EXECUTIVE COMMITTEE AGENDA

Friday, December 1, 2006
9 to 10:30 a.m.
SANDAG, 7th Floor Conference Room
401 B Street
San Diego

AGENDA HIGHLIGHTS

- PROPOSAL FOR TRIBAL GOVERNMENT REPRESENTATION ON SANDAG
- DRAFT 2007 LEGISLATIVE PROGRAM
- PROPOSED AMENDMENTS TO BOARD POLICIES

PLEASE TURN OFF CELL PHONES DURING THE MEETING

MISSION STATEMENT
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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.

This agenda and related staff reports can be accessed at www.sandag.org under meetings on SANDAG’s Web site. Public comments regarding the agenda can be forwarded to SANDAG via the e-mail comment form also available on the Web site. E-mail comments should be received no later than noon, two working days prior to the Executive Committee meeting.

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EXECUTIVE COMMITTEE  
Friday, December 1, 2006

ITEM #  RECOMMENDATION

+1. APPROVAL OF NOVEMBER 3, 2006, MEETING MINUTES  APPROVE

2. PUBLIC COMMENTS/COMMUNICATIONS/MEMBER COMMENTS

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. STATEWIDE INFRASTRUCTURE BOND AND LOCAL TRANSPORTATION SALES TAX ELECTION RESULTS (Victoria Stackwick)  INFORMATION

This item summarizes the November 7, 2006, election results for the statewide infrastructure bond measures and various countywide local transportation sales tax measures around California.

CHAIR’S REPORT (4)

+4. PROPOSAL FOR TRIBAL GOVERNMENT REPRESENTATION ON SANDAG (Julie Wiley)  RECOMMEND

The Executive Committee is asked to recommend that the Board of Directors approve the proposal for tribal government representation on SANDAG. The proposal includes adding the Southern California Tribal Chairmen’s Association (SCTCA) as an advisory member to the Board of Directors and the Transportation, Regional Planning, and Public Safety Committees. SCTCA is currently an advisory member of the Borders Committee. The proposal is incorporated into the draft MOU between SANDAG and SCTCA, which is attached to the report.

REPORTS (5 through 8)

+5. DRAFT 2007 LEGISLATIVE PROGRAM (Kim Kawada)  RECOMMEND

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 SANDAG 2007 Legislative Program includes policies and proposals for possible federal and state legislation and local activities. Changes to the draft program were made based on discussion by the Executive Committee in November. The Executive Committee is asked to recommend that the SANDAG Board of Directors approve the 2007 SANDAG Legislative Program.
+6. PROPOSED AMENDMENTS TO BOARD POLICIES (Julie Wiley) RECOMMEND

The General Counsel brought proposed amendments to SANDAG Board Policies to the Executive Committee last month and received comments from the Committee members. Based on member requests for changes, the revised amendments and the proposed amendments not yet discussed by the Committee are being brought back to the Executive Committee for a recommendation before being taken to the SANDAG Board for approval.

+7. LEASE AMENDMENT AT 401 B STREET (Leslie Campbell) RECOMMEND

SANDAG has an option to expand its office space at the 401 B Street facility, under the terms of its current lease. SANDAG has been presented with notification of this option by the landlord for a 5,205 square foot space on the Third Floor. The deadline for accepting this option is February 1, 2007. The Executive Committee is asked to recommend that the Board of Directors delegate authority to the Executive Director to sign a lease amendment in the event the Executive Director determines such an amendment is advantageous to SANDAG based on opportunity, need, and savings.

+8. REVIEW OF DRAFT DECEMBER 15, 2006, BOARD AGENDA APPROVE

9. UPCOMING MEETINGS INFORMATION

The next meeting of the Executive Committee is scheduled for Friday, January 12, 2007, at 9 a.m.

10. ADJOURNMENT

+ next to an agenda item indicates an attachment
EXECUTIVE COMMITTEE DISCUSSION AND ACTIONS
NOVEMBER 3, 2006

Chairman Mickey Cafagna (North County Inland) called the Executive Committee meeting to order at 8:06 a.m. The attendance sheet for the meeting is attached.

1. APPROVAL OF MINUTES

Upon a motion by Supervisor Bill Horn (County of San Diego) and a second by Mayor Crystal Crawford (North County Coastal), the minutes of the October 13, 2006, Executive Committee meeting were unanimously approved.

2. PUBLIC COMMENTS/COMMUNICATIONS/MEMBERS COMMENTS

There were no public comments or member communications.

CONSENT (3)

3. LEGISLATIVE STATUS REPORT (INFORMATION)

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

Action: Upon a motion by Supervisor Horn and second by First Vice Chair Mary Sessom (East County), the SANDAG Board voted to approve Consent Item No. 3.

REPORTS (4 through 6)

Gary Gallegos, Executive Director, asked that item No. 4 be trailed until Julie Wiley, General Counsel, arrives at the meeting.

5. DRAFT 2007 LEGISLATIVE PROGRAM (DISCUSSION/POSSIBLE ACTION)

Kim Kawada, Executive Program Manager, reported that each year the Executive Committee recommends a legislative program in a priority order to the Board of Directors for the ensuing calendar year. The draft program includes policies and proposals for possible federal and state legislation and local activities. The program is organized into three distinct sections that generally relate to the level of effort needed to support corresponding legislative activities: (1) Sponsor, (2) Support/Oppose, and (3) Monitor. Ms. Kawada explained that the 2006 program included 32 separate legislative goals; those goals that have been completed or that are no longer relevant have been deleted, modifications that have been made to some existing goals, and new goals for 2007 that are proposed. She reviewed those changes from last year’s program.
There are four new goals proposed by staff: Infrastructure Bond Funding, Implementation of Adopted Plans and Programs, Freeway Transit Lanes, and a general goal for legislative fixes to provide us with flexibility for modifications to policies at the state or federal level. She noted that the Executive Committee either can take action today or at its meeting next month.

Chair Cafagna asked if we still want to conduct meetings in Mexico. Ms. Kawada responded that Senator Denise Ducheny had asked us to do some legal analysis. Ms. Wiley is conducting that analysis, which is nearly complete. Following the SANDAG analysis, Senator Ducheny was going to request Legislative Counsel for an opinion on the issues. Mr. Gallegos said that we have found legitimate ways for Board members to meet in Mexico and remain consistent with the Brown Act; however, we still want to hear the opinions from our General Counsel and the Legislative Counsel.

Councilmember Jim Madaffer (City of San Diego) thought that legislative goal Nos. 11, 14, and 15, which have the highest priority, should be moved up in the Legislative Program. He noted that goal No. 11, related to legislation increasing revenues for transportation projects, was especially important given Propositions 1A and 1B on the November 7 ballot. He suggested that these goals be moved to the top of the list since they represent our agency’s main focus. More housing is consistent with the Regional Comprehensive Plan. He also suggested that goal No. 26, related to legislation resulting in cost efficiencies and savings, should have a higher priority.

Second Vice Chair Lori Holt Pfeiler agreed that we should either eliminate it or decide what to do with it.

Councilmember Madaffer commented that it doesn’t look good to have it low on the list. If there was a bill related to making local government more efficient, we would make it a priority at that point.

Mr. Gallegos stated that staff does not recommend that goal No. 26 be eliminated but rather that it be made a guiding principle or your highest priority.

Chair Cafagna asked what chance there is to obtain legislation to lower the two-thirds voter requirement for special purpose taxes (goal No. 16). Ms. Kawada replied that the chance is not very good, but it remains one of the highest priority goals.

Ms. Kawada explained that the legislative program is broken up into three categories: Sponsor, Support/Oppose, and Monitor. She asked for clarification from the Executive Committee members about how to revise this list to make it clearer. Councilmember Madaffer stated that his comments relate more to the appearance standpoint and the public’s perspective. Mr. Gallegos agreed to rearrange this list to reflect the agency’s priorities in a clearer fashion.

First Vice Chair Sessom noted that there is a big difference between Support and Sponsor.

Mr. Gallegos suggested that a bill not be sponsored unless it directly relates to SANDAG.
Chair Cafagna asked what the difference is between from highest to lowest priority. Mayor Crawford answered that it provides direction to staff to work with our lobbyists and in the allocation of staff resources. Ms. Kawada added that the priority also lets staff know which bills Board members want to sponsor in the upcoming legislative session so that we can approach members of the State Legislature.

Mr. Gallegos pointed out that last year the Executive Committee reorganized the legislative program into the current format in order to identify which specific legislative items SANDAG would be sponsoring.

Mayor Crawford asked how the public would see the summary of these goals. Ms. Kawada replied that the annual legislative program is published on our Web site. However, this page does not get a lot of “hits,” as it is more of an internal tool for staff and our lobbyists.

Mayor Crawford suggested that we provide language that clarifies the overriding direction for the agency with these goals. Communication is the key here, not only from staff to the Executive Committee to the Board but also to the public.

Councilmember Madaffer suggested a different format for this information. On page 4, after the word “Sponsor,” put an A in brackets. Then change the 1 under 3 to 1A and add the “support/oppose,” put a B in brackets and No. 11 would be 1B, No. 14 would be 2B, and No. 15 would be 3B. Ms. Kawada noted that in the past we had the running order that grouped all of the highest goals together, followed by the higher goals, etc. Last year we separated the goals into the three categories or Sponsor, Support/Oppose, and Monitor.

Supervisor Horn stated that when we are sponsoring a specific legislative item, we need to be prepared. He did not have a preference on how the information was presented.

First Vice Chair Sessom said she would like to see how this new format would look, and asked that staff bring it back to the next Executive Committee meeting.

Action: The Executive Committee provided direction to staff to report back on the revised 2007 Legislative Program at the next Executive Committee meeting on Friday, December 1, 2006.

4. PROPOSED AMENDMENTS TO BOARD POLICIES (DISCUSSION/POSSIBLE ACTION)

Ms. Wiley reported that staff conducted a review of the current 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 changes are acceptable, they will go to the Board for approval. She noted that she would only be reviewing the substantive changes.

Ms. Wiley referred to Board Policy No. 001, on page 6 of the agenda report. This proposed change to the Executive Committee Membership and Responsibilities would allow Transportation Committee review of Board policies that are under its subject matter purview. There also is a reciprocal change in the Transportation Committee Membership and Responsibilities section in item 21, on page 7.
First Vice Chair Sessom thought that the Executive Committee had directed that all of the Board policy changes would be vetted through the Executive Committee so they would all come from a single Policy Advisory Committee. She thought that direction should be kept so that the Board understands there is a consistent body looking at all of these suggested policy changes.

Councilmember Madaffer asked for the reasoning behind this suggestion. Ms. Wiley replied that it was just an efficiency issue of having applicable policy amendments going to the Policy Advisory Committees before the Board. The suggested amendment would eliminate one step for certain transportation-related Board policies.

Councilmember Madaffer agreed with First Vice Chair Sessom on her concern. He suggested that perhaps the Executive Committee could be apprised of a policy change by the Transportation Committee.

Chair Cafagna commented that reviewing the Board policies is what the Executive Committee does and expressed a preference for keeping Board policy review at the Executive Committee level. Mr. Gallegos pointed out that the Board policies are reviewed every year, so if a change doesn’t work it can be reviewed again the following year.

Supervisor Horn said that since both the City of San Diego and the County of San Diego are on the Executive Committee, it’s helpful to know if there is a conflict between these two agencies before an item goes before the full Board.

Ms. Wiley agreed to strike that proposed change under the Executive Committee and Transportation Committee Membership and Responsibilities sections of Board Policy No. 1.

Ms. Wiley referred to page 6, No. 5, for Transportation Committee Membership Responsibilities. Currently, the Transportation Committee has the ability to approve amendments to the Regional Transportation Improvement Program (RTIP) and the State Transportation Improvement Program. Staff is requesting that the Transportation Committee also have the ability to approve State Transit Assistance claim amendments. This prior omission was an oversight.

Ms. Wiley referred to page 7, No. 17, under the Transportation Committee responsibilities concerning the ability to conduct hearings for fare setting and fare ordinance amendments. This would save time and give the operators a vote on fare-related issues. The Executive Committee agreed with this proposed change.

Ms. Wiley stated that No. 18 would allow the Transportation Committee to accept for distribution, hold public hearings regarding, and adopt/certify certain environmental documents for the transportation projects and plans already delegated to the Transportation Committee.

Mayor Crawford asked for an example. Rob Rundle, Principal Planner, provided the Miramar Transit Station as an example. The Executive Committee agreed with the proposed change.
Ms. Wiley referred to No. 19 to allow the Transportation Committee to 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. The Executive Committee agreed with this proposed change.

Ms. Wiley referred to No. 20 that would allow the Transportation Committee to provide oversight and approvals for the Coordinated Transportation Services Agency (CTSA) matters and appoint a Transportation Committee representative to the CTSA Board. The Executive Committee agreed with this change.

Ms. Wiley referred to No. 6 under the Borders Committee Membership and Responsibilities section, to update the policy to incorporate the fact that the Borders Committee already has the authority to review and comment on regionally significant projects in adjoining counties.

Mr. Gallegos mentioned that the Borders Committee looked at the issue related to the State Route 241 Toll Road and decided to refer this matter to the Transportation Committee and possibly the Board.

Ms. Wiley referred to Policy No. 002, on page 9, Section 1.5, and said that this is an update for consistency purposes for changes already approved to the Public Safety Committee membership. The Executive Committee agreed with this proposed change.

Ms. Wiley referred to page 10, Section 4.1, and noted that the intent of this proposed change is to clarify when appointments from the governing bodies of member agencies take effect. The proposed change indicates that 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 by January 10, and that all such appointments shall go into effect immediately following approval by the member agency’s governing body. This timing would allow the Board Chair to have time to make the selection of the Chair/Vice Chair appointments for the Policy Advisory Committees by January 31.

Vice Mayor Ron Morrison (South County) wondered if you should add “receipt by the SANDAG Clerk of the Board of the letter appointing a member.” Ms. Wiley said that receipt by the SANDAG Clerk of the Board could be via letter, e-mail, or fax, but clarified that the SANDAG appointment takes effect when the action is taken by the member agency’s governing board.

Mayor Crawford stated her preference that the action should be effective when the city council or board takes its action.

First Vice Chair Sessom agreed that this is clear because it says the appointment will take effect immediately upon action by the member agency’s governing body.

Ms. Wiley referred to page 11, indicating a similar change in Section 6, appointments for the Chair/Vice Chair appointments to the Policy Advisory Committees to go into effect immediately upon an action to appoint.

Ms. Wiley referred to Board Policy No. 004, Section 1, pages 13-14, which are revisions to implement the change that was proposed in Board Policy No. 001 that allows the Transportation Committee the ability to review and approve fare ordinances.
Ms. Wiley referred to page 23, Section 6.6, which relates to the creation of new committees at SANDAG. Under the Brown Act, whenever a legislative body approves the creation of a committee, that committee comes under the Brown Act. She said that not every committee, especially technical advisory working groups, has to fall under the Brown Act requirements. The proposed change would allow the Executive Director, with Board Chair concurrence, to approve the creation of new SANDAG committees.

Councilmember Madaffer clarified that if a committee is created by a Policy Advisory Committee or the Board it would fall under the Brown Act; however, if it was created by the Executive Director, then it would not fall under the Brown Act.

Mr. Gallegos said that he was initially uncomfortable with this change until they added the stipulation of the concurrence by the Board Chair.

Councilmember Madaffer stated that all committees come up for an annual review, and wondered if a committee created by this process also would be subject to that annual review. Ms. Wiley responded affirmatively and noted that the creation of the committee by the Executive Director also would be included in the monthly report to the Board on the Executive Director’s delegated actions. Ms. Wiley said another change was that the annual review of committees would come to the Board once a year rather than twice a year.

Mayor Crawford asked for the reason behind this proposed change to allow the Executive Director to create a committee with Board Chair concurrence. Ms. Wiley explained the formality of falling under the Brown Act. Sometimes staff would like to create a technical or advisory working group of staffs from other agencies. In this case the public does not need to be informed because items from this committee will be vetted by a higher policy body where the public will have an opportunity to provide input. Staff is trying to keep down the number of committees yet make sure that the Board and Policy Advisory Committees are aware of what is being done.

Mayor Crawford reiterated that we are not trying to prevent public input but are trying to be more efficient. Ms. Wiley responded affirmatively.

Supervisor Horn asked if a member of the public could attend meetings of these informal committees. Ms. Julie replied affirmatively.

Mayor Crawford asked about the hierarchy if the Board Chair is unavailable; would the Executive Director then obtain the concurrence of the First or Second Vice Chair. Ms. Wiley indicated that the Bylaws already provide for this delegation of authority so no additional changes would be necessary as part of this Board policy.

Ms. Wiley continued with her review and stated that as SANDAG has become responsible for constructing transit capital improvement projects, we have become the subject of more complaints/claims and litigation than in the past. She referred to Board Policy No. 008, page 27, and said that this proposed change clarifies the delegation of authority procedure for legal documents, including declarations, pleadings, and other documents.
Ms. Wiley referred to Board Policy No. 015, on page 35, regarding new rules of procedures regarding electronic discovery. She said that e-mails and electronic documents are subject to the public records act and the legal discovery process. The proposed changes would state that SANDAG e-mail should be reviewed for professionalism, accuracy, and objectiveness before being sent.

Ms. Wiley referred to page 36 of Board Policy No. 015, Records Management, Section 3.2, to clarify that the two-year minimum timeline doesn’t begin until after a document has been finalized.

Ms. Wiley referred to page 37, Section 4, Project File Maintenance, and explained that this is an update to make this section more accurate. We now have a Contracts and Procurement division at SANDAG, which is responsible for keeping the lists of documents noted in the policy.

Ms. Wiley referred to page 40, Board Policy No. 016, related to the upper limit for the procurement of services. She stated that Senate Bill 1703 (SB 1703) includes language allowing simplified procurements for services up to $100,000. Current Board policy allows simplified procurements for services up to $50,000. The proposed change would increase this limit to $100,000 consistent with SB 1703.

Councilmember Madaffer asked staff to clarify how the $100,000 limit is applied. Ms. Wiley replied that this limit would be per contract. It enables staff to get three quotes without having to go through a formal invitation to bid or a request for proposal process for service procurements of $100,000 or less. The simplified procurements are still awarded on a competitive basis.

Supervisor Horn said that the County of San Diego and North County Transit District only allow the Executive Director to approve up to $50,000. He was inclined to stay at that level.

Ms. Wiley clarified this is for the procurement process on an approved budget item. It does not seek to increase the Executive Director’s delegated authority.

Chair Cafagna asked in the interest of time if we could put the balance of this item on the next Executive Committee agenda. We will pick up the review at Policy No. 016, page 42.

Action: The Executive Committee directed staff to report back at the next meeting to continue the review of the remaining amendments to Board Policies.

6. REVIEW OF NOVEMBER 17, 2006, DRAFT BOARD AGENDA (APPROVE)

Diane Eidam, Chief Deputy Executive Director, reviewed the draft Board agenda for the November 17, 2006, Board meeting. She mentioned one item of note is Item No. 13, related to the First Reading of an Ordinance to amend the TransNet Expenditure Plan and Program to include completion of the SPRINTER project. Our commitment to the Federal Transit Administration was that we would have a funding package for the SPRINTER in place by the end of the calendar year.
Mr. Gallegos said that this item also lays out options for the Board to consider if the statewide transportation infrastructure bond measure passes. If Proposition 1B passes, staff would come back with proposed changes to the TransNet Early Action Program.

First Vice Chair Sessom expressed a concern related to Item No. 14 about the Energy Working Group (EWG) recommendation on the Sunrise Powerlink Transmission Project. She wondered if it should come to the November Board meeting or to a future meeting. Mr. Gallegos said this would be an informational item on the November 17, 2006, Board agenda. What came out of the EWG meeting is that they don’t have enough information to provide a definitive recommendation to the Board on the project. However, the Board should hear a progress report from the EWG on this matter and may consider providing direction to the Regional Planning Committee and EWG on any needed follow up actions.

**Action:** Upon a motion by First Vice Chair Sessom, and a second by Vice Mayor Morrison, the Executive Committee voted to approve the agenda for the SANDAG Board of Directors meeting on November 17, 2006, as amended.

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 to accommodate the December holiday schedule.**

8. **ADJOURNMENT**

Chair Cafagna adjourned the meeting at 9:07 a.m.

Attachment: Attendance Sheet
## CONFIRMED ATTENDANCE
### SANDAG EXECUTIVE COMMITTEE MEETING
### NOVEMBER 3, 2006

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<tr>
<th>GEOGRAPHICAL AREA</th>
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<td>Bill Horn</td>
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<td>Lori Holt Pfeiler</td>
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STATEWIDE INFRASTRUCTURE BOND AND
LOCAL TRANSPORTATION SALES TAX ELECTION RESULTS  File Number 7000900

Introduction

On August 4, 2006, the SANDAG Board of Directors approved resolutions in support of the statewide infrastructure bond measures - Propositions 1A, 1B, 1C, 1D, and 1E. At its October 13, 2006, meeting, the Executive Committee took action to oppose Proposition 90, while taking no position on Proposition 84 or Proposition 87.

The General Election took place on November 7, 2006. This item provides a summary of the election results regarding these ballot measures, some of which may have effects on the SANDAG work program.

Discussion

Statewide Infrastructure Bond Propositions

SANDAG supported Propositions 1A, 1B, 1C, 1D, and 1E, the statewide infrastructure bond package developed by the Governor and California legislature. All five of the infrastructure bond measures passed. The results of the November 7, 2006, General Election, including San Diego County and statewide results, are provided in Attachment 1.

Local Transportation Sales Tax Measures

Of California's 58 counties, 18 have sales taxes dedicated for transportation. In 1987, voters approved the TransNet program, which established a half-cent sales tax to fund a variety of transportation projects throughout the San Diego region. This 20-year transportation improvement program was set to expire in 2008. However, in November 2004, 67 percent of the region's voters supported an extension of TransNet to 2048, generating an additional $14 billion for highway, transit, and local road projects.

On the November 7 ballot, 12 counties statewide brought forth ballot measures to impose or extend half-cent sales taxes dedicated toward improving local transportation. Seven of the counties were seeking a new dedicated transportation sales tax, while the remaining five counties were seeking an extension of a preexisting sales tax.
Attachment 2 provides a list of counties seeking a new or extended transportation sales tax. State law mandates that all local sales tax measures for specific purposes, such as transportation, must pass by a two-thirds margin. Four out of five counties seeking an extension of a preexisting tax were approved by voters, while only one of the seven seeking a new transportation tax was successful at the two-thirds threshold. Local sales taxes for unspecified general fund purposes, such as the successful half-cent sales tax in Vista (53.9 percent, yes) require a simple majority vote.

The SANDAG Legislative Program continues to include a legislative goal to lower the current two-thirds requirement for special purpose taxes, such as transportation and quality of life improvements.

KIM KAWADA
Executive Program Manager

Attachments: 1. Statewide Bond Measures and Propositions 84, 87, and 90 Election Results
               2. Election Results for Local Transportation Sales Tax Measures

Key Staff Contact: Victoria Stackwick, (619) 699-6926, vst@sandag.org
### STATEWIDE BALLOT INITIATIVE RESULTS

<table>
<thead>
<tr>
<th>Ballot Initiative</th>
<th>Pass?</th>
<th>SANDAG Position</th>
<th>San Diego County Results</th>
<th>Statewide Results</th>
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<tr>
<td>Proposition 1A - Protect Prop. 42 Funds</td>
<td>YES</td>
<td>SUPPORT</td>
<td>81.0%</td>
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<td>Proposition 1B - Hwy/Air/Port Bond</td>
<td>YES</td>
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<td>Proposition 1C - Housing Shelter Fund</td>
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<td>Proposition 1E - Disaster/Flood Bond</td>
<td>YES</td>
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<td>Proposition 84 - Water/Flood/Park</td>
<td>YES</td>
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<td>Proposition 87 - Energy/Oil Tax</td>
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<td>Proposition 90 - Eminent Domain</td>
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Source: California Secretary of State [link](http://vote.ss.ca.gov/Returns/prop/00.htm#cnty)
## LOCAL TRANSPORTATION SALES TAX MEASURES

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<th>County</th>
<th>Pass?</th>
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<th>% No</th>
<th>New or Renewal</th>
<th>Duration</th>
<th>Rate</th>
<th>Estimated Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amador</td>
<td>No</td>
<td>48.5</td>
<td>51.5</td>
<td>New</td>
<td>Permanent</td>
<td>1/2 cent</td>
<td>Not Available</td>
</tr>
<tr>
<td>Fresno</td>
<td>Yes</td>
<td>77.0</td>
<td>23.0</td>
<td>Renewal</td>
<td>20 Years</td>
<td>1/2 cent</td>
<td>$1.7 Billion</td>
</tr>
<tr>
<td>Kern</td>
<td>No</td>
<td>56.1</td>
<td>43.9</td>
<td>New</td>
<td>20 Years</td>
<td>1/2 cent</td>
<td>$1.0 Billion</td>
</tr>
<tr>
<td>Madera</td>
<td>Yes</td>
<td>72.7</td>
<td>27.3</td>
<td>Renewal</td>
<td>20 Years</td>
<td>1/2 cent</td>
<td>$212.0 Million</td>
</tr>
<tr>
<td>Marin/Sonoma (rail)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Marin</td>
<td>No</td>
<td>57.4</td>
<td>42.6</td>
<td>New</td>
<td>20 Years</td>
<td>1/4 cent</td>
<td>$668.0 Million</td>
</tr>
<tr>
<td>Sonoma</td>
<td>No</td>
<td>69.3</td>
<td>30.7</td>
<td>New</td>
<td>20 Years</td>
<td>1/4 cent</td>
<td>$668.0 Million</td>
</tr>
<tr>
<td>Merced</td>
<td>No</td>
<td>60.7</td>
<td>39.3</td>
<td>New</td>
<td>30 Years</td>
<td>1/2 cent</td>
<td>$446.0 Million</td>
</tr>
<tr>
<td>Orange</td>
<td>Yes</td>
<td>68.5</td>
<td>31.5</td>
<td>Renewal</td>
<td>30 Years</td>
<td>1/2 cent</td>
<td>$11.8 Billion</td>
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<tr>
<td>San Joaquin</td>
<td>Yes</td>
<td>77.3</td>
<td>22.7</td>
<td>Renewal</td>
<td>30 Years</td>
<td>1/2 cent</td>
<td>$2.5 Billion</td>
</tr>
<tr>
<td>Santa Barbara</td>
<td>No</td>
<td>54.1</td>
<td>45.9</td>
<td>Renewal</td>
<td>30 Years</td>
<td>3/4 cent</td>
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<td>Stanislaus</td>
<td>No</td>
<td>57.4</td>
<td>42.6</td>
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<td>30 Years</td>
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<td>$1.02 Billion</td>
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<tr>
<td>Tulare</td>
<td>Yes</td>
<td>66.7</td>
<td>33.3</td>
<td>New</td>
<td>30 Years</td>
<td>1/2 cent</td>
<td>$653.0 Million</td>
</tr>
</tbody>
</table>

Source: Transportation California
(http://www.transportationca.com/displaycommon.cfm?an=1&subarticlenbr=202)
Introduction

The Executive Committee is asked to recommend that the Board of Directors approve the proposal for tribal government representation on SANDAG. The proposal includes adding the Southern California Tribal Chairmen's Association (SCTCA) as an advisory member to the Board of Directors and the Transportation, Regional Planning, and Public Safety Committees. SCTCA is currently an advisory member of the Borders Committee. The proposal is incorporated into the Draft Memorandum of Understanding (MOU) between SANDAG and SCTCA.

Discussion

SANDAG has held two Tribal Summits at which the SANDAG Board and the leadership of the Tribes recognized the benefits to be gained by taking a cooperative approach to planning for an improved quality of life for the San Diego region. The SANDAG Chair, and Vice Chairs, as well as the Chair of the Borders Committee have had discussions over the past few months regarding a plan for involving the Tribal Governments in the policy decisions at SANDAG.

The attached MOU embodies the proposed advisory role for the SCTCA on the SANDAG Board and all of the Policy Advisory Committees, except the Executive Committee. The draft MOU is scheduled to be discussed at the SCTCA meeting on November 21, 2006. Staff will report on the outcome of the SCTCA discussions at the December 1 Executive Committee meeting.

If the Executive Committee is in agreement with the elements of the advisory membership proposal, and recommends approval of the draft MOU, the MOU will be taken to the SANDAG Board of Directors. If the Board approves, the MOU will be finalized and sent to the SCTCA for execution. Execution and implementation of the MOU by SANDAG would not occur until after SCTCA executed the MOU and met the conditions for implementation of the MOU’s provisions.

JULIE D. WILEY
General Counsel

Attachment: 1. Draft MOU between SANDAG and SCTCA Regarding Representation at SANDAG

Key Staff Contact: Julie Wiley, (619) 699-6966, jwi@sandag.org
This Memorandum of Understanding ("MOU") is made and entered into effective as of this ______ day of December 2006, by and between the San Diego Association of Governments ("SANDAG") and the Southern California Tribal Chairmen’s Association ("SCTCA").

RECITALS

The following recitals are a substantive part of this Agreement:

WHEREAS, SCTCA is a multi-service Indian Tribal Organization established by Tribal Resolutions to the federal government in 1972 and 1978 and serving a consortium of 19 federally recognized Tribal Governments in Southern California; and

WHEREAS, SANDAG is a legislatively created regional government agency that builds consensus, makes strategic plans, obtains and allocates resources, plans, engineers, and builds public transportation, and provides information on a broad range of topics pertinent to the San Diego region’s quality of life; and

WHEREAS, SANDAG is governed by a Board of Directors composed of mayors, councilmembers, and two county supervisors from each of the region’s 19 local governments; and

WHEREAS, SANDAG voting members are supplemented by advisory representatives from Imperial County, the U.S. Department of Defense, Caltrans, San Diego Unified Port District, Metropolitan Transit System, North County Transit District, San Diego County Water Authority, and Mexico; and

WHEREAS, SANDAG has held two Tribal Summits at which the SANDAG Board of Directors and the leadership of the Tribes recognized the benefits to be gained by taking a cooperative approach to planning for an improved quality of life for the San Diego region; and

WHEREAS, some of the leadership of the Tribes in attendance at the Tribal Summits have requested representation on the SANDAG Board and Policy Advisory Committees; and

WHEREAS, the parties believe that the membership of SCTCA represents the federally recognized Tribes in the San Diego region; and

WHEREAS, the Tribes that are members of the SCTCA have undertaken, and intend to continue to undertake, transportation projects and programs on their lands located within the boundaries of SANDAG jurisdiction; and
WHEREAS, the governing body of the SCTCA and Board of Directors of SANDAG hope to facilitate coordination of regional planning and programming by providing for members of the SCTCA to sit in an advisory role on the SANDAG Board of Directors and Policy Advisory Committees; and

WHEREAS, the parties wish to memorialize their agreement in this MOU to carry out the purposes set forth above;

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises set forth herein, the parties agree as follows:

1. The Chairman of the SCTCA shall be eligible to serve as an advisory member on the SANDAG Board of Directors. When a new Chairman is selected by the SCTCA, that person shall automatically become the regular advisory member on the SANDAG Board of Directors. The Chairman of the SCTCA may select an alternate who is an official member of the governing body of the SCTCA and represents a federally recognized Tribe within SANDAG jurisdiction. The alternate selected by the SCTCA Chairman shall remain the alternate until the Chairman advises SANDAG of a new alternate’s name.

2. The governing board of the SCTCA shall select one regular member and one alternate to sit as advisory members on each of the following SANDAG Policy Advisory Committees: Borders Committee, Public Safety Committee, Regional Planning Committee, and Transportation Committee. Each regular and alternate member must be an official member of the governing body of the SCTCA and represent a federally recognized Tribe within SANDAG jurisdiction.

3. Upon full execution of this MOU, SANDAG shall prepare any modifications to its Board Policies and Bylaws that may be needed to implement advisory membership status for SCTCA on the SANDAG Board of Directors and identified Policy Advisory Committees.

4. Upon full execution of this MOU, SCTCA shall prepare any modifications to its governing documents that may be needed to implement advisory membership status for SCTCA on the SANDAG Board of Directors and identified Policy Advisory Committees.

5. Upon full execution of this MOU, the SCTCA Chairman will identify a person to serve as alternate for the SANDAG Board. Additionally, the governing body of the SCTCA shall identify the persons it has selected to serve as regular and alternate members on the identified Policy Advisory Committees. These persons shall serve until they are no longer official members of the governing body of the SCTCA or until January 1, 2008, whichever occurs first. In January of every year thereafter the SCTCA will provide SANDAG with a list of its regular and alternate members for the identified SANDAG Policy Advisory Committees.

6. SCTCA shall ensure that any person selected to serve on the SANDAG Board or a Policy Advisory Committee is authorized as a spokesperson for the SCTCA. SANDAG further requests that the Tribal representatives selected by SCTCA communicate information obtained at SANDAG meetings to the appropriate persons at SCTCA and in their respective Tribes.
7. All representatives from SCTCA serving on the SANDAG Board of Directors, Policy Advisory Committees, or other legislative body, shall be subject to SANDAG Board Policies and Bylaws.

8. Nothing in this MOU is intended to limit the status and rights of the Tribes as sovereign governments or grant the SCTCA or the Tribes any of the rights, powers, or authority of local governments.

9. Any notice required or permitted under this MOU may be personally served on the other party, by the party giving notice, or may be served by certified mail, return receipt requested, to the following addresses:

   For SANDAG
   401 B Street, Suite 800
   San Diego, CA 92101
   Attn: Gary L. Gallegos

   For SCTCA
   Address1
   Address2
   Attn: Name

10. This MOU shall continue in effect unless and until a party to the MOU gives 60 (sixty) days written notice of its desire to withdraw from the MOU.

11. In the event the SCTCA becomes a recipient of funds disbursed by SANDAG, SCTCA hereby agrees to hold harmless and defend SANDAG against challenges, claims or litigation related to projects receiving such funding. This provision shall survive termination of this MOU.

12. This MOU shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this MOU, the action shall be brought in a state or federal court situated in the County of San Diego, State of California.

13. All terms, conditions, and provisions hereof shall inure to and shall bind each of the parties hereto, and each of their respective heirs, executors, administrators, successors, and assigns.

14. For purposes of this MOU, the relationship of the parties is that of independent entities and not as agents of each other or as joint venturers or partners. The parties shall maintain sole and exclusive control over their personnel, agents, consultants, and operations.

15. No alteration or variation of the terms of this MOU shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.

16. Nothing in the provisions of this MOU is intended to create duties or obligations to or rights in third parties to this MOU or affect the legal liability of the parties to this MOU.

17. This MOU may be executed in any number of identical counterparts, each of which shall be deemed to be an original, and all of which together shall be deemed to be one and the same instrument when each party has signed one such counterpart.
IN WITNESS WHEREOF, the Parties hereto have executed this MOU effective on the day and year first above written.

SAN DIEGO ASSOCIATION OF GOVERNMENTS

SOUTHERN CALIFORNIA TRIBAL CHAIRMEN’S ASSOCIATION

GARY L. GALLEGOS
Executive Director

FULLNAME_OF_PERSON_SIGNING
Title

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Office of General Counsel

Legal Counsel
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.

At its November 3, 2006, meeting, the Executive Committee requested a reordering and renumbering of the legislative goals in each of the three program sections: (A) Sponsor, (B) Support/Oppose, and (C) Monitor. Additional minor changes to the legislative program also have been made since the November 3 meeting.

Discussion

The SANDAG Legislative Program serves as a road map 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: (A) Sponsor, (B) Support/Oppose, and (C) Monitor. Within each section, individual goals are assigned a priority level, ranging from highest priority to lower priority. The Program lists the position of Board, which Policy Advisory Committee is involved, and whether the goal involves federal, state, and/or local efforts.

Sponsored items include efforts where SANDAG will be actively involved in sponsoring specific legislation, requests for funding, and/or policy changes. New goals under the Sponsor section for 2007 include pursuing funding from the statewide infrastructure bond measures (Goal 1A), pursuing policy and/or legislative changes to enable SANDAG to better implement its adopted plans and programs (Goal 1B), and seeking policy and/or legislative changes to support the use of freeway transit lanes in the San Diego region (Goal 7A). Other continuing priorities include the pursuit of federal appropriations requests, clean up legislation for SAFETEA-LU (Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users), resources to improve public safety voice and data communications and interoperability, and Homeland Security funding for the San Diego region.

Recommendation

The Executive Committee is asked to recommend that the Board of Directors approve the 2007 Legislative Program (Attachment 1).
The **Support/Oppose** section includes 16 goals that relate to our agency's diverse work program. The goals focus on the areas of transportation planning, funding, and project delivery; implementation of the Regional Comprehensive Plan, including housing, energy, environment, and fiscal reform; border infrastructure and partnerships; and public safety and criminal justice efforts. Staff routinely monitors proposed bills in these subject areas and provides regular reports to the Executive Committee during the legislative session. In turn, the Executive Committee determines whether SANDAG should take a specific position on the various bills.

Finally, the **Monitor** section includes four lower priority goals related to monitoring proposals to limit eminent domain, public facility infrastructure funding proposals, and legislation regarding personnel and administrative matters.

The 2006 Legislative Program, which was approved by the Board in January 2006, included 32 separate legislative goals. For the 2007 Legislative 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. A summary of the major changes is included as Attachment 2. The revisions to the 2006 Legislative Program are shown in Attachment 3.

**Next Steps**

Upon the Executive Committee’s recommendation, the final 2007 Legislative Program will 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 will be brought back to the Executive Committee for direction.

**KIM KAWADA**
Executive Program Manager

Attachments: 1. SANDAG 2007 Legislative Program  
               2. Summary of Major Changes to the 2006 Legislative Program  
               3. 2006 Legislative Program (with tracked changes)

Key Staff Contact: Kim Kawada, (619) 699-6994, kka@sandag.org
## 2007 LEGISLATIVE PROGRAM

### (A) Sponsor

<table>
<thead>
<tr>
<th>NO.</th>
<th>GENERAL DESCRIPTION OF GOAL</th>
<th>PRIORITY</th>
<th>BOARD POSITION</th>
<th>T</th>
<th>R</th>
<th>P</th>
<th>B</th>
<th>JURISDICTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1A</td>
<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 the Regional Transportation Plan (RTP) and the Regional Comprehensive Plan (RCP) implementation. (2006)</td>
<td>Highest</td>
<td>Sponsor</td>
<td>·</td>
<td>·</td>
<td>·</td>
<td></td>
<td>State</td>
</tr>
<tr>
<td>2A</td>
<td>Pursue policy and/or legislative changes that would enable SANDAG to better implement its adopted plans and programs. (2006)</td>
<td>Highest</td>
<td>Sponsor</td>
<td>·</td>
<td>·</td>
<td>·</td>
<td>·</td>
<td>Federal/ State/Local</td>
</tr>
<tr>
<td>4A</td>
<td>Technical clean-up language to the SAFETEA-LU, such as, but not limited to, revising and clarifying earmark language and policy changes. (2005)</td>
<td>Highest</td>
<td>Sponsor/ support</td>
<td>·</td>
<td></td>
<td></td>
<td></td>
<td>Federal</td>
</tr>
<tr>
<td>5A</td>
<td>Aggressively pursue resources to improve regional public safety voice and data communications and interoperability, including connectivity with state and federal systems. (2005)</td>
<td>Highest</td>
<td>Sponsor</td>
<td>·</td>
<td></td>
<td></td>
<td></td>
<td>Federal/ State/Local</td>
</tr>
<tr>
<td>6A</td>
<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. (2003, 2005)</td>
<td>High</td>
<td>Sponsor</td>
<td>·</td>
<td></td>
<td>·</td>
<td>·</td>
<td>Federal/ State/Local</td>
</tr>
<tr>
<td>7A</td>
<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. (2006)</td>
<td>High</td>
<td>Sponsor</td>
<td>·</td>
<td></td>
<td></td>
<td></td>
<td>State</td>
</tr>
<tr>
<td>8A</td>
<td>Allow SANDAG to conduct public meetings in Mexico and other jurisdictions that border SANDAG jurisdiction for the purpose of addressing projects, programs, and issues that affect multiple jurisdictions, but which are currently restricted under the Brown Act. (2005)</td>
<td>Medium</td>
<td>Sponsor</td>
<td>·</td>
<td>·</td>
<td>·</td>
<td>·</td>
<td>State</td>
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Legend - T: Transportation; R: Regional Planning; P: Public Safety; B: Borders
<table>
<thead>
<tr>
<th>NO.</th>
<th>GENERAL DESCRIPTION OF GOAL</th>
<th>PRIORITY</th>
<th>BOARD POSITION</th>
<th>T</th>
<th>R</th>
<th>P</th>
<th>B</th>
<th>JURISDICTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1B</td>
<td>Efforts consistent with financial strategies adopted in the RTP 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. (2002, 2005)</td>
<td>Highest</td>
<td>TBD (based on activity)</td>
<td>●</td>
<td></td>
<td></td>
<td></td>
<td>Federal/ State/ Local</td>
</tr>
<tr>
<td>2B</td>
<td>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. (2002)</td>
<td>Highest</td>
<td>Support</td>
<td>●</td>
<td></td>
<td></td>
<td></td>
<td>Federal/ State</td>
</tr>
<tr>
<td>3B</td>
<td>Legislation assisting in the implementation of the RCP, including ensuring a reliable, ongoing funding source for regional blueprint planning and funding incentives for smart growth, e.g., mixed-use projects, transit-oriented development, walkable communities, etc. (2002)</td>
<td>Highest</td>
<td>Support</td>
<td>●</td>
<td></td>
<td></td>
<td></td>
<td>Federal/ State</td>
</tr>
<tr>
<td>4B</td>
<td>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. (2005)</td>
<td>Highest</td>
<td>Support</td>
<td>●</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>5B</td>
<td>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 revenues have upon local land use decisions. (2002)</td>
<td>Highest</td>
<td>Support</td>
<td>●</td>
<td></td>
<td></td>
<td></td>
<td>Federal/ State/Local</td>
</tr>
<tr>
<td>6B</td>
<td>Lower the current two-thirds voter requirement for special purpose taxes, such as transportation and quality of life improvements, to a simple majority vote. (2002)</td>
<td>Highest</td>
<td>Support</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>State</td>
</tr>
<tr>
<td>7B</td>
<td>Efforts assisting in the implementation of key environmental efforts, including habitat conservation, planning, beach restoration and replenishment, and water quality-related issues. (2002)</td>
<td>Higher</td>
<td>Support</td>
<td>●</td>
<td></td>
<td></td>
<td></td>
<td>State/ Local</td>
</tr>
<tr>
<td>8B</td>
<td>Mechanisms providing for the implementation of MOBILITY 2030 RTP, including value pricing, Managed Lanes, high occupancy toll (HOT) Lanes; the alleviation of current constraints on transponder technology; transit priority treatments; and other mechanisms that provide for more efficient use of highways and local roads. (2003)</td>
<td>Higher</td>
<td>Support</td>
<td>●</td>
<td></td>
<td></td>
<td></td>
<td>Federal/ State</td>
</tr>
<tr>
<td>9B</td>
<td>Pursue resources to implement the Regional Energy Strategy (RES); and support energy-related legislation that is consistent with RES principles. (2002)</td>
<td>Higher</td>
<td>Support</td>
<td>●</td>
<td></td>
<td></td>
<td></td>
<td>Federal/ State/ Local</td>
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Legend - T: Transportation; R: Regional Planning; P: Public Safety; B: Borders
## (B) Support/Oppose (Continued)

<table>
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<th>NO.</th>
<th>GENERAL DESCRIPTION OF GOAL</th>
<th>PRIORITY</th>
<th>BOARD POSITION</th>
<th>T</th>
<th>R</th>
<th>P</th>
<th>B</th>
<th>JURISDICTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>10B</td>
<td>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. (2002)</td>
<td>High</td>
<td>Support</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>Federal/ State/ Local</td>
</tr>
<tr>
<td>11B</td>
<td>Transit boards’ legislative programs where consistent with SANDAG policy. (2002)</td>
<td>High</td>
<td>Support</td>
<td>●</td>
<td></td>
<td></td>
<td></td>
<td>Federal/ State</td>
</tr>
<tr>
<td>12B</td>
<td>Support funding opportunities for prevention and intervention programs that address substance abuse, increase public safety, and reduce youth and gang violence. (2005)</td>
<td>High</td>
<td>Support</td>
<td>●</td>
<td></td>
<td></td>
<td></td>
<td>Federal/ State/ Local</td>
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<tr>
<td>13B</td>
<td>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. (2002)</td>
<td>High</td>
<td>Support</td>
<td>●</td>
<td></td>
<td></td>
<td></td>
<td>State</td>
</tr>
<tr>
<td>14B</td>
<td>Full funding of the Census Bureau’s American Community Survey Program to ensure timely release of critical demographic and economic information for our region. (2005)</td>
<td>High</td>
<td>Support</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td></td>
<td>Federal</td>
</tr>
<tr>
<td>15B</td>
<td>Maintain and increase regional decision-making authority in areas consistent with SANDAG mission/policies. (2003)</td>
<td>Medium</td>
<td>Support</td>
<td>●</td>
<td></td>
<td></td>
<td></td>
<td>State</td>
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## (C) Monitor

<table>
<thead>
<tr>
<th>NO.</th>
<th>GENERAL DESCRIPTION OF GOAL</th>
<th>PRIORITY</th>
<th>BOARD POSITION</th>
<th>T</th>
<th>R</th>
<th>P</th>
<th>B</th>
<th>JURISDICTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1C</td>
<td>Proposals that limit the use of eminent domain for public infrastructure projects. (2005)</td>
<td>Lower</td>
<td>Monitor/ Respond</td>
<td>●</td>
<td>●</td>
<td></td>
<td></td>
<td>Federal/ State</td>
</tr>
<tr>
<td>2C</td>
<td>Legislation affecting solid waste, water supply, and storm water; support of funding opportunities to assist in these areas. (2003)</td>
<td>Lower</td>
<td>Monitor/ Respond</td>
<td>●</td>
<td>●</td>
<td></td>
<td></td>
<td>State/ Local</td>
</tr>
<tr>
<td>3C</td>
<td>Legislation relating to personnel matters, i.e., workers’ compensation, Public Employee Retirement Systems (PERS) benefits, and other labor related issues. (2003)</td>
<td>Lower</td>
<td>Monitor/ Respond</td>
<td>●</td>
<td></td>
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<td></td>
<td>Federal/ State/ Local</td>
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<tr>
<td>4C</td>
<td>Legislation requiring local agencies to implement new administrative compliance measures. (2005)</td>
<td>Lower</td>
<td>Monitor/ Respond</td>
<td>●</td>
<td></td>
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<td>Federal/ State</td>
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</tbody>
</table>

Legend - T: Transportation; R: Regional Planning; P: Public Safety; B: Borders
Summary of Major Changes to the 2006 Legislative Program

The 2006 Legislative Program, which was approved by the SANDAG Board of Directors in January 2006, includes 32 separate legislative goals. Staff has modified the 2006 program as a starting point to initiate 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 3, 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.

Cost Efficiencies and Savings Goal No. 26

This was a general goal added to the legislative program during 2003. There are no specific legislative proposals in this area, and staff recommends deleting this general goal from the program. Continued pursuit of government cost efficiencies and savings are considered part of the agency’s overall priorities, and are not tied specifically to legislative proposals.

Monitor Free Access to High Occupancy Toll (HOT) Facilities Goal No. 28

Staff proposes to delete this goal to monitor efforts that would expand free access by single occupant vehicles to HOT lanes. It is duplicative of language already included in Goal No. 18 (Mechanisms providing for the implementation of MOBILITY 2030).

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 public safety 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 during 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, additional funding authority to support transportation-related program improvements, and other issues.
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.
## 2006 LEGISLATIVE PROGRAM

### 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>
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<th>B</th>
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<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>
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<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>X</td>
<td></td>
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<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 public safety 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></td>
<td>X</td>
<td>X</td>
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<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 the Regional Transportation Plan and the Regional Comprehensive Plan (RCP) implementation.</td>
<td>TBD</td>
<td>Highest</td>
<td>Sponsor</td>
<td>2006</td>
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<td>X</td>
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<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>
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<td>X</td>
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<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>
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<tr>
<td>Moved to Support/Oppose section.</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>
<td>5</td>
<td>Higher</td>
<td>Sponsor</td>
<td>2006</td>
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Legend: T: Transportation; R: Regional Planning; P: Public Safety; B: Borders
<table>
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<tr>
<th>GENERAL DESCRIPTION OF GOAL</th>
<th>NO.</th>
<th>PRIORITY</th>
<th>BOARD POSITION</th>
<th>POSITION DATE</th>
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<th>FED</th>
<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>X</td>
<td>X</td>
<td>X</td>
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<td><strong>Combined language from Goals 6 and 7 into new goal below.</strong></td>
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<tr>
<td><strong>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.</strong></td>
<td>7</td>
<td>High</td>
<td>Sponsor</td>
<td>2005</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td><strong>Combined language from Goals 6 and 7 into new goal below.</strong></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>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td>Legislation that focuses on youth and gang violence prevention and pursue funding for prevention and intervention efforts.</td>
<td>8</td>
<td>High</td>
<td>Sponsor/Support</td>
<td>2005</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<td><strong>Combined with Goal 9 and moved to Support/Oppose section.</strong></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>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td><strong>Combined with Goal 8 and moved to Support/Oppose section.</strong></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>2006</td>
<td>X</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>
<td>X</td>
<td>X</td>
<td>X</td>
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</tr>
</tbody>
</table>

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<th>LOCAL</th>
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</thead>
<tbody>
<tr>
<td>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.</td>
<td>11</td>
<td>Highest</td>
<td>TBD (based on activity)</td>
<td>2002/ revised 2005</td>
<td>X</td>
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<tr>
<td>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.</td>
<td>12</td>
<td>Highest</td>
<td>Support</td>
<td>2005</td>
<td>X</td>
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<td>X</td>
</tr>
<tr>
<td>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 revenues have upon local land use decisions.</td>
<td>13</td>
<td>Highest</td>
<td>Support</td>
<td>2002</td>
<td>X</td>
<td></td>
<td>X</td>
<td>X</td>
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<tr>
<td>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.</td>
<td>14</td>
<td>Highest</td>
<td>Support</td>
<td>2002</td>
<td>X</td>
<td></td>
<td>X</td>
<td>X</td>
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<tr>
<td>Legislation assisting in the implementation of the Regional Comprehensive Plan RCP, 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.).</td>
<td>15</td>
<td>Highest</td>
<td>Support</td>
<td>2002</td>
<td>X</td>
<td></td>
<td>X</td>
<td>X</td>
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<tr>
<td>Lower the current two-thirds voter requirement for special purpose taxes, such as transportation and quality of life improvements, to a simple majority vote.</td>
<td>16</td>
<td>Highest</td>
<td>Support</td>
<td>2002</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td>Efforts assisting in the implementation of key environmental efforts, including habitat conservation, planning, beach restoration and replenishment, and water quality-related issues.</td>
<td>17</td>
<td>Higher</td>
<td>Support</td>
<td>2002</td>
<td>X</td>
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<td>18</td>
<td>Higher</td>
<td>Support</td>
<td>2003</td>
<td>X</td>
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<td>MECHANISMS AND FUNDING—PROVIDING FOR THE IMPLEMENTATION OF MOBILITY 2030 RTP, INCLUDING VALUE PRICING, MANAGED Lanes, HIGH OCCUPANCY TOLL (HOT) LANES; THE ALLEVIATION OF CURRENT CONSTRAINTS ON TRANSPOUNDER 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.</td>
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<td>TBD</td>
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<td>Support</td>
<td>2002</td>
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<td>PURSUE RESOURCES TO IMPLEMENT THE REGIONAL ENERGY STRATEGY (RES); AND SUPPORT ENERGY-RELATED LEGISLATION THAT IS CONSISTENT WITH RES PRINCIPLES.</td>
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<td>19</td>
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<td>TRANSIT BOARDS' LEGISLATIVE PROGRAMS WHERE CONSISTENT WITH SANDAG POLICY.</td>
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<td>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.</td>
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<td>Support</td>
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<td>SUPPORT FUNDING OPPORTUNITIES FOR PREVENTION AND INTERVENTION PROGRAMS THAT ADDRESS SUBSTANCE ABUSE, INCREASE PUBLIC SAFETY, AND REDUCE YOUTH AND GANG VIOLENCE.</td>
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<td>21</td>
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<td>PARTICIPATE IN EFFORTS RELATED TO LEGISLATIVE AND ADMINISTRATIVE REFORM OF THE STATE HOUSING ELEMENT LAW AND ENSURE ADEQUATE STATE FUNDING FOR THE REGIONAL HOUSING NEEDS ASSESSMENT (RHNA) PROCESS.</td>
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<td>22</td>
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<td>Support</td>
<td>2005</td>
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<td>FULL FUNDING OF THE CENSUS BUREAU'S AMERICAN COMMUNITY SURVEY PROGRAM TO ENSURE TIMELY RELEASE OF CRITICAL DEMOGRAPHIC AND ECONOMIC INFORMATION FOR OUR REGION.</td>
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<td>23</td>
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<td>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 ABRASE 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.</td>
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<td>COMBINED WITH GOAL 27 BELOW.</td>
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### GENERAL DESCRIPTION OF GOAL

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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.

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Maintain and increase regional decision-making authority in areas consistent with SANDAG’s mission/policies.

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<th>PRIORITY</th>
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<td>26</td>
<td>Lower</td>
<td>Support</td>
<td>2003</td>
<td>X</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
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Legislation resulting in cost efficiencies and savings.

No specific legislative proposals. Part of agency’s overall priorities.

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<th>NO.</th>
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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></td>
<td>X</td>
<td></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

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<tr>
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<th>BOARD POSITION</th>
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Efforts that expand free access by single-occupant vehicles to HOT lanes.

Included in Goal 18 in above Support/Oppose section.

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<th>NO.</th>
<th>PRIORITY</th>
<th>BOARD POSITION</th>
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<td>29</td>
<td>Lower</td>
<td>Monitor/Respond</td>
<td>2003</td>
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<td>X</td>
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Legislation relating to personnel matters, i.e., workers’ compensation, Public Employee Retirement Systems (PERS) benefits, and other labor-related issues.

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<tbody>
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<td>30</td>
<td>Lower</td>
<td>Monitor/Respond</td>
<td>2003</td>
<td>X</td>
<td>X</td>
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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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<tr>
<td>31</td>
<td>Lower</td>
<td>Monitor/Respond</td>
<td>2005</td>
<td>X</td>
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Legislation requiring local agencies to implement new administrative compliance measures.

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<tr>
<td>32</td>
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<td>Monitor/Respond</td>
<td>2005</td>
<td>X</td>
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Proposals that limit the use of eminent domain for public infrastructure projects.

Legend: T: Transportation; R: Regional Planning; P: Public Safety; B: Borders
Action Requested: RECOMMEND

PROPOSED AMENDMENTS TO BOARD POLICIES

Introduction

Staff has conducted a review of the current 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 the Executive Committee is satisfied with the proposed amendments and any changes it may request to the language staff has proposed, then the changes will be taken to the Board for final approval on December 15, 2006.

Discussion

At its meeting on November 3, 2006, the Executive Committee began its review of the amendments and approved all of the proposed changes to Board Policy Nos. 002, 004, 008, 011, and 015. The Executive Committee rejected a change to Board Policy No. 001 that would have allowed the Transportation Committee review authority for amendments to Board Policies within the Transportation Committee’s subject area, but otherwise approved all of the other proposed amendments. Since the Executive Committee last met, the Human Resources Manager has requested changes to Board Policy Nos. 007 and 017. These changes are discussed below and Board Policy No. 007 has been added to the end of the summaries and the attachments.

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

Board Policy No. 016 Procurement of Services

Public Utilities Code (PUC) 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 PUC for services procurements in order to improve efficiency and flexibility in the procurement process. Therefore, changes are proposed to Sections 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 first change requested in this policy would allow the Executive Director to accept reimbursements 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 Policy Advisory Committee 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. The other change requested is to Section 5. This change is an update requested by the Human Resources Manager who is in the process of reorganizing and renaming SANDAG administrative manuals and policies. Instead of referring to “SANDAG’s Administrative Rules and Regulations,” the provision would instead reference “SANDAG administrative manuals, policies, and procedures.”

**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 (ITOC) 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.

**Board Policy No. 007 Equal Employment Opportunity Program**

The only change requested to this policy is an update requested by the Human Resources Manager, who is in the process of reorganizing and renaming SANDAG administrative manuals and policies. Instead of referring to “SANDAG’s Administrative Rules and Regulations,” the provision would instead reference “SANDAG administrative manuals, policies, and procedures.”

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, Policy Advisory Committees, 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
13. Board Policy No. 007 Equal Employment Opportunity Program

Key Staff Contact: Julie Wiley, (619) 699-6966, jwi@sandag.org
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 of 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.
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
10. Conduct public hearings as delegated by Board

---

1 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.
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

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 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;

4.6.3.3 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;

4.6.3.4 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

4.6.3.5 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
to any confidential or privileged information or communications pertaining to the closed session agenda item.

4.9 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.

4.10 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.

4.11 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.

4.12 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.

4.13 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.

4.14 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.

6.1.3 The Act prohibits “serial meetings.” Serial meetings are a series of in-person meetings, phone calls, emails, or other types of communication that ultimately involve a majority of the legislative body to develop a consensus as to action to be taken on a matter coming before the body. This prohibition is based on the Act’s goal to ensure that the public’s business is in fact conducted in public. In addition, a third party cannot be used to communicate among the members to obtain a consensus; an intermediary cannot be used to accomplish the actions directly prohibited by the Act.

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. 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 statues 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 or recommendation 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) for a project 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.
6.4 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 - $105,000). 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 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 ($1050,001 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's interests.

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 either the 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.
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 manuals, policies, and procedures.

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, 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 SANDAG’s best interest 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 $25,000, 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 SANDAG's best interest of SANDAGs. 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 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 contractors 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 possesses: (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
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).

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 #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.
**RulePolicy #3: Reimbursement of Local Funds to Advance Approved Projects**

**Adoption Date:** May 27, 1988 (Resolution RC88-6)

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

**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.

**RulePolicy #4: SR 78 Corridor Reserve Fund Allocation Policies**

**Adoption Date:** Originally Adopted May 26, 1989 (Resolution R-89-82)

Wording changed December 14, 1990 (Resolution RC91-10)

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

**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.

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
agency held a clearly noticed public hearing regarding the proposed list of projects prior to approval by the local agency’s legislative body of the projects. The language that must be included in the resolution and the deadlines for submission shall be prescribed by the Commission. The resolution shall contain the provisions set forth in Rule #15.

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 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.

**Rule Policy #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 they 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 purchased 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.

**PolicyRule #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)
Policy Text: Each local agency shall be required to hold harmless and defend the Commission against challenges related to local TransNet projects. This rule policy 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.

Rule Policy #16: Repayment of Commercial Paper Program Proceeds

Adoption Date: September 23, 2005

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

Policy Text: 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.

Rule Policy #17: Fiscal and Compliance Audits

Adoption Date: November 18, 2005

Policy Text: 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 their 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>County Transit System:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Suburban Service</td>
<td>646,904</td>
</tr>
<tr>
<td></td>
<td>Rural Bus</td>
<td>170,953</td>
</tr>
<tr>
<td></td>
<td>Poway Fixed Route</td>
<td>313,425</td>
</tr>
<tr>
<td></td>
<td>San Diego Transit</td>
<td>10,473,323</td>
</tr>
<tr>
<td></td>
<td>San Diego Trolley</td>
<td>1,033,084</td>
</tr>
<tr>
<td></td>
<td>Strand Express Agency</td>
<td>400,738</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>13,874,464</strong></td>
</tr>
</tbody>
</table>

| Article 8             | County Transit System:    |                       |
|                      |                           |                       |
|                      | Express Bus               | 189,276               |
| **Total**            |                           | **189,276**           |

| Article 4.0 Dial-A-Ride | El Cajon Express          | 308,331               |
| Article 4.0 Dial-A-Ride | La Mesa Dial-A-Ride       | 251,516               |
| Article 4.0 Dial-A-Ride | Lemon Grove Dial-A-Ride   | 62,090                |
| County Transit System: |                           |                       |
|                      | Poway Dial-A-Ride         | 23,030                |
|                      | Poway Airporter           | 103,925               |
|                      | Spring Valley Dial-A-Ride | 73,298                |
|                      | San Diego Transit DART    | 309,370               |
| **Total**            |                           | **1,131,560**         |

| Article 4.5            | Chula Vista Handytrans    | 128,807               |
| Article 4.5            | County Transit System – WHEELS | 219,906          |
| Article 4.5            | National City Wheels      | 15,159                |
| Article 4.5            | Poway Call-A-Ride         | 60,156                |
| Article 4.5            | San Diego Dial-A-Ride     | 1,149,541             |
| **Total**             |                           | **1,573,623**         |

**MTDB (MTS) Area Total**: 16,768,923

### North San Diego County Transit Development Board (NCTD) 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>Article 4.0</td>
<td>NCTD FAST</td>
<td>126,744</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>7,778,152</strong></td>
</tr>
</tbody>
</table>

| Article 4.5          | NCTD Lifeline             | 386,680               |
| **Total**            |                           | **386,680**           |

**NSDCTDB (NCTD) Area Total**: 8,164,832

**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>
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<tr>
<td>3. Roadway widening for bike lanes</td>
<td></td>
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<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>Pavement overlay (less than 1 inch)</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>Pot hole repair, chip seal, fog seal, crack seal (except when part of roadway rehabilitation project)</td>
</tr>
<tr>
<td>8. New sidewalk or sidewalk widening</td>
<td>Roadway realignment that does not increase roadway capacity</td>
</tr>
<tr>
<td><strong>Traffic Operations</strong></td>
<td>Bridge replacement for aesthetic purposes</td>
</tr>
<tr>
<td>9. Median installation for safety improvement or left-turn movement</td>
<td>Minor drainage improvements not part of a congestion relief project</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>Stand alone landscaping project of an existing median</td>
</tr>
<tr>
<td>11. Traffic signal coordination</td>
<td>Traffic signal replacement, bulb replacement, hardware, software, inductive loop repair</td>
</tr>
<tr>
<td>12. Traffic signal interconnection</td>
<td></td>
</tr>
</tbody>
</table>
| Congestion Relief  
(At least 70%) | Maintenance and Non-Congestion Relief  
(No more than 30%) |
<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>13. Centrally controlled traffic signal optimization system</td>
<td></td>
</tr>
<tr>
<td>14. Traffic surveillance or detection system (video)</td>
<td></td>
</tr>
<tr>
<td>15. Traffic data collection system for performance monitoring purposes (in pavement detection, radar)</td>
<td></td>
</tr>
<tr>
<td>16. Traffic calming measures</td>
<td></td>
</tr>
<tr>
<td>17. Pedestrian ramps</td>
<td></td>
</tr>
<tr>
<td>18. Pedestrian traffic signal activation</td>
<td></td>
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<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>
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<tr>
<td>Smart Growth-Related Infrastructure*</td>
<td></td>
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<tr>
<td>16. Traffic calming measures</td>
<td></td>
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<tr>
<td>17. Pedestrian ramps</td>
<td></td>
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<td>18. Pedestrian traffic signal activation</td>
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<td>20. Buffer area between sidewalk and street</td>
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<tr>
<td>21. Pedestrian roadway lighting</td>
<td></td>
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<tr>
<td>22. New bus stops</td>
<td></td>
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<tr>
<td>23. Bus stop enhancements</td>
<td></td>
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<tr>
<td>24. Bus-only lanes</td>
<td></td>
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<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>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.
EQUAL EMPLOYMENT OPPORTUNITY (EEO) PROGRAM

The purpose of this policy is to establish an equal employment opportunity program for employees and contractors.

Federal regulations require the adoption of an Equal Employment Opportunity (EEO) Program as a condition of receipt of federal funds. The SANDAG’s administrative manuals, policies, and procedures mandate equal employment opportunities in recruitment, hiring, and employment for applicants to, and employees of, SANDAG. SANDAG also has separate written policies which forbid discrimination and provide grievance procedures for employees and visitors to SANDAG who believe they have been a victim of discrimination. In addition, SANDAG incorporates an EEO requirement in its contracts with third parties.

Procedures

1. **EEO Program**

   1.1 It is the policy of SANDAG to recruit, hire, train, and promote all applicants and employees in accordance with Title VII of the Civil Rights Act of 1964, as amended. SANDAG will ensure that recruiting, selecting, hiring, and promoting procedures do not adversely affect the employment of persons protected by Title VII and, in addition, that all SANDAG hiring and promoting criteria, requirements, and tests are job-related. Unless impracticable, SANDAG will adhere to the affirmative action provisions of Executive Order 11246, the Equal Employment Opportunity Guidelines, and all other applicable standards for affirmative action, taking into account its present size and expected growth.

   1.2 It is SANDAG’s policy to assure that discrimination based on race, color, religion, ancestry, national origin, gender, age (over 40 years), marital status, medical condition, sexual orientation, or disability does not occur in relationships that may exist between SANDAG and any employee or applicant for employment. Such relationships include, but are not limited to, recruitment, hiring, promotion, compensation, benefits, terminations, transfers, layoffs, recalls, or SANDAG-sponsored training, education, or social and recreational programs.

   1.3 It is SANDAG’s policy to require the contractors and consultants that it contracts with to have EEO policies in place that forbid discrimination in violation of Title VII.
1.4 SANDAG maintains a Disadvantaged Business Enterprises (DBE) Program that is approved annually by the California Department of Transportation. The DBE Program sets forth annual goals for participation by DBE businesses.

1.5 Responsibility for implementation of the EEO Program is assigned to the Director of Administration. All management personnel within SANDAG are expected to support and implement this EEO Program in performance of their job duties and responsibilities. Any employee or applicant who feels they have been discriminated against, has a right to file a complaint under SANDAG’s policies.

1.6 When developing and implementing its employment and contracting policies, SANDAG will base its decisions solely on the individual’s qualifications and merit, and the feasibility of any necessary accommodations.

2. Procedures

2.1 The Director of Administration will review employment statistics annually to determine whether there is a need to set goals for any under-represented groups and then recommend goals to the Executive Director if necessary.

2.2 The Executive Director will approve or disapprove the Director of Administration’s recommendation(s) at his/her discretion.

2.3 The Director of Administration will update lists of women’s and minority media, community organizations, and college minority placement offices as needed, for the use of SANDAG’s staff in recruiting for employees, interns, consultants, and contractors.

2.4 The Director of Administration will communicate this EEO Program to all employees.

2.5 SANDAG staff will solicit community involvement by under-represented groups on issues of importance to the region that fall within its jurisdiction.

2.6 All of SANDAG’s requests for proposals, requests for qualifications, and invitations for bids will contain language encouraging participation by DBE consultants, contractors, and subcontractors.

2.7 Consultants and contractors awarded contracts with DBE Program goals will be required to submit Employment Utilization Reports with their invoices and/or a DBE Final Utilization Report with their final invoice.

2.8 The Director of Administration will maintain a record on each job applicant, each promotional opportunity, and employee termination data, which documents whether the affected individuals are in a class protected by Title VII.
2.9 In January of each year, the Board of Directors will review an EEO report prepared by the Director of Administration, which covers the preceding year. The report will include employment results, DBE Program results, and a review of EEO Program goals for the upcoming year.

2.10 This EEO Program will be posted in the employee lounge and will be incorporated into the SANDAG’s employee Web site.

2.11 All employment ads will contain the following language: “SANDAG is an Equal Employment Opportunity Employer.”

2.12 Required federal and state posters concerning EEO will be displayed in the employee lounge.

2.13 All successful consultants and contractors will be notified of their obligations under the EEO Program in their contracts with SANDAG.

Adopted June 2003
Amended November 2004
Amended December 2005
Amended December 2006
AMENDMENT TO LEASE AT 401 B STREET

Introduction

SANDAG has an option to expand our office space at the 401 B Street facility, under the terms of our current lease. SANDAG has been presented with notification of this option by the landlord for a 5,205 square foot space on the Third Floor. The deadline for accepting this option is February 1, 2007. The space would be available to SANDAG to occupy between then and January 1, 2008. These offices could be used for staff expansion or by consultants, reducing overhead costs by providing space at SANDAG lease rates, which are significantly lower than the downtown San Diego market rates for similar office space.

Discussion

SANDAG has been aggressively bringing staff and consultants on board to aid the region in the delivery of projects and programs. In addition to our TransNet Early Action Program, we will be moving forward with the region’s share of the Go California infrastructure bonds for early delivery of projects. Also, we are analyzing several opportunities for potentially bringing certain work in-house or using office space for consultants. FasTrak®/High Occupancy Toll (HOT) lanes implementation and Intelligent Transportation Systems (ITS) initiatives, such as Compass Card and 511 services, are good candidates for these strategies. Office space to accommodate a dozen or more staff members and/or consultants will be needed to administer these future programs.

What makes this option attractive to SANDAG is that the space would be added to the lease at our current lease rates and terms, which results in a savings of at least 20 percent, compared to current average market rates in downtown San Diego. Currently, the rent at Wells Fargo Plaza and comparable Class A buildings ranges from $2.50 to $4.00 per square foot, depending on the view and floors. The current SANDAG lease rate is $2.075 per square foot. At our current lease rate, the total additional cost of the newly acquired space would be $10,427 a month or $125,124 per year. Also, there is minimal or no cost to SANDAG to build out or refurbish the space, because under the terms of the current lease, the landlord must contribute $33.75 per usable square foot to modify the space, as opposed to a market rate contribution of less than $10 per square foot.

Cost efficiencies are expected, because consultants utilizing this space at a lower lease rate would be paying less-than-market rates. In turn, this would reduce the overhead rate of the projects on which they are working for SANDAG, thus saving overall project costs.

Recommendation

The Executive Committee is asked to recommend that the Board of Directors delegate authority to the Executive Director to sign a lease amendment in the event the Executive Director determines such an amendment is in the best interest of SANDAG based on opportunity, need, and savings.
Next Steps

Upon the Executive Committee’s recommendation, the Board of Directors would be asked to delegate authority to the Executive Director to sign a lease amendment in the event the Executive Director determines such an amendment is in the best interest of SANDAG based on opportunity, need, and savings. Staff would continue to analyze whether SANDAG should exercise its option for the added space. While the lease option deadline is February 1, 2007, we could delay paying rent until January 2008. If we find more usable or cost-effective options before that deadline, the Executive Director may choose not to take the option.

LESLIE A. CAMPBELL
Director of Administration

Key Staff Contact: Caroline Tanner, (619) 699-6961, cta@sandag.org
REVIEW OF DECEMBER 15, 2006, DRAFT BOARD AGENDA

+1. APPROVAL OF NOVEMBER 17, 2006, MEETING MINUTES

ACTION REQUESTED: APPROVE

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

ACTION REQUESTED: APPROVE

This item summarizes the actions taken by the Borders and Public Safety Committees on November 17, 2006, the Executive Committee on December 1, 2006, and the Transportation and Borders Committees on December 8, 2006.

CONSENT ITEMS (4 through XX)

+4. LEASE AMENDMENT AT 401 B STREET (Leslie Campbell)

ACTION REQUESTED: APPROVE

SANDAG has an option to expand its office space at the 401 B Street facility, under the terms of its current lease. SANDAG has been presented with notification of this option by the landlord for a 5,205 square foot space on the Third Floor. The deadline for accepting this option is February 1, 2007. The Executive Committee recommends that the Board of Directors delegate authority to the Executive Director to sign a lease amendment in the event the Executive Director determines such an amendment is advantageous to SANDAG based on opportunity, need, and savings.

+5. REPORT SUMMARIZING DELEGATED ACTIONS TAKEN BY EXECUTIVE DIRECTOR (Renée Wasmund)

ACTION REQUESTED: INFORMATION

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 October 2006.
CHAIR’S REPORTS (8 through XX)

8. INTRODUCTION OF HONORABLE EUGENIO ELORDUY, GOVERNOR OF THE STATE OF BAJA CALIFORNIA

Honorable Eugenio Elorduy, Governor of the State of Baja California, Mexico, will be introduced to the Board of Directors.

9. FINAL 2007 LEGISLATIVE PROGRAM (Kim Kawada)

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 SANDAG 2007 Legislative Program includes policies and proposals for possible federal and state legislation and local activities. The Executive Committee recommends that the Board of Directors approve the 2007 Legislative Program.

10. PROPOSAL FOR TRIBAL GOVERNMENT REPRESENTATION ON SANDAG (Julie Wiley)

The Executive Committee recommends that the Board of Directors approve the proposal for tribal government representation on SANDAG. The proposal includes adding the Southern California Tribal Chairmen’s Association (SCTCA) as an advisory member to the Board of Directors and the Transportation, Regional Planning, and Public Safety Committees. SCTCA is currently an advisory member of the Borders Committee. The proposal is incorporated into the draft MOU between SANDAG and SCTCA, which is attached to the report.

11. ELECTION OF 2007 SANDAG BOARD OFFICERS (San Diego Councilmember Jim Madaffer, Nominating Committee Chair)

The Nominating Committee is recommending a slate of candidates for SANDAG Chair, First Vice Chair, and Second Vice Chair for calendar year 2007. Additional nominations for any officer position may be made by Board members at the December meeting. The Board is asked to elect SANDAG Board Officers for the upcoming year.
+14. PROPOSED AMENDMENTS TO BOARD POLICIES* (Julie Wiley) APPROVE

The proposed amendments to Board Policies were reviewed by the Executive Committee at its November and December meetings. The Executive Committee recommends that the Board of Directors approve the proposed amendments to the Board Policies.

+15. SECOND READING 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* (Councilmember Joe Kellejian, Transportation Committee Chair; Craig Scott) APPROVE SECOND READING (requires two-thirds vote)

The Board of Directors is asked to conduct the second reading and adopt the amended TransNet Ordinance. Board approval would allow the implementation of a financial plan to fully fund the completion of the SPRINTER rail project between Oceanside and Escondido. Approval of the amendment requires a two-thirds majority vote of the entire Board.

+16. PROPOSED REVISIONS TO TransNet EARLY ACTION PROGRAM AND PLAN OF FINANCE* (Councilmember Joe Kellejian, Transportation Committee Chair; Craig Scott) APPROVE

The SANDAG Board of Directors approved the initial Plan of Finance for the TransNet Early Action Program (EAP) in December 2005. Since that time, the Transportation Committee has discussed and staff has analyzed revisions and potential additions to the EAP. The Board of Directors is asked to approve the addition of the SPRINTER completion, Environmental Mitigation Program, and Trolley capital improvements to the TransNet EAP and Plan of Finance.

+17. TRANSPORTATION INFRASTRUCTURE BOND PROPOSAL (Jack Boda) APPROVE

The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Proposition 1B), approved by California voters on November 7, 2006, authorized a $4.5 billion Corridor Mobility Improvement Account (CMIA) for performance improvements on the state highway system or major access routes to the state highway system. The California Transportation Commission (CTC) is scheduled to adopt an initial CMIA program of projects by March 1, 2007. Proposals for the initial program are due to the CTC by January 16, 2007. The Board of Directors is asked to approve the list of proposed San Diego regional projects for the CMIA program and direct staff to submit proposals to the CTC.
+17. TransNet REGIONAL HABITAT CONSERVATION FUND PROGRAM: FY 2007 FUNDING RECOMMENDATIONS AND FIVE-YEAR FUNDING STRATEGY*  
(Mayor Lori Holt Pfeiler, Regional Planning Committee Chair; Keith Greer)

The Regional Planning Committee recommends that the Board of Directors approve: (1) the proposed activities and budget for FY 2007 Environmental Mitigation Program (EMP) Regional Habitat Conservation Fund expenditures totaling $2 million when funds become available; (2) the conceptual five-year funding strategy for management and monitoring identified by the EMP Working Group; and (3) the authorization to solicit proposals and develop contracts for activities as described in the attached report.

+18. PRELIMINARY FINDINGS OF THE STATE ROUTE 11 AND EAST OTAY MESA PORT OF ENTRY FINANCIAL FEASIBILITY STUDY (Elisa Arias, SANDAG; Charles "Muggs" Stoll, Caltrans)

Caltrans District 11 is the sponsor of the proposed State Route 11 and the East Otay Mesa Port of Entry. On behalf of Caltrans, SANDAG is conducting a financial feasibility study to assess the viability of implementing these projects as toll- or fee-based facilities. HDR|HLB Decision Economics, Inc. has provided consultant assistance in the development of this study. This report summarizes preliminary findings from the financial feasibility analysis.

19.

20.

21. UPCOMING MEETINGS

The next Policy meeting of the Board of Directors is scheduled at 10 a.m. Friday, January 12, 2007. The next Board of Directors Business meeting is scheduled at 9 a.m. Friday, January 26, 2007.

22. ADJOURNMENT