 15 calendar days of the happening of the event, thing or occurrence giving rise to the potential claim.

9.3 It is the intention of this requirement that differences between the parties arising under and by virtue of the contract be brought to the attention of the project manager at the earliest possible time in order that such matters may be settled, if possible, or other appropriate action promptly taken. The consultant shall agree to have no right to additional compensation for any claim that may be based on any such act, failure to act, event, thing or occurrence for which no written notice of potential claim as herein required was filed. A claim must be presented and acted upon as a prerequisite to suit thereon.

9.4 If a consultant files an appropriate "Notice of Potential Claim," the administrative procedure shall be as follows:

9.4.1 SANDAG staff shall respond in writing within 25 calendar days with an appropriate decision. It is expected that SANDAG staff shall investigate the area of claim thoroughly and shall issue a decision that is fair to all parties. It is further expected that every effort will be made to resolve the claim at the job level.

9.4.2 If it appears to staff that the claim cannot be settled, the project manager and contracts staff shall, as soon as practicable, forward the details of the claim to the Executive Director and shall so notify the consultant of the action.

9.4.3 The Executive Director shall direct the appropriate department director to obtain all pertinent information, including any oral or written presentation, concerning the claim the consultant might wish to present. The department director shall provide all information to the Executive Director, including any recommendations.
9.4.4 The Executive Director shall report a final decision in writing to the consultant. The written decision shall notify the consultant that this action completes the consultant's administrative remedies and any further dispute would have to be resolved by either a nonbinding Dispute Resolution Board or arbitration if provided for in the provisions of the contract and agreed to by both parties, or litigation.

9.4.5 The final recommendation of the Dispute Resolution Board or arbitration shall be presented to the Executive Director for approval before going to the Board for action.

9.4.6 Any claim disputes not resolved by the Executive Director shall be reported to the Board at one of the Board's regular meetings.

9.5 If a contract amendment proposed for the settlement of a claim causes a budget impact over $100,000, the amendment must be sent to the Board for approval.

9.6 Federal Transit Administration review and concurrence may be required for claim settlements that exceed $100,000 if federal funds are involved.

9.7 A list of all outstanding claims exceeding $100,000 which involve the use of federal funds shall be included in the federal grants quarterly report.

10. Debarment Procedures for Service Contracts

10.1 In addition to all other remedies permitted by law, SANDAG may, upon advice of the Executive Director and Office of General Counsel, by resolution declare a proposer or consultant ineligible to bid on SANDAG contracts for a period not to exceed three years for any of the following grounds:

10.1.1 unjustified failure or refusal to timely provide or properly execute contract documents;

10.1.2 unsatisfactory performance of contract;

10.1.3 excessive and/or unreasonable claims while performing work for SANDAG;

10.1.4 two or more occasions within a two year period of failure to submit bond or insurance documents acceptable to SANDAG in the time periods required;

10.1.5 unjustified refusal to properly perform or complete contract work or warranty performance;

10.1.6 unjustified failure to honor or observe contractual obligations or legal requirements pertaining to the contract;

10.1.7 conviction under a state or federal statute or municipal ordinance for fraud, bribery, theft, falsification or destruction of records, receiving stolen property or of any other similar crime;
10.1.8 any offense or action which indicates a lack of business integrity and which
could directly affect the reliability and credibility of performance of the
consultant on future contracts with SANDAG;

10.1.9 any debarment of the consultant by another governmental agency; and

10.1.10 two or more claims of computational, clerical, or other error in cost proposal
submission within a two-year period.

10.2 SANDAG may permanently debar a firm for a conviction under federal or state
antitrust statutes involving public contracts or the submission of bid proposals, for
any corrupt practices involving the administration or award of a contract with
SANDAG, or permanent debarment of the bidder or consultant by another
governmental agency, as permitted by law.

10.3 The proposer or consultant shall be provided notice and an opportunity to present
evidence and show cause before the Board why such ineligibility should not be
declared after the Executive Director has established a factual basis for debarment.

10.4 A consultant’s debarment shall be effective amongst SANDAG and any of its
subsidiary entities. Debarment prohibits SANDAG and subsidiary entities from
executing contracts with the debarred consultant.

10.5 Debarment constitutes debarment of all divisions or other organizational elements
of the consultant, unless the development decision is limited by its terms to specific
divisions, organizational elements, or commodities. The debarment decision may be
extended to include any affiliate of the consultant if the affiliate is (1) specifically
named, and (2) given written notice of the proposed debarment and an opportunity
to respond.

10.6 Notwithstanding the debarment of the consultant, the Board may continue
contracts in existence at the time the consultant is debarred, unless the Board directs
otherwise, after receiving advice from the Executive Director or his or her designee
as to the effects of termination of an existing agreement.

11. Contract Administration and Consultant Assurances

11.1 SANDAG consultants must meet all applicable laws concerning labor law, labor
rates, EEO and licenses.

11.2 SANDAG shall ensure that all services requiring a licensed consultant shall be
performed by licensed consultants.

11.3 Consultants will be responsible for complying with the provisions of the Fair Labor
Standards Act of 1938 as amended.

11.4 Consultants shall be required to provide Workers’ Compensation Insurance to their
employees in accordance with the provisions of Section 3700 of the Labor Code.
Prior to commencement of work, the consultant shall sign and file with SANDAG a certification of compliance.

11.5 The SANDAG requirements for consultant labor compliance shall be guided by the California Labor Code and the “Labor Compliance” section of the California Department of Transportation’s Construction Manual.

11.6 Consultants shall comply with the EEO requirements set forth by Title VI of the 1964 Civil Rights Act on any project where Federal funds are included, and any other requirements established by the Federal Transit Administration.

11.7 Consultants shall comply with Sections 1431 and 1735 of the Labor Code and Sections 300 and 317 through 323 of Title 8 of the California Administrative Code, which prohibits labor discrimination and requires the consultant to submit an Equal Opportunity Program and certification fee to the Fair Employment Practice Commission for contracts over $200,000.

12. Amendments to Service Contracts

12.1 All contracts may be amended by a suitable amendment processed in accordance with SANDAG’s procurements manual and policies.

12.2 The Executive Committee or Transportation Committee or, if not practical, the Chairperson of the Board or Vice Chairperson in the absence of the Chairperson, are hereby authorized to approve amendments that will cause the project budget to be changed in an amount exceeding $100,000 when waiting for Board approval could potentially delay a project or increase the cost of the change. In such an instance, the Executive Director shall notify the Board of the Committee’s action or Chairperson/Vice Chairperson’s action at the next regular Board meeting.

12.3 All amendments that impact or potentially impact Board-adopted policies shall be brought before the Board for decision.

12.4 All amendments which utilize federal funds shall conform to the Code of Federal Regulations, Volume 49, Part 18 and Federal Transit Administration Circular 4220.1 E and any successors thereof that are applicable by law.

Adopted October 2003
Amended November 2004
Amended December 2006
DELEGATION OF AUTHORITY

The purpose of this policy is to establish the authority granted by the Board of Directors to the Executive Director. It also provides the Executive Director with the authority to delegate functions he or she has been delegated by the Board to SANDAG staff.

Definitions

The following words shall have the meanings indicated when used in this policy:

“Agreement” shall be interpreted to include contracts, memorandums of understanding, agreement amendments, purchase orders, invoices, money transfers, or any other document that could be enforced against SANDAG in a court of law.

“Budget” shall be interpreted to include the SANDAG’s annual budget, revisions and amendments thereto, and the Overall Work Program.

“Emergency or Urgent Need” for purposes of this policy shall mean a situation in which, in the Executive Director’s or his/her designee’s opinion, injury to persons, or significant injury to property or interruption of a public service will occur if immediate action is not taken.

Procedures

1. Adoption of a budget by the Board shall automatically authorize the Executive Director to enter into any agreements or take any other actions necessary to implement the budget items or other actions approved by the Board.

2. Any authority delegated to the Executive Director shall automatically vest with a Chief Deputy Executive Director when business must be conducted in the absence of the Executive Director.

3. In the event of emergency or an urgent need, the Executive Director is authorized to take all necessary actions to prevent significant unnecessary loss to SANDAG, a shut-down of public services, or to address a situation threatening the health or safety of persons or property, including, but not limited to, authorization to contract with a contractor or consultant on a sole source basis, consistent with applicable state or federal law without prior approval from the Board. In the event such an emergency or urgent need occurs, the Executive Director will consult with the Chair of the Board, promptly communicate all actions taken to the Board members, and submit a report to the Board at its next regular meeting in order to obtain ratification for those actions.

4. The Executive Director is hereby authorized to carry out the actions set forth below. In the event any of the authorities in this paragraph are exercised, the Executive Director will report actions taken to the Board in summary written form at the next regular meeting of the Board.
4.1 Enter into agreements not currently incorporated in the budget and make other modifications to the budget in an amount up to $100,000 per transaction so long as the overall budget remains in balance. This provision may not, however, be used multiple times on the same budget line item or contract in order to circumvent the $100,000 limit.

4.2 Approve all design plans, specifications and estimates for capital improvement projects.

4.3 Execute all right-of-way property transfer documents, including but not limited to, rights of entry, licenses, leases, deeds, easements, escrow instructions, and certificates of acceptance.

4.4 Direct payment to persons for right-of-way property so long as the payment amount does not exceed 110 percent of the appraised value or $100,000 above the appraised value, whichever is greater.

4.5 Reject all bids and/or suspend the competitive procurement process.

4.6 Provide the final determination to persons or firms filing a protest regarding SANDAG’s procurement or contracting processes or procedures.

4.7 File administrative claims and to initiate and maintain lawsuits on behalf of the Board to recover for damage to or destruction of SANDAG property, or interruption of a public service.

4.8 Settle all lawsuits initiated under paragraph 4.7.

4.9 Settle all lawsuits, alternative dispute matters, and claims that SANDAG must defend when the settlement amount does not exceed $100,000. In the event the Executive Director exercises this authority he/she shall send a memo to the members of the Board as soon as possible in order to notify them of any action taken.

4.10 Accept reimbursement from member agencies for use of SANDAG on-call contracts.

5. The Executive Director shall act as the appointing authority for SANDAG with the authority to appoint, promote, transfer, discipline, and terminate all employees of SANDAG subject to the provisions of SANDAG’s Administrative Rules and Regulations.

6. Pursuant to Article V, Section 4, paragraph c of the Bylaws, the Executive Director shall promulgate an administrative policy governing the procedures for delegating his/her authority to other SANDAG staff.

Adopted October 2003
Amended November 2004
Amended December 2006
PROCUREMENT AND CONTRACTING – EQUIPMENT & SUPPLIES

Purpose

To establish procedures for acquiring supplies, equipment, and materials.

Background

When purchasing equipment, supplies, and materials, SANDAG staff is required to use a competitive procurement process. Pursuant to Public Utilities Code section 132352.4(5), SANDAG is required to select the lowest responsible bidder meeting specifications for awards of $50,000 or more, not including sales tax. This section also states two exceptions to this requirement. First, if an article of a specified brand or trade name is the only article that will properly meet the needs of SANDAG’s needs, competitive procurement is not required. Second, the Board may approve a purchase of equipment, supplies, or materials that exceeds $50,000 without utilizing competitive procurement methods if it is in the best interest of SANDAG to do so.

Policy

1. Supplies, equipment, and materials not otherwise provided for in a contract for construction or services, and estimated to cost more than $50,000, shall be listed separately in the budget or otherwise provided for by Board action or Executive Director approval before suppliers are asked to submit any binding offers.

2. For purchases involving no federal funds and not exceeding $25,000, a purchase order may be used. For purchases in excess of $2,500 involving federal funds, all applicable federal requirements and certifications must be attached to the purchase order or contract. For purchases that exceed $5025,000, a contract must be used in order to ensure provisions are included to protect SANDAG’s interests.

3. Sole source acquisition shall only be permitted when the conditions below are met.

   3.1 When the acquisition will be paid for in whole or in part by federal funds one of the following conditions must be met:

      3.1.1 There is an urgent need for the articles due to an emergency or some other exigency that will not permit a delay resulting from competitive solicitation. Examples of such need include a danger to the public or loss of use of a transportation facility used by the public.

      3.1.2 Staff solicited competitive bids and was unable to obtain a responsive bid from a responsible bidder.

      3.1.3 The grantor agency providing funds for the project has approved sole source acquisition.
3.1.4 The item is only available from a single source.

3.1.5 The item is an associated capital maintenance item as defined in 49 U.S.C. § 5307 (a)(1) that is procured directly from the original manufacturer or supplier of the item to be replaced. Written certification must first be provided to the federal funding agency stating that such manufacturer or supplier is the only source for such item, and that the price of such item is no higher than the price paid for such item by like customers. A cost analysis verifying the proposed cost data, the projections of the data, and evaluation of the specific elements of costs and profit, is required.

3.2 When there are no federal funds involved the following additional factors may make sole source acquisition within the best interest of SANDAG. Therefore, a sole source for these types of procurements may be permitted when one of the conditions in this section (3.2) or section 3.1 is met:

3.2.1 There is only one vendor capable of providing the item because the item is unique or highly specialized.

3.2.2 The item should be purchased from a particular vendor in the interest of economy or efficiency as a logical follow-on to an order already issued under a competitively awarded contract.

3.2.3 The cost to prepare for a competitive procurement exceeds the cost of the item.

3.2.4 The item is an integral repair part or accessory compatible with existing equipment.

3.2.5 The item is essential in maintaining research or operational continuity.

3.2.6 The item is one with which staff members who will use the item have specialized training and/or expertise and retraining would incur substantial cost in time and/or money.

3.2.7 The procurement is of the type that may be made as a sole source procurement pursuant to the Public Contracts Code.

4. For purchases below $2,500 a micro purchase procurement method may be used. A micro purchase is a non-competitive purchase technique, however, the price of the item must still be fair and reasonable. There should be equitable distribution among qualified suppliers in the local area and no splitting of procurements to avoid competition. A bid is only required from the vendor of choice and no contract is required.

5. For purchases between $2,500 and $50,000, a simplified competitive procurement method may be used:

5.1. Staff shall obtain written bids or document oral bids from at least three suppliers in a manner that permits prices and other terms to be compared.
5.2 Staff shall recommend the supplier that will provide the best value to SANDAG, taking into account the possible range of competing product and materials available, fitness of purpose, manufacturer’s warranty, and other similar factors in addition to price.

5.3 Staff shall obtain approval for use of the recommended supplier from a division or department director if the purchase will be under $10,000 and from the Executive Director if it is between $10,000 and $49,999.

6. For purchases of $50,000 or more, an invitation for bids (IFB) shall be issued and the award will be made to lowest responsible bidder submitting a responsive bid:

6.1 The IFB will be posted on the SANDAG’s Web site. In addition, notice of the IFB will be sent to suppliers previously known to be interested in providing the needed article(s).

6.2 Notice of the IFB will be published in at least one newspaper of general circulation in San Diego County and in community newspapers and business publications as appropriate at least two weeks before the bid opening date. The notice shall state the date, location and time for receiving and opening the sealed bids. For federally funded projects, the IFB must also be published in one or more Disadvantaged Business Enterprise-certified publications.

7. For purchases of $50,000 or more that are better suited for a Request for Proposals (RFP) (negotiated purchase) or purchase on the open market, instead of an IFB (low bidder), approval may be sought from the Contracts Compliance Specialist to utilize a different procurement process. An alternate procurement process to the IFB may be in SANDAG’s best interest in the following example situations:

7.1 The purchase may be made at a lower price on the open market.

7.2 Competitive bidding is an inadequate method of procurement because it is necessary to purchase prototype equipment or modifications in order to conduct and evaluate operational testing.

7.3 The article(s) to be procured is undergoing rapid technological changes and it is in the public’s interest to issue an RFP so that the broadest possible range of competing product and materials available, fitness of purpose, manufacturer’s warranty, and other similar factors in addition to price, can be taken into consideration.

8. If staff seeks authorization to utilize an alternate procurement process under section 7, documentation setting forth the reasons a deviation from the typical competitive bidding process is warranted, and a technical evaluation of the articles, prices, and suppliers shall be placed in the contract folder.
9. SANDAG shall not contract with, and will reject any bid or proposal submitted by, the following persons or entities, unless the Executive Director finds that special circumstances exist which justify the approval of such contract:

9.1. Persons employed by SANDAG;

9.2. Profit-making firms or businesses in which SANDAG employees serve as officers, principals, partners or major shareholders;

9.3. Persons who, within the immediately preceding twelve (12) months, were employed by SANDAG and (1) were employed in positions of substantial responsibility in the area of service to be performed by the contract, or (2) participated in any way in developing the contract or its service specifications; or

9.4. Profit-making firms or businesses in which the former employees described in subsection 9.3 serve as officers, principals, partners or major shareholders.

Adopted November 2003
Amended December 2006
PROCUREMENT AND CONTRACTING – CONSTRUCTION
Purpose

To establish a method for administering SANDAG construction contracts.

Background

Public Utilities Code section 132352.4 states that if the estimated total cost of any construction project or public works project will exceed fifty thousand dollars ($50,000), SANDAG must solicit bids in writing and award the work to the lowest responsible bidder or reject all bids. Section 132352.4 further mandates that SANDAG establish rules for procurement of construction of public works projects. Additionally, Government Code section 14085 et seq. requires that any public entity receiving state funds for a guideway project adopt policies and procedures for contract administration. Code of Federal Regulations, Volume 49, Part 18, and Federal Transit Administration Circular 4220.1E also establish procedures which SANDAG must be follow when administering contracts using federal funds.

Policy

1. Bidding Process

A competitive bidding process shall be utilized to the greatest extent possible for all construction contracts.

1.1. Bid Procedure for Small Contracts

1.1.1 For construction contracts estimated to cost $2,500 or less, the work may be awarded without competition so long as the price is determined to be fair and reasonable. Otherwise, staff shall seek a minimum of three bids which may be either written or oral to permit prices and other terms to be compared.

1.1.2 For construction contracts estimated to cost more than $2,500 but not more than $50,000, the following procedures shall be followed:

1.1.2.1 Written Notices Inviting Bids (NIBs) will be sent to a minimum of three qualified bidders by mail or facsimile on the same date. The bid period will be a minimum of three calendar days. When possible, NIBs should be sent to at least two certified Disadvantaged Business Enterprise (DBE) firms. The NIB will contain the time and location for receiving and opening bids.
1.1.2.2 The contract will be awarded to the lowest responsive and responsible bidder after a Notice of Intent to Award has been issued to all bidders and a protest period of five working days has expired.

1.2. Bid Procedure for Contracts in Excess of $50,000

1.2.1 Public notice of a construction contract estimated to cost more than $50,000 shall be given by publication once a week for at least two consecutive weeks, at least three weeks before the day set for receiving bids, as follows:

1.2.1.1 In a newspaper of general circulation, published in San Diego County;

1.2.1.2 In a trade paper of general circulation published in Southern California devoted primarily to the dissemination of contract and building news among constructors and building materials supply firms (optional for projects estimated to cost less than $100,000); and

1.2.1.3 In at least one DBE-certified newspaper or trade publication.

1.2.2 Advertisements may also be placed in other minority and community newspapers, as appropriate. Appropriate DBEs listed in the current SANDAG DBE Directory will be notified of any work advertised under this policy.

1.2.3 The notice shall state the time and place for receiving and opening sealed bids and shall describe, in general terms, the work to be done.

1.3. Contractor's Qualifications

1.3.1 SANDAG may, for prospective contractors whose bid could exceed $500,000, adopt and apply a uniform prequalification system for rating bidders, on the basis of a standard experience questionnaire and financial statement verified under oath in respect to the contracts upon which each bidder is qualified to bid. A contractor may request to be prequalified for a predetermined contract amount prior to bidding.

1.3.2 In no event shall any bidder be awarded a contract if such contract award would result in the bidder having under contract(s), work cumulatively in excess of that authorized by its qualification rating.

1.4. Form of Bids

1.4.1 SANDAG shall furnish each bidder with a standard proposal form, to be filled out, executed, and submitted as its bid.
1.4.2 All bids shall be submitted in a sealed envelope accompanied by one of the following forms of bidder's security: cash, a cashier's check, certified check, or a bidder's bond executed by an admitted surety insurer and made payable to SANDAG. A bid shall not be considered unless accompanied by one of the forms of bidder's security. Bidder's security shall be at least 10 percent of the amount bid. Bidder's bonds must be issued by bonding companies registered in the State of California.

1.4.3 Late bids shall not be accepted after the time and date designated in the notice.

1.4.4 Any bid may be withdrawn any time prior to the time fixed in the notice for bid opening only by written request to SANDAG's Executive Director. The request shall be executed by the bidder or its designated representative. Bids shall not be withdrawn after the time fixed for public opening.

1.4.5 On the day specified in the notice, staff shall publicly open sealed bids and announce the apparent lowest bidder(s).

1.5. Review of Bids

1.5.1 After the bids are publicly opened, the Director of Mobility Management & Project Implementation or his or her designee (hereinafter "Director"), shall review all bids in order to determine which bidder is the lowest, responsive and responsible bidder. The term "lowest, responsive and responsible bidder" shall mean the lowest monetary bidder (excluding taxes) whose bid is responsive and who is responsible to perform the work required by the solicitation and contract documents.

1.5.2 SANDAG may investigate the responsibility and qualifications of all bidders to whom the award is contemplated for a period not to exceed 90 days after the bid opening. The 90 day review period may be extended upon the written request by the Director and written approval by the affected bidders.

1.5.3 SANDAG reserves the right to reject any or all bids and to waive any immaterial irregularity. No bid shall be binding upon SANDAG until after the contract is signed by both the contractor and SANDAG.

1.5.4 The lowest monetary bidder's bid will be evaluated by the Director in order to determine whether or not that bid is responsive. The term "responsive" is not defined by California law, but generally means that the bid has been prepared and submitted in accordance with the requirements of the solicitation and bid documents. These requirements shall generally include, but will not be limited to, the following:
1.5.4.1 Proposal and Cost Proposal - with bid amounts filled in.
1.5.4.2 Designation of Subcontractors - including dollar amounts.
1.5.4.2 Designation of DBE Suppliers and DBE Subcontractors - including dollar amounts.
1.5.4.3 Acknowledgment of Addenda.
1.5.4.4 Contractor's License Requirements.
1.5.4.5 Ability to Meet Minimum Insurance Requirements.
1.5.4.6 Public Contract Code 10162 Questionnaire.
1.5.4.7 Bidder’s Bond.
1.5.4.8 Noncollusion Affidavit.
1.5.4.9 Certification of Restrictions on Lobbying.
1.5.4.10 Disclosure of Lobbying Activities.
1.5.4.11 Certification Regarding Debarment

1.5.5 If the lowest monetary bidder's bid is responsive, then the bidder's qualifications will be evaluated by the Director to determine whether or not the bidder is responsible to perform the work required by the contract documents. The term “responsible” is defined by California law, but generally means that the bidder is able to demonstrate that it possess: (1) the capacity to perform the work required by the contract documents with respect to financial strength, resources available, and experience; and (2) the integrity and trustworthiness to complete performance of the work in accordance with the contract documents. The Director shall review “responsibility” of bidders based upon factors set forth below.

1.5.6 For all contracts in excess of $500,000, the following uniform system of determining whether or not a bidder is "responsible" shall be applied. The Director will consider the following non-exclusive list of factors in relation to the work to be performed for this project:

1.5.6.1 Financial Requirements:

1.5.6.1.1 Contractors shall have evidence of the availability of working capital that, times a factor of ten, must exceed the contract bid price;

1.5.6.1.2 The largest value of all work any bidding contractor has had under contract over a previous similar time frame as the subject contract shall meet or exceed the total amount of the bid;

1.5.6.1.3 The dollar value of at least one of the previous individual contracts listed shall be at least 50 percent of the dollar value bid on the SANDAG contract; and

1.5.6.1.4 The contractor shall have successfully completed contracts during the previous five years that together
exceed five times the annual value of the SANDAG contract.

1.5.6.2 Experience Requirements:

1.5.6.2.1 The contractor must demonstrate organization experience on work similar to the SANDAG contract by submitting a list, covering at least the previous five years, of all projects of any type that have been completed or are under construction. The list shall contain a name, title, address, and phone number for staff to contact to verify the contract details;

1.5.6.2.2 The contractor shall demonstrate individual experience by submitting a list of all officers, superintendents, and engineers who will be involved in the SANDAG contract. These key personnel shall have at least three years experience on contracts where the work is similar to the SANDAG contract. The individuals listed shall have been involved at the same level of responsibility on successfully completed contracts during the previous five years that together exceeds the value of the SANDAG contract. A resume for each individual listed shall include the name, title, address, and phone number of an individual or organization who can verify the individual's experience;

1.5.6.2.3 The contractor shall submit a summary of all claims made in the last five years arising out of previous contracts listed (this summary shall include all claims by owner against bidder or bidder against owner, and the final status of each claim);

1.5.6.2.4 The contractor shall state whether or not it has defaulted on a construction project within the last two years;

1.5.6.2.5 The contractor shall list any violation of the Apprenticeship Requirements under a State Business and Professions Code of Labor Code found by an appropriate authority within the last two years;

1.5.6.2.6 The contractor shall state whether they have been found guilty of failure to pay required prevailing wages on a public contract within the last two years;

1.5.6.2.7 The contractor shall state whether they have been formally found to be a nonresponsible bidder, for
reason other than being nonresponsive, by a public agency within the last two years;

1.5.6.2.8 The contractor shall list how many construction projects the bidder will be working on concurrently with the SANDAG project;

1.5.6.2.9 The contractor shall state whether they have ever been terminated by an owner or client, or rejected from bidding in a public works project in the last five years;

1.5.6.2.10 The contractor shall state whether a surety ever completed any portion of the work of the bidder's project within the last five years;

1.5.6.2.11 The contractor shall state whether the bidder, any officer of such bidder, or any employee of such bidder who has a proprietary interest in such bidder, has ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of a law or safety regulation, and if so, explain the circumstances; and

1.5.6.2.12 For all items identified under 1.5.6.2.1 through 1.5.6.2.11 above, the contractor shall provide name of owner, title of project, contract amount, location of project, date of contract, and name of bonding company.

1.5.6.3 Reporting Forms: In order to demonstrate that the SANDAG financial and experience requirements are met, the contractor shall submit, when requested by SANDAG, a standard experience questionnaire and financial statement verified under oath that shall meet the requirements adopted herein.

1.5.6.4 Failure to provide accurate information relative to its financial status or experience may result in the debarment of the contractor from future SANDAG work.

1.5.6.5 Questionnaires and financial statements shall not be considered public records nor open for public inspection.

1.5.7 SANDAG will make its determination of responsibility based upon information submitted by bidders, and, if necessary, interviews with previous owners, clients, design professionals, or subcontractors with whom the bidder has worked. If a nonresponsible bidder submits additional evidence, then that additional evidence shall be considered by
the Director in making the recommendation to the Executive Director regarding determination of the lowest responsive and responsible bidder and award of the contract.

1.6 Award or Rejection of Bids

1.6.1 If the Director finds that the lowest monetary bidder submitted a responsive bid and that the bidder is responsible, then that bidder shall be deemed the apparent lowest responsive and responsible bidder, and the Director shall report the findings as recommendation to the Executive Director.

1.6.2 If the Director finds that the lowest monetary bidder's bid is not responsive or that the lowest monetary bidder is not responsible, then the Director may review the responsiveness and responsibility of the next low monetary bidder. If the Director finds that the next low monetary bidder is responsive and responsible, then that next low bidder shall be deemed the apparent lowest responsive and responsible bidder, and the Director shall report the findings as recommendations to the Executive Director. The Director may continue to review the responsiveness and responsibility of the next low monetary bidders until he/she finds the lowest monetary bidder that is also responsive and responsible, and deemed lowest responsive and responsible bidder. In the event that one or more low monetary bidders are found by the Director to be nonresponsive or nonresponsible, those bidders will be given notice and a reasonable opportunity to present additional evidence to the Director within five working days after the bidder receives the notice.

1.6.3 The Executive Director may authorize a Limited Notice to Proceed (LNTP) to the apparent lowest responsive and responsible bidder for an amount not to exceed $250,000 prior to the award of the construction contract if the Executive Director determines that the award of an LNTP is justified.

1.6.4 If it is for the best interest of SANDAG, the Executive Director may, on refusal or failure of the successful bidder to execute the contract, award it to the second-lowest, responsive and responsible bidder.

1.6.5 If the second-lowest, responsive and responsible bidder fails to execute the contract, the Executive Director may likewise award it to the third-lowest responsible bidder.

1.6.6 On the failure or refusal of any bidder to execute the contract, its bidder's security shall be forfeited to SANDAG.

1.6.7 For all contract awards in excess of 25,000.00, the successful bidder must furnish a performance bond equal to at least one-half of the contract price and a payment bond equal to at least one hundred percent of the contract price.
1.6.8 Failure to furnish the required bonds shall constitute failure to execute the contract.

1.7 Return of Bidder's Security

1.7.1 SANDAG may withhold the bidder's security of the second- and third-lowest, responsive and responsible bidders until the contract has been finally executed. SANDAG shall, upon request, return cash, cashier's checks, and certified checks submitted by all other unsuccessful bidders within 30 days after the bid opening, and the bidder's bonds shall be of no further effect.

1.8 Protests to Solicitation, Bid, or Award

1.8.1 SANDAG shall include in all contracts a procedure to be followed by interested parties who wish to protest a specification or procedure. The procedure shall include the following:

1.8.1.1 A requirement that protest submittals shall be in writing, be specific to the specification or procedure being protested, state the grounds for protest, and include all documentation needed to enable SANDAG to reach a decision.

1.8.1.2 A statement that the protest shall be submitted within clearly defined time limits prior to receiving proposals or opening bids or prior to award of contracts.

1.8.1.3 A statement specifying the review and determination process by SANDAG, including time limits for response.

1.8.1.4 Requirements for submittal of a protest reconsideration.

1.8.1.5 A statement that the initial protest will be reviewed by a protest review committee and that protest reconsiderations will be reviewed by the Executive Director.

1.8.1.6 A statement that protests will be rejected if they are not complete.

1.9 Procedure for Subcontractor Substitution Protest

1.9.1 Subcontractor substitutions shall be made only pursuant to the provisions of the Subletting and Subcontracting Fair Practices Act, Public Contract Code section 4100 et seq., as it may be amended from time to time. Notwithstanding the foregoing, nothing in this policy is intended to require SANDAG to strictly comply with the Subcontracting Fair Practices Act. The Executive Director is hereby designated to carry out the functions
of the awarding authority under Section 4100 et seq., including the authority to conduct a hearing in the event of a protest to the substitution. The Executive Director shall make a written recommendation to the Board, the Board may adopt the recommendation without further notice or hearing, or may set the matter for a de novo hearing before the Board.

1.10 Procedure for Contractors with Claims Against SANDAG on Construction Contracts

1.10.1 On all SANDAG construction contracts estimated to cost more than $25,000, a section shall be included in the contract provisions that specifies how a contractor should file a "Notice of Potential Claim" and the procedures for review and disposition thereof.

1.10.2 Federal Transit Administration review and concurrence is required for claim settlements that exceed $1 million if FTA funds are involved.

1.10.3 A list of all outstanding claims exceeding $100,000 which involve the use of federal funds shall be included in the federal grants quarterly report.

1.11 Debarment Procedures for Procurement and Construction Contracts

1.11.1 In addition to all other remedies permitted by law, SANDAG may, upon advice of the Executive Director and Office of General Counsel, by resolution declare a bidder or contractor ineligible to bid on SANDAG procurement and construction contracts for a period not to exceed three years for any of the following grounds:

1.11.1.1 two or more claims of computational, clerical, or other error in bid submission within a two year period;

1.11.1.2 unjustified failure or refusal to timely provide or properly execute contract documents;

1.11.1.3 unsatisfactory performance of contract;

1.11.1.4 false, excessive and/or unreasonable claims while performing work for SANDAG;

1.11.1.5 two or more occasions within a two year period of failure to submit bond or insurance documents acceptable to SANDAG in the time periods required;

1.11.1.6 unjustified refusal to properly perform or complete contract work or warranty performance;

1.11.1.7 unjustified failure to honor or observe contractual obligations or legal requirements pertaining to the contract;
1.11.1.8. conviction under a state or federal statute or municipal ordinance for fraud, bribery, theft, falsification or destruction of records, receiving stolen property or of any other similar crime;

1.11.1.9. any offense or action which indicates a lack of business integrity and which could directly affect the reliability and credibility of performance of the contractor on future contracts with SANDAG; and

1.11.1.10. any debarment of the contractor by another governmental agency.

1.11.2 SANDAG may permanently debar such bidder or contractor for a conviction under federal or state antitrust statutes involving public contracts or the submission of bid proposals, for any corrupt practices involving the administration or award of a contract with SANDAG, or permanent debarment of the bidder or contractor by another governmental agency.

1.11.3 The bidder or contractor shall be provided notice and an opportunity to present evidence and show cause before the Board why such ineligibility shall not be declared after the Director has established a factual basis for debarment.

1.11.4 A contractor’s debarment shall be effective amongst SANDAG and any subsidiary entity. Debarment prohibits SANDAG and any subsidiary entity from executing contracts with the debarred contractor.

1.11.5 Debarment constitutes debarment of all divisions or other organizational elements of the contractor, unless the debarment decision is limited by its terms to specific divisions, organizational elements, or commodities. The debarment decision may be extended to include any affiliate of the contractor if the affiliate is (1) specifically named, and (2) given written notice of the proposed debarment and an opportunity to respond.

1.11.6 Notwithstanding the debarment of the contractor, the Board may continue contracts in existence at the time the contractor is debarred, unless the Board directs otherwise, after receiving advice from the Executive Director or his or her designee as to the effects of termination of an existing agreement.

2. **Contract Administration and Contractor Assurances**

2.1 SANDAG contractors must meet all applicable laws concerning labor law, labor rates, EEO and licenses. SANDAG shall ensure that the following requirements are carried out:

2.1.1 All bidders and contractors shall be licensed in accordance with the laws of California. Additionally, contractor requirements shall be guided by the
provisions of Chapter 9 of Division 3 of the Business and Professions Code concerning the licensing of contractors.

2.1.2 The contractor may not, in any case, pay workers less than the stipulated prevailing rates paid for such work or craft in the San Diego area by the contractor or any of its subcontractors, unless it is otherwise authorized by law.

2.1.3 The contractor will be responsible for complying with the provisions of the Fair Labor Standards Act of 1938 as amended.

2.1.4 SANDAG contractors shall be required to provide Workers' Compensation Insurance to their employees in accordance with the provisions of Section 3700 of the Labor Code. Prior to commencement of work, the contractor shall sign and file with SANDAG a certification of compliance.

2.1.5 Contractors must comply with the SANDAG's contractor labor compliance program, which is based on the California Labor Code and the "Labor Compliance" section of the California Department of Transportation's Construction Manual.

2.1.6 The contractor shall comply with the EEO requirements set forth by Title VI of the 1964 Civil Rights Act on any project where Federal funds are included.

2.1.7 The contractor shall also comply with Sections 1431 and 1735 of the Labor Code and Sections 300 and 317 through 323 of Title 8 of the California Administrative Code, which prohibits labor discrimination and requires the contractor to submit an Equal Opportunity Program and certification fee to the Fair Employment Practice Commission for contracts over $200,000.

3. Construction Contract Change Orders

3.1 All construction and procurement contracts may be amended by a suitable change order. The contract change orders shall be processed in accordance with SANDAG's procurement and construction manual(s).

3.2 Construction contract change orders shall be approved by the Executive Director or his/her designees in accordance with SANDAG Board policies, administrative policies, and procedural manuals.

3.3 Except in an emergency, or in the case of a justifiable sole source procurement, a change order shall not be awarded without competitive bidding where the amount of such change order exceeds 25 percent of the price of the original or altered contract, or the change order is out of the original contract scope.

3.3.1 For purposes of this section, an emergency is defined as a sudden or unforeseen situation in which, in the Executive Director's or his/her
designee’s opinion, injury to persons, or significant injury to property or interruption of a public service will occur if immediate action is not taken.

3.4 All change orders that conflict or potentially conflict with Board-adopted policies shall be brought before the Board for decision.

3.5 All change orders which utilize federal funds shall conform to the Code of Federal Regulations, Volume 49, Part 18 and Federal Transit Administration Circular 4220.1E and any successors thereof, that are applicable by law.

4. Non-Competitive Procurements

Non-competitive procurement is known as a sole source acquisition. Non-competitive procurements shall only be permitted when the conditions below are met.

4.1 When the project will be paid for in whole or in part by federal funds one of the following conditions must be met:

4.1.1 There is an urgent need for the work due to an emergency or some other exigency that will not permit a delay resulting from competitive solicitation. Examples of such need include a danger to the public or loss of use of a transportation facility used by the public.

4.1.2 Staff solicited competitive bids and was unable to obtain a responsive bid from a responsible bidder.

4.1.3 The grantor agency providing funds for the project has approved sole source acquisition.

4.1.4 The work is only available from a single source.

4.2 When there are no federal funds involved, additional factors may be used to justify a sole source acquisition as being within the best interest of SANDAG’s best interests. For these types of procurements one of the conditions in this section (4.2) or section 4.1 must be met:

4.2.1 There is only one contractor capable of providing the work because the work is unique or highly specialized.

4.2.2 The work should be carried out by a particular contractor in the interest of economy or efficiency as a logical follow-on to work already in progress under a competitively awarded contract.

4.2.3 The cost to prepare for a competitive procurement exceeds the cost of the work.
5. Relief from Maintenance and Responsibility and Acceptance of Work

5.1 SANDAG will, upon written application by the contractor, consider granting relief from maintenance and responsibility on major elements of each major construction project as permitted in the contract specifications. The Executive Director is hereby delegated authority to grant said relief in writing to the contractor and shall report actions on contracts over $25,000 to the Board.

5.2 SANDAG will, upon written application by the contractor, accept the entire work on major construction contracts, provided that the work has been completed, in all respects, in accordance with the contract plans and specifications. The Executive Directors is hereby delegated the authority to accept contracts on behalf of the Board and shall report to the Board all contract acceptances over $25,000.

5.2.1 In determining whether to accept the entire work on major construction projects, these procedures should be followed:

5.2.1.1 The contractor shall request acceptance in writing.

5.2.1.2 Concurrence with the request by the SANDAG Resident Engineer shall be in writing to the Executive Director and include these findings: (1) that the contract has been completed in accordance with the plans and specifications, (2) a statement as to the financial condition of the contract, and (3) a statement as to whether the contract was completed on time or with an apparent overrun.

5.2.1.3 The Executive Director shall accept the action and report the findings to the Board.

6. Conflict of Interest

6.1 SANDAG shall not contract with, and will reject any bid or proposal submitted by, the following persons or entities, unless the Executive Director finds that special circumstances exist which justify the approval of such contract:

6.1.1 Persons employed by SANDAG;

6.1.2 Profit-making firms or businesses in which SANDAG employees serve as officers, principals, partners or major shareholders;

6.1.3 Persons who, within the immediately preceding twelve (12) months, were employed by SANDAG and (1) were employed in positions of substantial responsibility in the area of service to be performed by the contract, or (2) participated in any way in developing the contract or its service specifications; or
6.1.4 Profit-making firms or businesses in which the former employees described in subsection 6.1.3 serve as officers, principals, partners or major shareholders.

Adopted November 2003
Amended December 2006
CONTINGENCY RESERVE POLICY

1. **Purpose**

SANDAG has historically relied upon budget savings to provide adequate fiscal flexibility to accommodate unavoidable and unanticipated costs. As SANDAG has taken on more responsibilities and funding sources have become more constrained, additional tools for managing financial fluctuations are warranted. Establishing a contingency reserve fund provides a means for dealing with emergency or high priority situations that may arise during the course of the year that could not otherwise be funded in the near-term.

The purpose of this policy is to provide guidelines for a contingency reserve, such as the required balance, allowable uses, required approvals, and method of replenishment.

2. **Scope**

Contingency Reserve Fund Required Balance - The targeted minimum amount to be maintained in the reserve account shall be equal to 5 percent of total budgeted annual expenditures of the Overall Work Program (OWP). Total annual expenditures are defined as the amount of the OWP Expenditures contained in the Sources and Application of Funds chapter of the annual OWP. During the years from FY 2006 to FY 2010, this minimum target will be built up incrementally. A minimum of $500,000 will be budgeted each year until the target reserve amount is achieved. A 5 percent reserve for FY 2006 would total approximately $2.5 million. Once the target is reached, each year’s budget process should include the amount necessary to replenish or increase the contingency reserve to achieve this minimum balance, unless explicitly approved otherwise by the Executive Committee.

Other Deposits to Contingency Reserve Fund – Any year-end budgetary savings of discretionary funding (e.g., Transportation Development Act [TDA], TransNet) will be transferred into the reserve fund.

Applicable Fund Sources - Most federal and state planning and grant funds cannot be used to establish or replenish the contingency reserve fund. Local matching funds such as TDA and TransNet, which are more discretionary in nature, will be used as the source to build and replenish this fund.

Qualifying Uses of the Reserve Fund -- The Reserve Fund shall be used for one-time non-recurring purposes, unless otherwise approved by the Executive Committee. The following occurrences shall qualify as potential eligible uses, subject to individual approval by the Executive Committee:

a. opportunities to advance urgent, high-priority needs where future, recurring funding is assured (if future funding is applicable);
b. unanticipated needs relating to a crucial existing commitment; and

c. unforeseen withdrawal or cutback of a revenue source.

Approval for the Use of Reserve Funds - Each proposed use of the contingency reserve fund will be subject to approval by the SANDAG Executive Committee. Each request for approval will include the specific amount needed, a justification of the need, and a discussion of any other alternatives that were examined.

Replenishment of the Reserve Fund - Replenishment up to the minimum target of 5 percent will be the first priority for the use of applicable funds in the following year's budget process.

Adopted June 2005
Amended December 2006
TransNet ORDINANCE AND EXPENDITURE PLAN RULES

The following rules have been adopted and amended by the SANDAG Board of Directors in its role as the San Diego County Regional Transportation Commission (RTC). The purpose of these rules is to implement the provisions of the original TransNet Ordinance (87-1) and the TransNet Extension Ordinance (04-01).

Rule Policy #1: Procedure for Distribution of Revenues for Transportation Services for Seniors and the Disabled

Adoption Date: February 26, 1988 (Resolution RC88-2)

Amendment: Repealed at November 18, 2005, Board Meeting. This rule was superseded by Rule Policy No. 11.

Policy Text: The Commission may approve a loan of sales tax funds to a city or county from its formula-based share of Local Street and Road funds to finance a project which is prohibited from receiving funding under Section 9 of Commission Ordinance 87-1 or Section 8 of Ordinance 04-01 if the following terms and conditions are met.

1. A finding is made by the Commission that absent private sector funding, the project would be an eligible street and road project.

2. The City or County agrees to enter into an agreement to repay the loan plus interest (at a rate determined by the Commission) prior to the termination of the sales tax in accordance with Section 3 of Commission Ordinance 87-1 or Section 3 of Ordinance 04-01.

3. That the City or County agrees to guarantee repayment of the loan if private developer funding is determined to be inadequate to repay the loan prior to termination of the sales tax.

Rule Policy #2: Loan of Funds for Privately-Funded Projects

Adoption Date: April 22, 1988 (Resolution RC88-5)

Amendment: Amended at November 18, 2005, Board Meeting.

Policy Text: The Commission may approve a loan of sales tax funds to a city or county from its formula-based share of Local Street and Road funds to finance a project which is prohibited from receiving funding under Section 9 of Commission Ordinance 87-1 or Section 8 of Ordinance 04-01 if the following terms and conditions are met.

1. A finding is made by the Commission that absent private sector funding, the project would be an eligible street and road project.

2. The City or County agrees to enter into an agreement to repay the loan plus interest (at a rate determined by the Commission) prior to the termination of the sales tax in accordance with Section 3 of Commission Ordinance 87-1 or Section 3 of Ordinance 04-01.

3. That the City or County agrees to guarantee repayment of the loan if private developer funding is determined to be inadequate to repay the loan prior to termination of the sales tax.
**Policy Text:**

A city or county may advance improvements on a project(s) which is included in the approved transportation sales tax Program of Projects with local agency funds (other than private developer funds as set forth in Section 9 of Ordinance 87-1 or Section 8 of Ordinance 04-01) prior to sales tax funds being available and receive reimbursement including interest from sales tax funds if it is determined by the Commission that the following terms and conditions are met.

1. The project(s) is included in the approved transportation sales tax Program of Projects, and no other financing technique is found to be more desirable or cost effective to utilize in order to advance the improvement.

2. The city or county shall be reimbursed for the local funds expended as soon as sales tax funds become available, or on a schedule agreed to between the local agency and the Commission.

3. That no more than 30 percent of the funds will be used for maintenance projects if the funds are borrowed from TransNet revenues pursuant to Section 2(C)(1) of Ordinance 04-01.

**Policy Text:**

For purposes of allocating funds under Section 2(a)(3) in Ordinance 87-1:

1. Only those projects designated as "funded" on the SR 78 Corridor project list approved on December 13, 1990 by the SR 78 Corridor Policy Committee are eligible to receive SR 78 Corridor Reserve Funds.

2. The list of SR 78 Corridor projects and their priority and funding eligibility may be revised by a majority vote of the SR 78 Corridor Policy Committee and the approval of the Board of Directors.

3. The basic contribution for a non-Caltrans project on the SR 78 Corridor Reserve funded list is 50 percent of the estimated right-of-way, engineering, and construction costs. However, the total amount of Corridor Reserve Funds designated for projects within one jurisdiction may be allocated to vary from the basic 50 percent for any given project as long as the cumulative total for programmed projects at any point in time does not exceed 50 percent.
4. The basic contribution for a Caltrans project on the SR 78 Corridor Reserve funded list is 100 percent of the estimated right-of-way, engineering, and construction costs.

5. Contributions from the SR 78 Corridor Reserve Fund to any one jurisdiction cannot exceed 50 percent (100 percent for Caltrans) of the project cost estimates shown on the approved funded list of December 13, 1990. If actual project costs are less than estimated, a maximum contribution of 50 percent (100 percent for Caltrans) of the new costs shall be in effect.

6. A project that for any reason is removed from the funded list can only be replaced by the next highest ranked unfunded project (or projects), regardless of jurisdiction and only if the funded list of projects does not exceed the total Corridor Reserve dollars available. As with other funded projects, Corridor Reserve funds can only be used to improve the replacement project(s) to minimal four-lane standards (six lanes at freeway interchanges).

Added June 22, 1990 (Resolution RC90-40):

7. SR 78 Corridor Reserve funds for right-of-way will not be encumbered until a project has environmental clearance and the first 25 percent of the total value of the right-of-way is acquired. When a total of 75 percent of the right-of-way has been acquired, the construction funds will be encumbered at the request of the agency.

Added December 14, 1990 (Resolution RC91-10):

8. All agencies submitting projects from the SR 78 Corridor Funded Project List for programming are encouraged to pursue matching funds from the State’s SB 300 program.

Added February 22, 1991 (Resolution RC91-13):

9. Any new source of state highway funds for the San Diego region should be considered for allocation to the TransNet SR 78 Corridor Reserve to offset local funds which were used for projects which are normally the responsibility of the State, such as freeway-freeway interchange improvements and ramp metering systems.
RulePolicy #5: Use of Local Street and Road TransNet Funds for the Development of Transportation Demand Management Programs

Adoption Date: August 25, 1989 (Resolution RC90-23)
Amendment: Amended at November 18, 2005, Board Meeting.

Policy Text:
The development and implementation of a Transportation Demand Management Program shall be an eligible use of Local Street and Road funds pursuant to Section 19(E) of Ordinance 87-1 and Section 21(c) of Ordinance 04-01. Transportation Demand Management shall mean a comprehensive set of strategies designed to influence travel behavior with respect to mode, time, frequency, route, or distance in order to improve the efficiency and effectiveness of local streets and roads. Principal strategy measures involve, but are not limited to, ridesharing, alternative work hours, and parking management.

RulePolicy #6: Fund Accounting and Interest Allocation

Adoption Date: March 23, 1990 (Resolution RC90-35)
Amendment: Amended at November 18, 2005, Board Meeting.

Policy Text:
For the purposes of determining compliance with Section 12 of Ordinance 87-1 and Section 13 of Ordinance 04-01, each agency shall maintain a separate fund (fund accounting) for TransNet revenues, if possible. Where the creation of a separate fund is not possible due to accounting methodology used by the agency, an alternative approach to maintaining separate accountability for TransNet revenue and expenditures must be developed and submitted to the Commission staff for concurrence. Interest earned on TransNet revenues received by the agency must be allocated to the TransNet fund and used only for projects approved by the Commission in the Program of Projects. For accounting purposes, the interest earnings shall be considered to be expended first. Further, the Ordinances allow the agencies to retain any unused TransNet funds. Interest accrued should be applied to each active project that carries an outstanding balance. The agency can determine the method of the interest distribution to be validated by the audit.

RulePolicy #7: Program of Projects Approval Process and Amendments

Adoption Date: March 23, 1990 (Resolution RC90-35)
Amendments: Amended at November 18, 2005, and December 15, 2006 Board Meetings.

Policy Text:
Each local agency shall develop a five-year list of projects to be funded with TransNet revenues under Section 2D of Ordinance 87-1 and Section 4D of Ordinance 04-01 in accordance with the Regional Transportation Improvement Program (RTIP) update schedule. All projects a local agency wishes to include in its Program of Projects must be consistent with the Regional Transportation Plan and approved by the Commission for inclusion in the RTIP. A local agency’s projects shall not receive Commission approval until the Commission receives a resolution from the local agency that documents that the local
A Program of Projects amendment shall be initiated when a local agency desires to add a new project to the approved Program of Projects, to drop delete an approved project in its entirety, or to change the TransNet funds programmed for a project by $2 million or 10 percent of total project, whichever is less. Projects proposed in the amendment must have been approved by the governing body of the local agency within the preceding 12 months. The local agency shall initiate the amendment process by holding a clearly noticed public hearing and submitting a resolution using the language and deadlines prescribed by the Commission as documentation of governing body approval. The amendment must be approved by the Commission prior to the expenditure of funds on the new or amended projects.

**RulePolicy #8: Determination of New Transit Services**

**Adoption Date:** March 23, 1990 (Resolution RC90-35)

**Amendment:** Amended at November 18, 2005, Board Meeting.

**Policy-Text:** For the purpose of determining compliance with Section 4(B)(2)(c) of Ordinance 87-1, the level of service provided in FY 1988 shall be considered at the base level of service in existence prior to the availability of TransNet revenues which must be maintained through other funding sources. Compliance with the “new” service requirement shall be determined using the following procedure:

1. Determine the number of vehicle service miles operated during the fiscal year using TransNet revenues for any given operator by dividing the TransNet revenues for operations by the total systemwide operating cost for that operator and multiplying the total vehicle service miles operated by the quotient.

2. Subtract the number of miles determined in Step 1 from the total system vehicle service miles operated during the year.

3. If the adjusted number of miles from Step 2 is greater than or equal to their FY 1988 base level, then the compliance test is met.

4. The attached table of base statistics from FY 1988 (Attachment 1) will be used to determine compliance. These figures reflect all publicly funded operators within the MTDB (MTS) and NSDCTDB North County Transit District (NCTD) service areas (Articles 4, 4.5, and 8) because TransNet revenues could potentially be used by the operators to fund service improvements on any of these systems.
**RulePolicy #9: Use of TransNet Revenue for Bus Purchases**

**Adoption Date:** March 23, 1990 (Resolution RC90-35)

**Amendment:** Amended at November 18, 2005, Board Meeting.

**Policy Text:**
TransNet revenues may be used to support the purchase of buses required to operate new services funded with TransNet revenues. The number of buses which can be purchased with TransNet revenues shall be determined using the following procedures.

1. Determine the number of annual new vehicle service miles service being operated in accordance with RulePolicy Number 8 – Determination of New Transit Services.

2. Divide the number of new miles of service by the systemwide average annual vehicle services miles per bus for a given operator to determine the equivalent number of buses required to operate the new service. Round up to the nearest whole number of bus equivalents.

The TransNet revenues used for bus purchases shall come out of the revenues available under Section 4(B)(2)(c) of Ordinance 87-1. The use of TransNet revenues for bus purchases shall be used to the maximum extent possible as matching funds for available state and federal capital funds. If, at some point in the future, the number of buses purchased with TransNet revenues cannot be justified based on the number of new miles being operated with TransNet revenues, then a pro-rated reimbursement to the TransNet fund will be required based on the remaining useful life of the vehicles. TransNet revenues may not be used to support the purchase of replacement buses for the “existing” (FY 1988) level of service. Any buses purchases with TransNet revenues will remain under the ownership of MTDB (MTS) or NSDCTDB (NCTD) and be made available to the operator chosen to operate the new services.

**RulePolicy #10: Use of TransNet Revenues to Replace Reduced State and Federal Operating Support**

**Adoption Date:** March 23, 1990 (Resolution RC90-35)

**Amendment:** Amended at November 18, 2005, Board Meeting.

**Policy Text:**
For purposes of determining compliance with Section 4(B)(2)(c) of Ordinance 87-1, the maximum amount of TransNet funds that MTDB (MTS) or NSDCTDB (NCTD) are eligible to use to replace federal funds in a given year is equal to the FY 1987 base year levels of federal and state operating support ($6,113,307 for MTS and $2,511,816 for NCTD) less the amount of state and federal operating support available in that year. The priority on the use of funds under this section is to provide new service improvements. MTS and NCTD are encouraged to use other available revenues, such as Transportation Development Act (TDA) funds, to offset reductions in state and federal funds, if possible, and to use TransNet funds under these sections for new service improvements.
**RulePolicy #11: Use of TransNet Revenues for Transportation Services for Seniors and the Disabled**

Adoption Date: March 23, 1990 (Resolution RC90-35)

Amendment: Amended at November 18, 2005, Board Meeting

**Policy Text:**
The funds made available under Section 4(B)(1) of Ordinance 87-1 or Section 4(c)(1) of Ordinance 04-01 for improved transportation services for seniors and the disabled shall be used to augment the revenues made available under the Transportation Development Act (TDA) Article 4.5 program for the same purposes. These TransNet funds shall be allocated to eligible service providers using the fund distribution formula approved by the SANDAG Board of Directors for use in distributing the TDA Article 4.5 funds. For accounting purposes, following the expenditure of fare revenues and other local and other local operating revenues, the interest earnings on the TransNet and TDA funds shall be considered to be spent first, followed by the TransNet funds, then the TDA funds.

**RulePolicy #12: Use of TransNet Revenues for Accessibility Improvements**

Adoption Date: March 23, 1990 (Resolution RC90-35)

**Policy Text:**
In the development of TransNet-funded local street and road projects, local jurisdictions may include, within the street right-of-way, improvements to enhance accessibility to the transportation system, including, but not limited to, accessibility improvements to bus stop areas.

**RulePolicy #13: Investments Policy**

Adoption Date: July 27, 1990 (Resolution RC91-2)

Amendment: Repealed at November 18, 2005, Board Meeting. This rule policy has been superseded by the Annual Investment Policy Update (see Resolution No. 2006-06 approved at the September 23, 2005, SANDAG Board of Directors meeting).

**RulePolicy #14: Capital Equipment Acquisition Loans to SANDAG**

Adoption Date: November 16, 1990 (Resolution RC91-6)

**Policy Text:**
The loan of unused administrative allocations from TransNet funds to SANDAG for the purpose of acquiring office and computer equipment is authorized when lower cost financing is not available. The repayment schedule shall be based upon funding authorized in the SANDAG-approved budget and will include interest at a rate equal to the interest earning rate of the San Diego County Pooled Money Fund.

**RulePolicy #15: Local Agency Hold Harmless Agreements**

Adoption Date: October 25, 1992 (Resolution RC92-7)
Each local agency shall be required to hold harmless and defend the Commission against challenges related to local TransNet projects. This rule is to be implemented by requiring that each local agency agree in its resolution approving its projects for TransNet funding to hold the Commission harmless.

RulePolicy #16: Repayment of Commercial Paper Program Proceeds
Adoption Date: September 23, 2005
Amendment: Amended at November 18, 2005, Board Meeting.

Each agency receiving proceeds from the TransNet Commercial Paper Program shall be responsible for its proportionate share of the ongoing interest and related administrative costs from the date the proceeds are received until the principal amount of the loan is fully repaid. Repayment of the principal amount shall commence within three years of the agency’s receipt of the proceeds and shall be completed within five years of the agency’s receipt of the proceeds. Repayment of the proceeds may be accomplished by rolling the outstanding amount into a long-term bond issue during the five-year repayment period. In such cases, the agency would then be responsible for its proportionate share of the bond issuance costs and annual debt service costs. The repayment of debt, in all cases, is the first priority on the use of the agency’s share of annual TransNet revenues.

RulePolicy #17: Fiscal and Compliance Audits
Adoption Date: November 18, 2005

I. Fiscal and Compliance Audit Procedures

The fiscal and compliance audit is an essential tool to determine that TransNet funds are being used for the intended purposes. The Commission has the fiduciary responsibility to ensure that the public funds are used in accordance with the TransNet Ordinance and Expenditure Plan. In order to complete the audits in a timely manner, SANDAG proposes the following:

A. July/August: SANDAG meets with the auditors to review the audits required for the year and provide all necessary documentation/information for the auditors to begin work.

B. September to November: Auditors schedule site visits. Recipient agencies must be ready and available to meet with the auditors and provide requested financial schedules and other information necessary for the completion of the audit.

C. November/December: Auditors issue draft reports to both SANDAG and the agencies. The agencies must be available to review and comment on the draft report in a timely manner. All outstanding issues should be resolved within four weeks.
D. December/January: Auditors issue the final reports. If there are outstanding issues, those should be resolved so that the audit is completed no later than March.

SANDAG Responsibility: SANDAG will provide all information necessary to complete the audit.

Agency Responsibility: All agencies must be ready for the site visit, provide requested information, and review and comment on the draft reports in a timely manner.

If the auditor is unable to complete the audit because an agency was not ready or did not provide the required information or reviews in a timely manner, then the agency will be deemed in noncompliance of the Ordinance. SANDAG will withhold future TransNet payments (except for required debt service payments) until the audit is completed.

The Ordinance states that the Commission:

[S]hall not allocate any revenues...to any eligible local agency in any fiscal year until that local agency has certified to the Commission that it will include in its budget for that fiscal year an amount of local discretionary funding for street and roads purposes at least equal to the minimum maintenance of effort requirement. An annual independent audit shall be conducted to verify that the Maintenance of Effort requirements were met. Any local agency which does not meet its Maintenance of Effort requirement in any given year shall have its funding reduced in the following year by the amount by which the agency did not meet its required Maintenance of Effort level. Any local street and road revenues not allocated pursuant to the Maintenance of Effort requirement shall be redistributed to the remaining eligible agencies according to the formula described in [the Ordinance].

Although there are no specific MOE requirements for the highway, transit, or other discretionary programs, the verification of fund usage is essential. Therefore, the withholding of TransNet fund payments applies to all agencies that do not have a completed audit.

II. Exceptions

SANDAG acknowledges the existence of unforeseen circumstances which may prevent an audit from completion. Should situations warrant an extension, the agencies must submit a request for an extension to be considered by the SANDAG Transportation Committee, including an explanation of the situation and specific timelines for completion of the audit.

III. Audit Adjustments

Specific Project Funding/Discretionary Programs

This section applies to funding allocated for the specified projects under the Highway and Transit Programs under Ordinance 87-1, including funding allocated for bicycle facility improvements. Under the TransNet Extension
(Ordinance 04-01), this section applies to the Major Corridor funding – Section 4(A) and (B) and the four discretionary programs: (1) Transit Senior program – Section 4(C)(2); (2) Local Environmental Mitigation program – Section 4(D)(2); (3) Local Smart Growth Incentive program – Section 4(D)(3); and (4) Bicycle, Pedestrian, and Neighborhood Safety Program – Section 2(E).

After the projects are completed and there are funds remaining, the agency is required to return the money to the program. After the fiscal audit determines that the project has been completed, SANDAG will transmit a letter to the agency to return the funds to SANDAG. The agency must remit the balance within 60 days of the letter. Should an agency fail to respond in a timely manner, all future TransNet payments (including funds from the other programs) to that agency will be suspended until the funds are returned.

Local Street and Road Formula Program (Section 4(C) of Ordinance 87-1 and Section 4(D)(1) of Ordinance 04-01) and Transit Funding (Section 4(B) of Ordinance 87-1 and Sections 4(C)(1), 4(C)(3), and 4(C)(4) of Ordinance 04-01).

The audit identifies the status of each project funded with TransNet funds – i.e., completed projects, projects that have negative balances, inactive projects, and ongoing projects. The agencies are responsible to work with the auditors to make proper adjustments as follows:

- Completed projects: once a project is identified as completed and there are TransNet funds remaining with that project, the agency is required to transfer the balance to another TransNet-eligible project (any project included in the approved Program of Projects). The audit should make note to which project the funds will be transferred. Completed projects should no longer show in the following year’s audit.

- Projects with negative balances: an ongoing project or a completed project may have expended all the TransNet funds but the agency decided to augment with other funds. In this case, the project should show zero balance for the amount of TransNet expended rather than showing a negative balance. If the project is completed, then it should no longer show in the following year’s audit. If the project is ongoing and the agency intends to backfill the project with the following year’s TransNet funds, then it should be noted in the audit. However, this practice is discouraged as it will throw off the MOE calculation.

- Inactive projects: if a project has had no activity over a period of two audits, the agency must either close out the project or note when the project will be completed. These projects should no longer show in the following year’s audit. Any remaining TransNet funds must be transferred to another TransNet-eligible project.

IV. Local Agency Balance Limitations

Based on the audit, an agency that maintains a balance of more than 30 percent of its annual apportionment (after debt service payments) must use the remaining balance to fund projects. SANDAG will defer payment until the unused balances fall below the 30 percent threshold.
Rule #18:

Adoption Date: June 23, 2006

Text: As specified in Section 2(C)(1) of the Ordinance 04-01, at least 70 percent of the revenues provided for local street and road purposes should be used for congestion relief purposes and no more than 30 percent for maintenance purposes. Attachment 2 provides a set of guidelines to be used in the implementation of this new requirement beginning with the 2006 Regional Transportation Improvement Program (RTIP) update. These guidelines apply to the programming of all available local TransNet funding (annual formula funds and prior year carry-over balances) beginning with July 1, 2008 (Fiscal Year 2008-09).

Rule #19: Conflict of Interest for ITOC Representatives

Adoption Date: December 15, 2006

Policy Text: The Board intends to make every effort to ensure the representatives selected to serve on the Independent Taxpayers Oversight Committee (ITOC) are free from any bias that would interfere with objective decision making by the ITOC. The Conflict of Interest section of the “Statement of Understanding Regarding the Implementation of the Independent Taxpayer Oversight Committee for the TransNet Program,” which is part of the TransNet Extension Ordinance, states in part: “ITOC members shall not have direct commercial interest or employment with any public or private entity, which receives TransNet sales tax funds authorized by this Ordinance.” The Board interprets this language to impose the same level of restrictions on the ITOC representatives as those that apply to SANDAG Board members pursuant to California state law found at Government Code sections 87100 et seq. and 1090 et seq.

Attachments: 1. FY 1988 Base Year Statistics
2. SANDAG Board Item No. 12, June 23, 2006
### Metropolitan Transit Development Board (MTS) Area

<table>
<thead>
<tr>
<th>Fund Source</th>
<th>Operator/Service</th>
<th>Vehicle Service Miles</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 4.0</td>
<td>Chula Vista Transit</td>
<td>559,734</td>
</tr>
<tr>
<td></td>
<td>National City Transit</td>
<td>276,303</td>
</tr>
<tr>
<td></td>
<td>County Transit System:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Suburban Service</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Rural Bus</td>
<td>646,904</td>
</tr>
<tr>
<td></td>
<td>Poway Fixed Route</td>
<td>170,953</td>
</tr>
<tr>
<td></td>
<td>San Diego Transit</td>
<td>1,033,084</td>
</tr>
<tr>
<td></td>
<td>San Diego Trolley</td>
<td>400,738</td>
</tr>
<tr>
<td></td>
<td>Strand Express Agency</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>13,874,464</strong></td>
</tr>
<tr>
<td>Article 8</td>
<td>County Transit System:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Express Bus</td>
<td>189,276</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>189,276</strong></td>
</tr>
<tr>
<td>Article 4.0 Dial-A-Ride</td>
<td>El Cajon Express</td>
<td>308,331</td>
</tr>
<tr>
<td></td>
<td>La Mesa Dial-A-Ride</td>
<td>251,516</td>
</tr>
<tr>
<td></td>
<td>Lemon Grove Dial-A-Ride</td>
<td>62,090</td>
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<tr>
<td></td>
<td>County Transit System:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Poway Dial-A-Ride</td>
<td>23,030</td>
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<tr>
<td></td>
<td>Poway Airporter</td>
<td>103,925</td>
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<td></td>
<td>Spring Valley Dial-A-Ride</td>
<td>73,298</td>
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<td></td>
<td>San Diego Transit DART</td>
<td>309,370</td>
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<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>1,131,560</strong></td>
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<tr>
<td>Article 4.5</td>
<td>Chula Vista Handytrans</td>
<td>128,807</td>
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<tr>
<td></td>
<td>County Transit System - WHEELS</td>
<td>219,906</td>
</tr>
<tr>
<td></td>
<td>National City Wheels</td>
<td>15,159</td>
</tr>
<tr>
<td></td>
<td>Poway Call-A-Ride</td>
<td>60,156</td>
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<tr>
<td></td>
<td>San Diego Dial-A-Ride</td>
<td>1,149,541</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>1,573,623</strong></td>
</tr>
<tr>
<td><strong>MTDB (MTS) Area Total</strong></td>
<td></td>
<td><strong>16,768,923</strong></td>
</tr>
</tbody>
</table>

### North San Diego County Transit Development Board District

<table>
<thead>
<tr>
<th>Fund Source</th>
<th>Operator/Service</th>
<th>Vehicle Service Miles</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 4.0</td>
<td>NCTD Fixed Route</td>
<td>7,651,408</td>
</tr>
<tr>
<td></td>
<td>NCTD FAST</td>
<td>126,744</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>7,778,152</strong></td>
</tr>
<tr>
<td>Article 4.5</td>
<td>NCTD Lifeline</td>
<td>386,680</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>386,680</strong></td>
</tr>
<tr>
<td><strong>NSDCTDB (NCTD) Area Total</strong></td>
<td></td>
<td><strong>8,164,832</strong></td>
</tr>
</tbody>
</table>

**Regional Total**

**24,933,755**

Adopted: February, April, and May 1988; August 1989; March, July, and November 1990; October 1992; September and November 2005

Amended: June and December 1990; February 1991; November 2005
The TransNet Ordinance requires that at least 70 percent of the revenues provided for local street and road purposes should be used to fund direct expenditures for facilities contributing to congestion relief. No more than 30 percent of these funds should be used for local street and road maintenance purposes. The required multi-year Regional Transportation Improvement Program (RTIP) project lists submitted by local agencies that are found to be out of compliance with this requirement will not be approved. Local agencies may request an exception to this requirement and must provide justification for such a request as part of its project list submittal.

The following table categorizes and lists the more typical types of facilities that are considered to contribute to congestion relief. For other facilities not listed, it must be demonstrated that congestion relief can be obtained before the project can be considered part of the 70 percent Congestion Relief category. Maintenance costs of items listed in the 70 percent Congestion Relief category are eligible under the 30 percent category. Facilities that are not considered to contribute to congestion relief (Items 28-30) are eligible under the 30 percent category.

<table>
<thead>
<tr>
<th>Congestion Relief (At least 70%)</th>
<th>Maintenance and Non-Congestion Relief (No more than 30%)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>New or Expanded Facilities</strong></td>
<td></td>
</tr>
<tr>
<td>1. New roadways and bridges</td>
<td></td>
</tr>
<tr>
<td>2. Roadway and bridge widening</td>
<td></td>
</tr>
<tr>
<td>3. Roadway widening for bike lanes</td>
<td></td>
</tr>
<tr>
<td><strong>Major Rehabilitation and Reconstruction</strong></td>
<td></td>
</tr>
<tr>
<td>4. Roadway rehabilitation (grinding and overlay, or new structural pavement, or new overlay 1-inch thick or greater)</td>
<td>Lane removal for bike lanes</td>
</tr>
<tr>
<td>5. Roadway realignment</td>
<td></td>
</tr>
<tr>
<td>6. Bridge retrofit or replacement</td>
<td></td>
</tr>
<tr>
<td>7. Roadway drainage improvements for the purpose of improving capacity-impeding conditions such as significant and frequent roadway flooding</td>
<td>Pavement overlay (less than 1 inch)</td>
</tr>
<tr>
<td>8. New sidewalk or sidewalk widening</td>
<td>Pot hole repair, chip seal, fog seal, crack seal (except when part of roadway rehabilitation project)</td>
</tr>
<tr>
<td><strong>Traffic Operations</strong></td>
<td></td>
</tr>
<tr>
<td>9. Median installation for safety improvement or left-turn movement</td>
<td>Roadway realignment that does not increase roadway capacity</td>
</tr>
<tr>
<td>10. New traffic signal, passive permissive left turn (PPLT) installation, signal removal for congestion relief reasons, traffic signal upgrades, intersection lighting</td>
<td>Bridge replacement for aesthetic purposes</td>
</tr>
<tr>
<td>11. Traffic signal coordination</td>
<td>Minor drainage improvements not part of a congestion relief project</td>
</tr>
<tr>
<td>12. Traffic signal interconnection</td>
<td>Stand alone landscaping project of an existing median</td>
</tr>
<tr>
<td></td>
<td>Traffic signal replacement, bulb replacement, hardware, software, inductive loop repair</td>
</tr>
<tr>
<td>Congestion Relief (At least 70%)</td>
<td>Maintenance and Non-Congestion Relief (No more than 30%)</td>
</tr>
<tr>
<td>---------------------------------</td>
<td>-----------------------------------------------------</td>
</tr>
<tr>
<td>13. Centrally controlled traffic signal optimization system</td>
<td><strong>Light bulb replacement</strong></td>
</tr>
<tr>
<td>14. Traffic surveillance or detection system (video)</td>
<td><strong>Bus-only lanes that do not provide congestion relief</strong></td>
</tr>
<tr>
<td>15. Traffic data collection system for performance monitoring purposes (in pavement detection, radar)</td>
<td><strong>Non-Congestion Relief</strong></td>
</tr>
<tr>
<td><strong>Smart Growth-Related Infrastructure</strong></td>
<td></td>
</tr>
<tr>
<td>16. Traffic calming measures</td>
<td>28. Erosion control (unless required as part of a congestion relief project)</td>
</tr>
<tr>
<td>17. Pedestrian ramps</td>
<td>29. Landscaping (unless required as part of a congestion relief project)</td>
</tr>
<tr>
<td>18. Pedestrian traffic signal activation</td>
<td>30. Roadway signing and delineation (unless it is a congestion relief project)</td>
</tr>
<tr>
<td>19. Pedestrian crossings/overcrossings</td>
<td></td>
</tr>
<tr>
<td>20. Buffer area between sidewalk and street</td>
<td></td>
</tr>
<tr>
<td>21. Pedestrian roadway lighting</td>
<td></td>
</tr>
<tr>
<td><strong>Transit Facilities</strong></td>
<td></td>
</tr>
<tr>
<td>22. New bus stops</td>
<td></td>
</tr>
<tr>
<td>23. Bus stop enhancements</td>
<td></td>
</tr>
<tr>
<td>24. Bus-only lanes</td>
<td></td>
</tr>
<tr>
<td>25. Queue jumper lanes for buses</td>
<td></td>
</tr>
<tr>
<td>26. Traffic signal priority measures for buses</td>
<td></td>
</tr>
<tr>
<td>27. Transit operational costs for shuttle and circulator routes</td>
<td></td>
</tr>
<tr>
<td><strong>Non-Congestion Relief</strong></td>
<td></td>
</tr>
<tr>
<td>28. Erosion control (unless required as part of a congestion relief project)</td>
<td></td>
</tr>
<tr>
<td>29. Landscaping (unless required as part of a congestion relief project)</td>
<td></td>
</tr>
<tr>
<td>30. Roadway signing and delineation (unless it is a congestion relief project)</td>
<td></td>
</tr>
</tbody>
</table>

Note: Staff costs for congestion relief project development (environmental, preliminary engineering, design, right-of-way acquisition, and construction management) are eligible expenditures under the 70 percent category. Staff costs for transportation infrastructure maintenance or traffic operations efforts are eligible under the 30 percent category. Costs for general TransNet fund administration and transportation planning are eligible up to 1 percent of annual revenues.

* To receive credit for providing congestion relief under the 70 percent category, smart growth-related infrastructure must be provided in one of the existing or planned (not potential) seven Regional Comprehensive Plan smart growth land use type characteristic areas: Metropolitan Center, Urban Center, Town Center, Community Center, Transit Corridor, Special Use Center, or Rural Community. Smart growth-related infrastructure built outside of one of the seven types of characteristic areas is eligible under the 30 percent category.
DRAFT 2007 LEGISLATIVE PROGRAM

Introduction

Each year, the Executive Committee recommends a legislative program in a priority order to the Board of Directors for the ensuing calendar year. Consistent with past programs, the Draft 2007 Legislative Program (Attachment 1) includes policies and proposals for possible federal and state legislation and local activities.

Discussion

The SANDAG Legislative Program serves as a roadmap for Board members and staff to follow as bills are developed and activities occur during the respective federal and state legislative sessions. The Program is organized into three distinct sections which generally relate to the level of effort needed to support corresponding legislative activities: (1) Sponsor, (2) Support/Oppose, and (3) Monitor. Within each section, individual goals are assigned a priority level, ranging from highest priority to lower priority. The Program also lists the position of Board, the position year, which Policy Advisory Committee is involved, and whether the goal involves federal, state, and/or local efforts.

The 2006 Legislative Program, which was approved by the Board in January 2006, includes 32 separate legislative goals. Staff has modified the 2006 program as a starting point to initiate Executive Committee discussion regarding the 2007 program. Goals that have been completed or that are no longer relevant have been deleted, modifications have been made to some existing goals, and new goals for 2007 are proposed. In Attachment 1, proposed deletions are shown in strikethrough text, and modifications and additions are underlined. The major changes include:

Proposed Deletions

SAFETEA-LU (Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users) Goal No. 2 – Senate Bill (SB) 1282 (Ducheny) concerning the border infrastructure funding program was passed during the 2005-2006 state legislative session, and therefore, the pertinent language from the 2006 program is no longer needed.

SANDAG Governance Goal No. 5 — SB 1296 (Kehoe) adding the second County representative to the SANDAG Board gained passage during the 2005-2006 state legislative session, and therefore, this goal is no longer needed.

Recommendation

The Executive Committee is asked to review and discuss the Draft 2007 Legislative Program and provide input to staff on potential new legislative goals, modifications to existing goals, and the relative priorities among the goals. The Committee will be asked to recommend Board of Directors approval of the final 2007 Legislative Program.
Proposed Modifications

Public Safety-Related Goal Nos. 3, 6, 7, 8, 9, and 23 - Several of the public safety-related goals have been consolidated in order to streamline our legislative priorities. At the same time, the program stresses the importance of (1) providing regional interoperability and communications, (2) seeking funding to improve public safety and security in our region, and (3) supporting prevention and intervention programs in the areas of substance abuse, youth and gang violence, and other related activities. At its October 20, 2006, meeting, the Public Safety Committee reviewed these changes and recommended the three new consolidated public safety goals for the 2007 Program.

Energy Goal No. 4 - This energy-related goal was originally included in the Sponsor section, because SANDAG was sponsoring state legislation during the 2005-2006 session. SB 1539 (Kehoe), which originally sought funds to support regional energy planning program activities, did not gain passage during the session. Instead, staff is pursuing state energy funding from the California Energy Commission through administrative means. This goal is proposed to be moved from the Sponsor section to the Support/Oppose section. The Energy Working Group is holding a legislative workshop on November 29, 2006, to identify potential energy-related proposals for the upcoming 2007-2008 state legislative session. If needed, staff will bring back specific legislative proposals to the Executive Committee for review and possible amendment into the 2007 SANDAG Legislative Program.

Regional Comprehensive Plan (RCP) Implementation Goal No. 15 - In FY 2006, SANDAG was awarded $409,750 from the California Regional Blueprint Planning Program to strengthen and supplement RCP implementation efforts. To support the continued implementation of the RCP, additional language is proposed to support a reliable, ongoing funding source for regional blueprint planning.

Housing Planning Goal No. 21 – The next Regional Housing Needs Assessment (RHNA) update is expected to begin in late 2007/early 2008. Additional language is proposed to ensure adequate state funding for the upcoming 2010-2015 RHNA process.

Proposed New Goals

Infrastructure Bond Funding Goal - Passage of the statewide infrastructure bond package on the November ballot (Propositions 1A through 1E) would provide additional funding opportunities for the San Diego region. Staff proposes an additional goal to pursue funding from the various bond measures. This would include SANDAG participation in the development of guidelines and other activities to maximize funding to support Regional Transportation Plan (RTP) and RCP implementation.

Implementation of Adopted Plans and Programs Goal - SANDAG has adopted various plans and programs, including the RTP and RCP, which are designed to improve the quality of life for the San Diego region. Implementation of our adopted plans is equally important. Staff proposes a new goal to pursue policy and/or legislative changes that would enable SANDAG to implement its priorities. The proposed goal is broadly written to enable flexibility in developing potential legislation and responding to activities over the coming year, and could include such items as pursuing additional sales tax authority for a quality of life funding measure, legislative changes to enable subregional sales tax measures, and additional funding authority to support transportation-related program improvements.
Freeway Transit Lanes Goal – A new goal is proposed to support the use of freeway transit lanes in the San Diego region. In 2005, SANDAG partnered with Caltrans, California Highway Patrol, and Metropolitan Transit System (MTS) to implement a demonstration project evaluating the effectiveness of using freeway shoulder lanes as a low-speed transit priority measure when the regular freeway lanes are congested. The initial project was implemented on State Route 52 and Interstate 805 (I-805) between Kearny Mesa and University City using MTS Express Route 960. To date, the demonstration project has proven successful, and expanding the application to other corridors is being considered. For example, the use of interim freeway transit lanes along I-805 in advance of the completion of the full Managed Lanes would provide priority for the South Bay Bus Rapid Transit TransNet Early Action project.

The Executive Committee also may want to discuss whether any additional goals are needed for the Draft 2007 Legislative Program.

Next Steps

The Executive Committee may take action on the 2007 Legislative Program either on November 3, 2006, or at its December 1, 2006, meeting. Upon the Committee’s recommendation, the final 2007 Legislative Program would be presented for approval at the December 15, 2006, Board meeting.

Staff will continue to provide periodic status reports on legislative activities to the Executive Committee during the next year. If new legislation or activities related to the agency’s mission are introduced that are not part of our established legislative goals, a report would be brought back to the Executive Committee for direction.

KIM KAWADA
Executive Program Manager

Attachment: 1. Summary of Legislative Goals for Calendar Year 2007

Key Staff Contact: Kim Kawada, (619) 699-6994, kka@sandag.org
### SUMMARY OF LEGISLATIVE GOALS FOR CALENDAR YEAR 2007

#### SPONSOR

<table>
<thead>
<tr>
<th>GENERAL DESCRIPTION OF GOAL</th>
<th>NO.</th>
<th>PRIORITY</th>
<th>BOARD POSITION</th>
<th>POSITION DATE</th>
<th>T</th>
<th>R</th>
<th>P</th>
<th>B</th>
<th>FED</th>
<th>STATE</th>
<th>LOCAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pursue FY 2007-2008 federal appropriation requests.</td>
<td>1</td>
<td>Highest</td>
<td>Sponsor</td>
<td>2005</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Technical clean-up language to the multi-year transportation bill, SAFETEA-LU (Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users), such as, but not limited to, revising and clarifying earmark language and policy changes, if deemed appropriate, and agreed-upon, follow-up State legislation, e.g., identifying the Border Infrastructure Program as a stand-alone program that is exempt from Senate Bill 45 funding distribution.</td>
<td>2</td>
<td>Highest</td>
<td>Sponsor/Support</td>
<td>2005</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Aggressively pursue funding related to interoperability and communications, as well as other priority areas identified in the Regional Public Safety Needs Assessment. Aggressively pursue resources to improve regional voice and data communications and interoperability, including connectivity with state and federal systems.</td>
<td>3</td>
<td>Highest</td>
<td>Sponsor</td>
<td>2005</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pursue funding from the statewide infrastructure bond measures, participate in development of guidelines and other activities to maximize the availability and flexibility of funding for the San Diego region to support Regional Transportation Plan and Regional Comprehensive Plan (RCP) implementation.</td>
<td>TBD</td>
<td>Highest</td>
<td>Sponsor</td>
<td>2006</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Pursue policy and/or legislative changes that would enable SANDAG to better implement its adopted plans and programs.</td>
<td>TBD</td>
<td>Highest</td>
<td>Sponsor</td>
<td>2006</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
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</tr>
<tr>
<td>Seek funds to implement the Regional Energy Strategy (RES); respond to legislation related to energy consistent with RES Principles.</td>
<td>4</td>
<td>Higher</td>
<td>Sponsor</td>
<td>2002</td>
<td></td>
<td>X</td>
<td></td>
<td>X</td>
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<tr>
<td>Moved to Support/Oppose section.</td>
<td>5</td>
<td>Higher</td>
<td>Sponsor</td>
<td>2006</td>
<td></td>
<td></td>
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<td>X</td>
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<tr>
<td>Seek amendments of state statutes to enable a second County Supervisor representative on the SANDAG Board to help ensure continuity of the representation from both the incorporated and unincorporated areas of the County.</td>
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Legend: T: Transportation; R: Regional Planning; P: Public Safety; B: Borders
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<th>GENERAL DESCRIPTION OF GOAL</th>
<th>NO.</th>
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<th>BOARD POSITION</th>
<th>POSITION DATE</th>
<th>T</th>
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<th>STATE</th>
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</thead>
<tbody>
<tr>
<td>Aggressively seek Homeland Security Funding for Automated Regional Justice Information System (ARJIS), transit, freight, regional public safety initiatives, and ports of entry.</td>
<td>6</td>
<td>High</td>
<td>Sponsor</td>
<td>2003</td>
<td></td>
<td></td>
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<td>Combined language from Goals 6 and 7 into new goal below.</td>
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<tr>
<td>Pursue Homeland Security funding at both the state and federal levels for prevention and emergency preparedness and response to catastrophic events in the San Diego region.</td>
<td>7</td>
<td>High</td>
<td>Sponsor</td>
<td>2005</td>
<td></td>
<td></td>
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<tr>
<td>Combined language from Goals 6 and 7 into new goal below.</td>
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<tr>
<td>Pursue Homeland Security funding at both the state and federal levels to improve public safety and security in the San Diego region, through Automated Regional Justice Information System (ARJIS) operations and enhancements, regional transportation system improvements, and activities related to emergency preparedness, prevention, and response to catastrophic events.</td>
<td>TBD</td>
<td>High</td>
<td>Sponsor</td>
<td>2003, 2005</td>
<td></td>
<td></td>
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<tr>
<td>Legislation that focuses on youth and gang violence prevention and pursues funding for prevention and intervention efforts.</td>
<td>8</td>
<td>High</td>
<td>Sponsor/Support</td>
<td>2005</td>
<td></td>
<td></td>
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<tr>
<td>Combined with Goal 9 and moved to Support/Oppose section.</td>
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<tr>
<td>Pursue funds to evaluate the effectiveness of adult and juvenile crime prevention programs and the impacts of drug use on crime and the success of treatment, especially methamphetamine.</td>
<td>9</td>
<td>Medium</td>
<td>Sponsor</td>
<td>2005</td>
<td></td>
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<tr>
<td>Pursue policy and/or legislative changes to enable the use of freeway transit lanes as an interim priority measure on major corridors in the San Diego region.</td>
<td>TBD</td>
<td>High</td>
<td>Sponsor</td>
<td>2007</td>
<td></td>
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<tr>
<td>Allow SANDAG to conduct public meetings in Mexico and other jurisdictions that border SANDAG’S jurisdiction for the purpose of addressing projects, programs, and issues that affect multiple jurisdictions, but which are currently restricted under the Brown Act.</td>
<td>10</td>
<td>Medium</td>
<td>Sponsor</td>
<td>2005</td>
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Legend: T: Transportation; R: Regional Planning; P: Public Safety; B: Borders
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<th>No.</th>
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<th>Position Date</th>
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<th>Fed</th>
<th>State</th>
<th>Local</th>
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<tr>
<td>11</td>
<td>Highest</td>
<td>TBD (based on activity)</td>
<td>2002/2005</td>
<td>X</td>
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<td>12</td>
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<td>Highest</td>
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<td>2002</td>
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<td>17</td>
<td>Higher</td>
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</tbody>
</table>

Efforts consistent with financial strategies adopted in the Regional Transportation Plan such as, but not limited to, increase revenues for transportation and other related purposes through measures that would increase gas tax or equivalent revenue sources, bond measures, developer fees, and public/private partnerships; oppose efforts that reduce revenues for transportation and other related purposes such as the borrowing of Proposition 42; and maximize availability and flexibility of federal and state funding for the region.

Efforts to expand available methods of transportation project delivery, e.g., design-build, construction management at risk procurements, and other alternative delivery methods that expedite project delivery.

Fiscal reform initiatives enabling regions to develop their own fiscal strategies and oppose unfunded mandates on local government. Pursue initiatives that balance the fiscal influence that sales tax revenue has upon local land use decisions.

Legislation that rewards jurisdictions that produce more housing, especially affordable and transit-oriented developments; supports regional fair-share allocation of housing funds; and provides additional funding for affordable housing with greater local/regional control over the allocation of those funds.

Legislation assisting in the implementation of the Regional Comprehensive Plan, including ensuring a reliable, ongoing funding source for regional blueprint planning and especially through funding incentives for smart growth (including, but not limited to, e.g., mixed-use projects, transit-oriented development, and/or walkable communities, etc.).

Lower the current two-thirds voter requirement for special purpose taxes, such as transportation and quality of life improvements, to a simple majority vote.

Efforts assisting in the implementation of key environmental efforts, including habitat conservation, planning, beach restoration and replenishment, and water quality-related issues.
<table>
<thead>
<tr>
<th>NO.</th>
<th>PRIORITY</th>
<th>BOARD POSITION</th>
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<tr>
<td>18</td>
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<td>Support</td>
<td>2003</td>
<td>X</td>
<td>X</td>
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<td>Higher</td>
<td>Support</td>
<td>2002</td>
<td>X</td>
<td>X</td>
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<td>19</td>
<td>High</td>
<td>Support</td>
<td>2002</td>
<td>X</td>
<td>X</td>
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<td>Support</td>
<td>2002</td>
<td>X</td>
<td>X</td>
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<td>Support</td>
<td>2005</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<td>22</td>
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<td>2005</td>
<td>X</td>
<td>X</td>
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<td>23</td>
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<td>2005</td>
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</table>

Mechanisms and funding providing for the implementation of MOBILITY 2030, including value pricing, Managed Lanes, high occupancy toll (HOT) Lanes; the alleviation of current constraints on transponder technology; use of freeway shoulder lanes by transit and other transit priority treatments; and other mechanisms that provide for more efficient use of highways and local roads.

Pursue resources to implement the Regional Energy Strategy (RES); and support energy-related legislation that is consistent with RES Principles.

Transit boards’ legislative programs where consistent with SANDAG policy.

Enhancing of border security and reducing border wait times; pursuit of funding, legislation, and other financing mechanisms supporting interregional partnerships and binational trade and border projects.

Support funding opportunities for prevention and intervention programs that address substance abuse, reduce youth and gang violence, and increase public safety.

Participate in efforts related to legislative and administrative reform of the state housing element law and ensuring adequate state funding for the Regional Housing Needs Assessment (RHNA) process.

Full funding of the Census Bureau’s American Community Survey Program to ensure timely release of critical demographic and economic information for our region.

Utilize existing legislative monitoring sources, such as the International Association of Chiefs of Police, National Sheriffs’ Association, California Police Chiefs Association, California State Sheriffs’ Association, League of California Cities, California State Association of Counties, and National Association of Counties, to keep abreast of federal and state public safety legislation of interest to the region and the PSC, and support these organizations’ legislative programs where consistent with SANDAG’s Legislative Program.

Combined with Goal 27 below.

Legend: T: Transportation; R: Regional Planning; P: Public Safety; B: Borders
### GENERAL DESCRIPTION OF GOAL

<table>
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<tr>
<th>NO.</th>
<th>PRIORITY</th>
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<th>POSITION DATE</th>
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<td>24</td>
<td>High</td>
<td>Support</td>
<td>2005</td>
<td></td>
<td>X</td>
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</table>

- Legislative and funding initiatives that support and enhance public safety activities, including the California Law Enforcement Telecommunications System (CLETS) that provides the secure infrastructure and systems for public safety access to critical state and federal data.

  Included in revised Goal 3 in above Sponsor section.

<table>
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<tr>
<th>NO.</th>
<th>PRIORITY</th>
<th>BOARD POSITION</th>
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<tr>
<td>25</td>
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<td>2003</td>
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<td></td>
<td>X</td>
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</table>

- Maintain and increase regional decision-making authority in areas consistent with SANDAG’s mission/policies.

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<tr>
<th>NO.</th>
<th>PRIORITY</th>
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<tr>
<td>26</td>
<td>Lower</td>
<td>Support</td>
<td>2003</td>
<td>X</td>
<td>X</td>
<td>X</td>
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- Legislation resulting in cost efficiencies and savings.

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<td>27</td>
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<td>Support</td>
<td>2003, 2005</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
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- Other organizations’ legislative programs where consistent with SANDAG policy, i.e., California Association of Councils of Governments (CALCOG), American Public Transportation Association (APTA), National Association of Regional Councils (NARC), California Transit Association (CTA), Self-Help Counties Coalition, League of California Cities, California State Association of Counties, Caltrans, International Association of Chiefs of Police, National Sheriffs’ Association, California Police Chiefs Association, California State Sheriffs’ Association, and National Association of Counties.

### MONITOR

<table>
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<td>28</td>
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<td>Monitor/Respond</td>
<td>2004</td>
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- Efforts that expand free access by single-occupant vehicles to HOT lanes.

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<th>PRIORITY</th>
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<td>29</td>
<td>Lower</td>
<td>Monitor/Respond</td>
<td>2003</td>
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<td></td>
<td>X</td>
<td>X</td>
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</table>

- Legislation relating to personnel matters, i.e., workers’ compensation, Public Employee Retirement Systems (PERS) benefits, and other labor-related issues.

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<tr>
<th>NO.</th>
<th>PRIORITY</th>
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- Legislation affecting solid waste, water supply, and storm water; support of funding opportunities to assist in these areas.

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<th>NO.</th>
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- Legislation requiring local agencies to implement new administrative compliance measures.

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<tr>
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<td>Monitor/Respond</td>
<td>2005</td>
<td>X</td>
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<td>X</td>
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</table>

- Proposals that limit the use of eminent domain for public infrastructure projects.

Legend: T: Transportation; R: Regional Planning; P: Public Safety; B: Borders
REVIEW OF NOVEMBER 17, 2006, DRAFT BOARD AGENDA

+1. APPOINTMENT OF MEETING MINUTES

A. OCTOBER 13, 2006, POLICY MEETING MINUTES
B. OCTOBER 27, 2006, MEETING MINUTES

2. PUBLIC COMMENTS/COMMUNICATIONS/MEMBER COMMENTS

Members of the public shall have the opportunity to address the Board on any issue within the jurisdiction of SANDAG. Anyone desiring to speak shall reserve time by completing a “Request to Speak” form and giving it to the Clerk of the Board prior to speaking. Public speakers should notify the Clerk of the Board if they have a handout for distribution to Board members. Speakers are limited to three minutes. Board members also may provide information and announcements under this agenda item.

+3. ACTIONS FROM POLICY ADVISORY COMMITTEES

This item summarizes the actions taken by the Borders Committee on October 27, 2006, and the Executive, Transportation, and Regional Planning Committees on November 3, 2006.

CONSENT ITEMS (4 through XX)

+4. AMENDMENT TO THE MASTER MEMORANDUM OF UNDERSTANDING WITH NCTD TO PROVIDE ADDITIONAL SUPPORT TO THE SPRINTER PROJECT* (Jim Linthicum)

The Board is asked to approve an addendum to the master Memorandum of Understanding with North County Transit District (NCTD), to provide additional staff and consultant support to NCTD for its SPRINTER project, in substantially the same form as the draft attached to the report for this item.
+5. **QUARTERLY INVESTMENT REPORT - PERIOD ENDING SEPTEMBER 30, 2006***  
(Lauren Warrem)  

State law requires that the Board be provided a quarterly report of investments held by SANDAG. This report includes all money under the direction or care of SANDAG as of September 30, 2006.

+6. **QUARTERLY PROGRESS REPORT ON TRANSPORTATION PROJECTS***  
(José A. Nuncio)  

This quarterly report summarizes the current status of major highway, transit, arterial, traffic management, and transportation demand management projects in the SANDAG five-year Regional Transportation Improvement Program for the period July 2006 through September 2006.

+7. **REPORT SUMMARIZING DELEGATED ACTIONS TAKEN BY EXECUTIVE DIRECTOR**  
(Renée Wasmund)  

In accordance with SANDAG Board Policy Nos. 003 (Investment Policy) and 017 (Delegation of Authority), this report summarizes certain delegated actions taken by the Executive Director during September 2006.

8. 

9. 

**CHAIR’S REPORTS (10 through 12)**

+10. **ANNUAL SANDAG BOARD OF DIRECTORS RETREAT**  
(Anne Steinberger)  

The annual SANDAG Board of Directors retreat is scheduled from January 31, 2007, through February 2, 2007, in the desert community of Borrego Springs. The primary objective of this public meeting is to afford participants the opportunity to discuss strategies for some of the agency’s more important regional policies and programs, and develop ideas for the future direction of the agency. The Executive Committee recommends approval of the 2007 retreat agenda.

+11. **DRAFT 2006 PROGRESS REPORT ON CONSOLIDATION**  
(Garry Bonelli)  

State law requires SANDAG to submit in each even-numbered year a report on the progress of the agency consolidation under Senate Bill 1703 and Assembly Bill 361. The 2006 progress report, which is due by December 31, 2006, summarizes the efforts completed since the last report in 2004, highlights key regional accomplishments, and identifies future challenges. The Board of Directors is asked to review and discuss the draft 2006 progress report. Board action on the final progress report is scheduled for the December 15, 2006, meeting, prior to the December 31, 2006, submittal deadline to the Legislature and Governor.
REPORT FROM NOMINATING COMMITTEE ON SLATE OF BOARD OFFICERS FOR 2007 (San Diego Councilmember Jim Madaffer, Nominating Committee Chair)

In October, Chairman Cafagna appointed a six-person Nominating Committee for Board officers. After consideration of the applications and interviews, the Committee recommends the attached slate of nominees for SANDAG Chair, First Vice Chair, and Second Vice Chair positions for 2007. In accordance with SANDAG Bylaws, the election of officers is scheduled for the December 15, 2006, Board meeting. Additional nominations from the floor also may be made at the December meeting.

REPORTS (13 through XX)

PROPOSED REVISIONS TO TransNet EARLY ACTION PROGRAM AND INTRODUCTION OF ORDINANCE CO-06-1 AMENDING ORDINANCE CO 04-01 (SAN DIEGO TRANSPORTATION IMPROVEMENT PROGRAM ORDINANCE AND EXPENDITURE PLAN) REVISING THE EXPENDITURE PLAN TO INCLUDE COMPLETION OF THE SPRINTER PROJECT* (Councilmember Joe Kellejian, Transportation Committee Chair; Craig Scott and José A. Nuncio)

SPRINTER RAIL PROJECT FUNDING OPTIONS* (José A. Nuncio and Jim Linthicum, SANDAG; Tom Lichterman and Diane Hessler, NCTD)

The Board of Directors is asked to review the proposed SPRINTER financial plan, which would require amending the TransNet Extension Ordinance and Expenditure Plan to include the completion of the SPRINTER project. If approved, the SPRINTER would be added to the TransNet Early Action Program (EAP). The Board also will review additional proposed revisions to the EAP to add funding for the Environmental Mitigation Program and capital improvements to the Trolley. The second reading and adoption of the proposed amendments to the TransNet Ordinance and EAP will be scheduled for the December Board meeting.

ENERGY WORKING GROUP RECOMMENDATION ON THE SDG&E SUNRISE POWERLINK TRANSMISSION LINE (Henry Abarbanel, Energy Working Group Co-Chair; Susan Freedman)

Based on the information that is currently available, the Energy Working Group (EWG) has been evaluating the proposed Sunrise Powerlink, a 500-kilovolt transmission line to connect the Imperial Valley to the San Diego region, for consistency with the adopted Regional Energy Strategy. The EWG is meeting on November 1, 2006, to finalize its recommendation on the project.
CRIMINAL JUSTICE UPDATE: RECENTLY RELEASED CRIME, ARREST, AND DRUG USE STATISTICS FOR THE REGION (Cynthia Burke)

As part of the SANDAG Criminal Justice Clearinghouse, regional crime and arrest statistics, as well as statistics related to drug use among the offender population, are tracked on a regular basis. SANDAG has maintained these statistics since the late 1980s and remains the only regional source for up-to-date historical information. Over the past few months, statistics from 2005 for arrest and substance use and the first half of 2006 for crime have been released in short topic papers and one-page research summaries. An overview of recent trends will be provided.

UPCOMING MEETINGS

The next meeting of the Board of Directors is scheduled for December 15, 2006, at 9 a.m. Please note the December meeting is scheduled for the third Friday of the month.

ADJOURNMENT

+ next to an agenda item indicates an attachment
* next to an agenda item indicates a San Diego County Regional Transportation Commission item
November 3, 2006

AGENDA ITEM NO.: 6

Action Requested: APPROVE

REVIEW OF NOVEMBER 17, 2006, DRAFT BOARD AGENDA

+1. APPROVAL OF MEETING MINUTES

A. OCTOBER 13, 2006, POLICY MEETING MINUTES
B. OCTOBER 27, 2006, MEETING MINUTES

2. PUBLIC COMMENTS/COMMUNICATIONS/MEMBER COMMENTS

Members of the public shall have the opportunity to address the Board on any issue within the jurisdiction of SANDAG. Anyone desiring to speak shall reserve time by completing a “Request to Speak” form and giving it to the Clerk of the Board prior to speaking. Public speakers should notify the Clerk of the Board if they have a handout for distribution to Board members. Speakers are limited to three minutes. Board members also may provide information and announcements under this agenda item.

+3. ACTIONS FROM POLICY ADVISORY COMMITTEES

This item summarizes the actions taken by the Borders Committee on October 27, 2006, and the Executive, Transportation, and Regional Planning Committees on November 3, 2006.

CONSENT ITEMS (4 through XX)

+4. AMENDMENT TO THE MASTER MEMORANDUM OF UNDERSTANDING WITH NCTD TO PROVIDE ADDITIONAL SUPPORT TO THE SPRINTER PROJECT* (Jim Linthicum)

The Board is asked to approve an addendum to the master Memorandum of Understanding with North County Transit District (NCTD), to provide additional staff and consultant support to NCTD for its SPRINTER project, in substantially the same form as the draft attached to the report for this item.
State law requires that the Board be provided a quarterly report of investments held by SANDAG. This report includes all money under the direction or care of SANDAG as of September 30, 2006.

This quarterly report summarizes the current status of major highway, transit, arterial, traffic management, and transportation demand management projects in the SANDAG five-year Regional Transportation Improvement Program for the period July 2006 through September 2006.

In accordance with SANDAG Board Policy Nos. 003 (Investment Policy) and 017 (Delegation of Authority), this report summarizes certain delegated actions taken by the Executive Director during September 2006.

The annual SANDAG Board of Directors retreat is scheduled from January 31, 2007, through February 2, 2007, in the desert community of Borrego Springs. The primary objective of this public meeting is to afford participants the opportunity to discuss strategies for some of the agency’s more important regional policies and programs, and develop ideas for the future direction of the agency. The Executive Committee recommends approval of the 2007 retreat agenda.

State law requires SANDAG to submit in each even-numbered year a report on the progress of the agency consolidation under Senate Bill 1703 and Assembly Bill 361. The 2006 progress report, which is due by December 31, 2006, summarizes the efforts completed since the last report in 2004, highlights key regional accomplishments, and identifies future challenges. The Board of Directors is asked to review and discuss the draft 2006 progress report. Board action on the final progress report is scheduled for the December 15, 2006, meeting, prior to the December 31, 2006, submittal deadline to the Legislature and Governor.
REPORTS (13 through XX)

13. PROPOSED REVISIONS TO TransNet EARLY ACTION PROGRAM AND INTRODUCTION OF ORDINANCE CO-06-1 AMENDING ORDINANCE CO 04-01 (SAN DIEGO TRANSPORTATION IMPROVEMENT PROGRAM ORDINANCE AND EXPENDITURE PLAN) REVISI NG THE EXPENDITURE PLAN TO INCLUDE COMPLETION OF THE SPRINTER PROJECT AND PROPOSED REVISIONS TO TransNet EARLY ACTION PROGRAM* (Councilmember Joe Kellejian, Transportation Committee Chair; Craig Scott and José A. Nuncio)

The Board of Directors is asked (1) to review the proposed SPRINTER financial plan, which would require amending the TransNet Extension Ordinance and Expenditure Plan to include the completion of the SPRINTER project, and (2) to conduct the first reading of the amended TransNet Ordinance. If approved, the SPRINTER would be added to the TransNet Early Action Program (EAP). The Board also will review additional proposed revisions to the EAP to add funding for the Environmental Mitigation Program and capital improvements to the Trolley. The second reading and adoption of the amended proposed amendments to the TransNet Ordinance and EAP will be scheduled for the December Board meeting. The Board also will review proposed revisions to the TransNet Early Action Program for the Environmental Mitigation Program and capital improvements to the Trolley.

14. ENERGY WORKING GROUP RECOMMENDATION ON THE SDG&E SUNRISE POWERLINK TRANSMISSION LINE (Henry Abarbanel, Energy Working Group Co-Chair; Susan Freedman)

Based on the information that is currently available, the Energy Working Group (EWG) has been evaluating the proposed Sunrise Powerlink, a 500-kilovolt transmission line to connect the Imperial Valley to the San Diego region, for consistency with the adopted Regional Energy Strategy. The EWG is meeting on November 1, 2006, to finalize its recommendation on the project.
+15. CRIMINAL JUSTICE UPDATE: RECENTLY RELEASED CRIME, ARREST, AND DRUG USE TRENDS IN STATISTICS FOR THE REGION (Cynthia Burke)

As part of the SANDAG Criminal Justice Clearinghouse, regional crime and arrest statistics, as well as statistics related to drug use among the offender population, are tracked on a regular basis. SANDAG has maintained these statistics since the late 1980s and remains the only regional source for up-to-date historical information. Over the past few months, 2005 substance use statistics from 2005 for arrest and substance use and the first half of 2006 for crime statistics for the first half of 2006 have been released/published in short topic papers and one-page research summaries. The 2005 arrestee statistics will be published in the near future. These data provide timely information for policymakers and practitioners interested in how crime and law enforcement's response varies over time and across jurisdictions An overview of recent trends will be provided.

16.

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18. UPCOMING MEETINGS

The next meeting of the Board of Directors is scheduled for December 15, 2006, at 9 a.m. Please note the December meeting is scheduled for the third Friday of the month.

19. ADJOURNMENT

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