EXECUTIVE COMMITTEE AGENDA

Friday, November 9, 2007
9 to 10 a.m.
SANDAG, 7th Floor Conference Room
401 B Street
San Diego

AGENDA HIGHLIGHTS

- DRAFT 2008 LEGISLATIVE PROGRAM
- ANNUAL PROPOSED AMENDMENTS TO BOARD POLICIES

PLEASE TURN OFF CELL PHONES DURING THE MEETING

MISSION STATEMENT

The 18 cities and county government are SANDAG serving as the forum for regional decision-making. SANDAG builds consensus, makes strategic plans, obtains and allocates resources, plans, engineers, and builds public transit, and provides information on a broad range of topics pertinent to the region's quality of life.
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.

In compliance with the Americans with Disabilities Act (ADA), SANDAG will accommodate persons who require assistance in order to participate in SANDAG meetings. If such assistance is required, please contact SANDAG at (619) 699-1900 at least 72 hours in advance of the meeting. To request this document or related reports in an alternative format, please call (619) 699-1900, (619) 699-1904 (TTY), or fax (619) 699-1905.

SANDAG offices are accessible by public transit.
Phone 1-800-COMMUTE or see www.sdcommute.com for route information.
<table>
<thead>
<tr>
<th>ITEM #</th>
<th>RECOMMENDATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>+1.</td>
<td>APPROVE</td>
</tr>
<tr>
<td>2.</td>
<td></td>
</tr>
</tbody>
</table>

### ITEM 3

**STATE LEGISLATIVE STATUS REPORT (Genevieve Morelos)**

The California State Legislature approved 964 bills during the first year of the 2007-2008 regular legislative session. Governor Schwarzenegger signed 750 bills and vetoed 214. This report provides an update on key legislation for SANDAG that was signed or vetoed by the Governor as well as two-year bills that will likely move again next session.

### CONSENT ITEM (3)

**CONSENT ITEM (3)**

### REPORTS (4 through 7)

**2008 ANNUAL SANDAG BOARD RETREAT (Colleen Windsor)**

Each year, the Executive Committee serves as the working group to help develop the annual SANDAG Board of Directors retreat agenda and format. The next retreat is scheduled for January 30 through February 1, 2008. The Executive Committee is asked to discuss the proposed topics, speakers, and format of the retreat and recommend Board approval of the retreat agenda.

**DRAFT 2008 LEGISLATIVE PROGRAM (Genevieve Morelos)**

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 Legislative Program includes policies and proposals for possible federal and state legislation and local activities. The Executive Committee is asked to review and discuss the draft 2008 Legislative Program. The final program will be brought for action in December.
+6. ANNUAL PROPOSED AMENDMENTS TO BOARD POLICIES (Julie Wiley)  
DISCUSSION/POSSIBLE ACTION

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

+7. REVIEW OF NOVEMBER 30, 2007, DRAFT BOARD AGENDA  
APPROVE

8. UPCOMING MEETINGS  
INFORMATION

The next meeting of the Executive Committee is scheduled for Friday, December 7, 2007, at 9 a.m.

9. ADJOURNMENT

+next to an agenda item indicates an attachment
EXECUTIVE COMMITTEE

November 9, 2007

AGENDA ITEM NO.: 1

Action Requested: APPROVE

EXECUTIVE COMMITTEE DISCUSSION AND ACTIONS
OCTOBER 12, 2007

Chair Mary Sessom (East County) called the Executive Committee meeting to order at 9:04 a.m. The attendance sheet for the meeting is attached.

1. APPROVAL OF MINUTES

Upon a motion by First Vice Chair Lori Holt Pfeiler (North County Inland) and a second by Second Vice Chair Jerome Stocks (North County Coastal), the minutes of the September 14, 2007, Executive Committee meeting were unanimously approved.

2. PUBLIC COMMENTS/COMMUNICATIONS/MEMBERS COMMENTS

There were no public comments, communications, or member comments at this time.

REPORTS (3 through 7)

3. PROPOSED AMENDMENT TO BOARD POLICY NO. 031: ACCOMMODATING BICYCLISTS AND PEDESTRIANS UNDER THE TransNet EXTENSION ORDINANCE (RECOMMEND)

Stephan Vance, Senior Planner, reported that there was a provision in the TransNet Ordinance, Section 4(E)(3), that indicates all new projects or major reconstruction projects funded under the Ordinance must accommodate travel by bicycles and pedestrians to the extent it is reasonable to do so, and that facilities must be designed to the best available guidelines. What is before you today are the implementation procedures and policies for this section. This provision was included in the Ordinance in response to the 2030 Regional Transportation Plan (RTP), which required SANDAG to develop guidelines to ensure our transportation projects preserve or enhance bicycle and pedestrian mobility. The time to do that is when you are first developing projects or when major reconstruction is taking place. In developing these guidelines we tried as much as possible to use existing design standards and best practices in the region, and to work this into existing administrative procedures and processes to ensure implementation of these guidelines.

Mr. Vance stated that the guidelines provide clarification on three aspects of the Ordinance: what constitutes adequate accommodation, when will the cost be too high, and what do we mean by best available standards? An adequate design standard for bicycle facilities is available in Chapter 1000 of the California Highway Design Manual; this is recognized as an industry standard, and the design of bicycle facilities under the TransNet program should
conform to this document. Mr. Vance continued by stating that the definition of adequate accommodation is a little more difficult to define, as it depends on the context and facility type. Attachment 1 is a draft matrix that addresses various kinds of context/facility types and appropriate accompanying bicycle/pedestrian measures.

Mr. Vance stated that to address the question of when the cost would be disproportionately high, the proposed policy does not specify a minimum percentage. Instead it assumes that the facilities identified in the matrix are a baseline and would occur in every project except where a study shows that the cost is too high. Then it would become a policy decision for a local agency and SANDAG to address. Current TransNet requirements already require local agencies to conduct a public hearing on all projects included in the TransNet Program of Projects in order to give the public an opportunity to provide comments. This policy would require the local agency to specify in that same public hearing notice that a project will not provide the kinds of accommodations that the guidelines would anticipate. At the same time, the agency would be required to notify SANDAG of these projects, and we would provide that list to our Bicycle/Pedestrian Working Group and to the Independent Taxpayers Oversight Committee (ITOC) for comment. Those comments would go to the Transportation Committee to make the determination if the recommendation from the agency was reasonable given the costs and the probable use of the bicycle/pedestrian facility. If the Transportation Committee did not agree, that project would not be eligible for TransNet funding, but could be funded by other local revenues.

Mr. Vance said that in developing these guidelines we worked extensively with our advisory working groups, the Cities/County Transportation Advisory Committee (CTAC), ITOC, and the Transportation Committee. He highlighted several issues worked through and the compromises made, including the distinction between urban and rural settings. The guidelines make the distinction that there are places located in the urbanized area but are rural in character. The County of San Diego was particularly concerned about this issue. We added a footnote to the matrix regarding flexibility to accommodate this concern. Another issue was the question of which maintenance activities would trigger this accommodation provision. As a compromise, this policy exempts projects that do not have drainage improvements. From stakeholders, the push was to ensure that we have the best possible facilities for bicycles and pedestrians. The compromise was for them to accept these provisions as the minimum standard in most cases.

Councilmember Matt Hall (North County Coastal) asked for more clarity related to the one-inch overlay street projects. Mr. Vance responded that if you had a street project with no curb, gutter, or drainage facilities, you would not be required to provide sidewalks.

Second Vice Chair Stocks commented that when this policy was first proposed, any change would trigger the accommodations; however, there are physical constraints that make accommodation in certain cases infeasible. Encinitas staff worked with SANDAG staff, and they are now comfortable with the new wording and the ability to come back to the SANDAG Transportation Committee to explain when a project is infeasible for accommodation.

Gary Gallegos, Executive Director, clarified that it would take Transportation Committee action and public input for any exemption to the guidelines.
Second Vice Chair Stocks said the policy allows for the “reasonable man” theory to take hold.

Supervisor Ron Roberts (County of San Diego) said he still has some concerns about this in terms of its application and the process to obtain relief.

Chair Sessom noted that we heard from staff that there is some flexibility before you need to bring a project to SANDAG for an exemption.

Mr. Gallegos said that as a discipline, you are reviewing Board policies on an annual basis. If you found this policy to be extremely onerous and not workable, you can come back and make changes to it as needed.

Mr. Vance agreed that there were concerns expressed about how this was going to work in practice, so we added a provision to come back and review this policy in three years.

Supervisor Roberts thought there should be some guidelines in the interim. If you are going to do minimal maintenance of a road and costs increase by a certain percentage, we could use that percentage as a trigger. He didn’t question the need for bike paths, but he also didn’t want to discourage the proper maintenance of roads.

Mr. Gallegos said that if you think we should have a percentage trigger, we could go back through the local public works directors on CTAC to make that determination. Supervisor Roberts agreed he would like the recommendation to include that suggestion.

Mayor Ron Morrison (South County) asked for a clarification on whether the policy would require a consideration for reducing the number of motor vehicle lanes to accommodate bicycles. Mr. Vance replied that this language was included because we have streets in the region where the travel lanes are wider than necessary. The policy doesn’t require right-of-way acquisition for bike lanes; it just encourages local agencies to consider this accommodation if feasible.

Mayor Morrison asked for clarification of the process for the TransNet funds if a street doesn’t fit the criteria. Mr. Vance replied that if an accommodation is not feasible, you would notify SANDAG of that fact. As we take the project through the review process, we would pass that information along, and it would be included for consideration by the Transportation Committee.

Mayor Cheryl Cox (South County) expressed concern that since this is included in Board Policy it appears to be more of a requirement rather than a suggestion. If a community wants to use SANDAG money for road resurfacing, is it an easy procedure to say we’ve considered your suggestions and they don’t work for us, please let us move forward? Our intent is to improve traffic safety and bicycle safety. Mr. Vance clarified that the guidelines are intended as recommendations in order to meet the TransNet Ordinance requirements. What we are trying to encourage is accommodation where feasible and practical, and when there is an issue, we should take a little time to determine how best to balance the needs of a particular street. He thought that the number of unresolved issues would be limited.
Mayor Cox expressed continued concern about the exemption process.

Chair Sessom noted that this item is not ready for action at this point. She asked staff to consider the Executive Committee’s comments as direction and bring this matter back to the Committee.

Supervisor Roberts asked that the language be changed to encourage rather than require local agencies to follow this policy.

Mr. Gallegos said the issue here is complying with the TransNet Ordinance. He read the Ordinance language, which indicates that “All new projects, or major reconstruction projects, funded by revenues provided under this Ordinance shall accommodate travel by pedestrians and bicyclists, ...except where pedestrians and bicyclists are prohibited by law from using a given facility or where the cost of including bikeways and walkways would be excessively disproportionate to the need or probable use.”

Supervisor Roberts said that this policy doesn’t comply with that language.

Chair Sessom said we should bring this item back. Staff has a sense of what our concerns are, and we should get together with our public works staff to discuss this further.

Second Vice Chair Stocks said that what we need to focus on is identifying a reasonable process for exceptions.

Supervisor Roberts asked if there a clause that relates to traffic volume.

Second Vice Chair Stocks referred to the Ordinance language related to traffic volume. He agreed that we need greater clarity on the process.

**Action:** This item was referred back to staff for additional work including revisions to the language to address the Committee’s concerns regarding the exemption process and identifying thresholds for when bicycle/pedestrian accommodation would be required. Staff also was directed to work with CTAC regarding the new revisions.

4. **PROPOSED AMENDMENT TO THE FY 2008 PROGRAM BUDGET: DEL MAR FAIRGROUNDS RAIL STATION (DISCUSSION)**

Linda Culp, Senior Planner, reported that as part of the Committee’s discussion during the draft FY 2008 Budget, staff was asked about the possibility of studying a permanent seasonal rail station at the Del Mar Fairgrounds. This idea is not new and she reviewed past efforts. This year, SANDAG plans to start a study replacing the single track structure at the San Dieguito Lagoon with a double track structure. This will provide us with an opportunity to study a permanent, seasonal platform at that location. We believe an additional $75,000 would be needed to supplement the bridge project budget to study this platform. Attachment 1 to the agenda report shows the project along the lagoon as well as a temporary platform that is currently under study by NCTD. The temporary platform could be in place by next summer. The reason behind this temporary location is that this is currently a
double track siding area. NCTD, the City of Del Mar, and the Agricultural District have been meeting on this temporary rail platform project. This agenda item focuses on the more permanent, seasonal platform at the bridge location. Staff is asking for direction on whether to proceed as proposed. We will identify funding and report back next month for action.

Second Vice Chair Stocks asked that the future agenda report show the geographic location of the double tracking, and identify the possible funding resources that the Agricultural District is offering. Ms. Culp agreed that one of the follow-up actions will be to clarify that financial interest.

Councilmember Hall commented that any relief in this area would be highly appreciated.

Chair Sessom indicated there was one request to speak on this item.

Solana Beach Mayor Lesa Heebner said she was confused that this study might be redundant if the Agricultural District is already putting money toward a study of a temporary platform. She wondered why we need $75,000 for a study that is already being done at a different location that can be opened next year. Ms. Culp replied that a temporary platform is not meant to be a permanent structure. We are talking about a more permanent yet seasonal solution.

Mr. Gallegos said that the temporary structure puts you on the opposite side of the river from where the fairgrounds are located. While we are figuring out how to widen the bridge and extend the double tracking north of there, we can add a portion to that study to see whether you could accommodate a seasonal platform on the other side of the river to drop patrons directly at the fairgrounds. One of the issues with the temporary platform for next season is that you’ll have to figure out how to get patrons to the fairgrounds.

Mayor Heebner said it was her understanding that there would be a shuttle service moving those people, and this platform would be for the COASTER only, not Amtrak. She asked if Amtrak is being consulted and have agreed to the fact that they will be stopping just three miles before this stop. Mr. Gallegos said that the seasonal platform would not be an Amtrak stop. Ms. Culp said that in the past Amtrak has been supportive of this idea, but we will clarify that with Amtrak.

Rick Howard, NCTD, stated that Amtrak has been involved in discussions about this proposed platform. We have been working with Amtrak to get them to stop there as well. It doesn’t make sense to have a temporary platform and not use it.

Second Vice Chair Stocks said those are operational issues. The item before the Committee is related to whether to identify funding for this study.

Mayor Heebner stated that the operational issues are relevant.

Chair Session said that the operational issues will have to come back if we proceed with this permanent seasonal platform.
Action: Upon a motion by Second Vice Chair Stocks, and a second by Mayor Morrison, the Executive Committee directed to staff to proceed to seek funding for an amendment to the San Dieguito Bridge Replacement and Second Main Track in the FY 2008 Budget for conceptual design, identification of environmental issues, and a capital cost estimate for a permanent seasonal rail platform at the Del Mar Fairgrounds.

5. FY 2007 YEAR-END PROGRESS REPORT ON THE OVERALL WORK PROGRAM (INFORMATION)

Tim Watson, Budget Manager, provided highlights of the FY 2007 year-end progress report. The FY 2007 Overall Work Program (OWP) as amended totaled $47.7 million. Of that, $9.7 million is being carried over into the FY 2008 Budget; this funding predominantly relates to multi-year projects with dedicated funding. There is a $700,000 year-end savings that was added to the $3.1 million already set aside for the Contingency Reserve. At the end of FY 2007, the Contingency Reserve totaled $5.4 million or 11 percent of the OWP, which exceeds the 5 percent goal. He reviewed accomplishments related to the agency’s strategic goals, unplanned accomplishments, and projects to be carried over into FY 2008. He noted that this is the first time this comprehensive budget report has been presented.

Committee members complimented Mr. Watson on this report.

Chair Sessom noted that there was one request to speak on this item.

Clive Richard, a member of the public, asked about the timing of implementation of the Compass Card. Jack Boda, Director of Mobility Management and Project Implementation, responded that within the next couple of weeks we will have 2,500 volunteers testing the Compass Card system. During this past summer, SANDAG employees also have been testing this program. Early next year we will phase-in certain groups to expand Compass Card use.

Action: This item was presented for information only.

7. REVIEW OF OCTOBER 26, 2007, DRAFT BOARD AGENDA (APPROVE)

Diane Eidam, Chief Deputy Executive Director, reviewed this draft agenda. She suggested moving Item No. 14, Presentation on Construction Aggregate Resources, up to before the Regional Transportation Plan (RTP) discussion to accommodate this presentation as it was carried over from the last Board meeting. For Item No. 13A, Summary of RTP Public Comments, the responses to the RTP Environmental Impact Report (EIR) will not be ready for this meeting, and will be brought back at the time the RTP EIR is presented for adoption. Item No. 13B, consists of proposed modifications to the RTP. Pursuant to today’s action by the Executive Committee, the item related to Board Policy No. 31 (Item No. 15) will be withdrawn from this agenda and brought back to the Executive Committee in the future. Item No. 16 is a Regional Comprehensive Planning 2007 performance monitoring report. Item No. 17 is a recommendation from the Transportation Committee for Board approval of an amendment to the FY 2008 Budget and OWP to accept up $1 million in state planning funds to complete the Interstate 805 Corridor System Management Plan.
Action: Upon a motion by Mayor Morrison and second by Second Vice Chair Stocks, the Executive Committee voted to approve the agenda for the SANDAG Board of Directors meeting on Friday, October 26, 2007, as amended.

6. FEDERAL LEGISLATIVE STATUS REPORT (INFORMATION)

Victoria Stackwick, Associate Legislative Analyst, reported that the U.S. House of Representatives and the Senate passed the FY 2008 Appropriations bills. Included on Table 2 of the agenda report is a list of the regional projects that were included in the pending Transportation Appropriations bills. This is the lowest amount ($3.7 million) of discretionary funding the region has received in several years. In contrast, the SANDAG request list included $186 million in projects. Given this tight funding scenario, it will be more important for the region to prioritize projects. The Senate has appointed conference committee members, and Senator Dianne Feinstein is one of those appointees. The House has not yet appointed its conference committee members. President Bush has threatened to veto the Appropriations bills because they exceed his budget request. It is unclear when the bills will move, and it is anticipated that there will be an omnibus bill before Christmas.

Ms. Stackwick stated that there are several SAFETEA-LU technical corrections noted on page 3 of the agenda report. These corrections have passed the House, but there has been no movement in the Senate. There is a projected shortfall of $5 billion in the Highway Trust Fund in FY 2009. In order to address this deficit, the Senate has added $5 billion in the Federal Aviation Administration (FAA) reauthorization bill to replenish the Highway Trust Fund for previous nontransportation expenditures. The monies will be restored through $3.4 billion to the Highway Trust Fund, and $1.6 billion made up of technical corrections to the bill which would be offset by an increase in the tax on oil spills from 5 cents to 10 cents per barrel through 2017. The President has threatened to veto the FAA bill, but this is considered a “must-pass” bill. It is hoped that the needed provisions will be included.

Action: This item was presented for information only.

8. UPCOMING MEETINGS

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

Chair Sessom noted that the Board meeting date of November 30, which is the fifth Friday of the month, to accommodate the Thanksgiving holiday.

9. ADJOURNMENT

Chair Sessom adjourned the meeting at 9:56 a.m.

Attachment: Attendance Sheet
<table>
<thead>
<tr>
<th>GEOGRAPHICAL AREA</th>
<th>JURISDICTION</th>
<th>NAME</th>
<th>MEMBER/ ALTERNATE</th>
<th>ATTENDING</th>
</tr>
</thead>
<tbody>
<tr>
<td>North County Inland</td>
<td>City of Escondido</td>
<td>Lori Holt Pfeiler, 1st Vice Chair</td>
<td>Member</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>City of Poway</td>
<td>Mickey Cafagna</td>
<td>Alternate</td>
<td>No</td>
</tr>
<tr>
<td>North County Coastal</td>
<td>City of Encinitas</td>
<td>Jerome Stocks, 2nd Vice Chair</td>
<td>Member</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>City of Carlsbad</td>
<td>Matt Hall</td>
<td>Alternate</td>
<td>Yes</td>
</tr>
<tr>
<td>South County</td>
<td>City of National City</td>
<td>Ron Morrison</td>
<td>Member</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>City of Chula Vista</td>
<td>Cheryl Cox</td>
<td>Alternate</td>
<td>Yes</td>
</tr>
<tr>
<td>East County</td>
<td>City of Lemon Grove</td>
<td>Mary Sessom, Chair</td>
<td>Member</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>City of Santee</td>
<td>Hal Ryan</td>
<td>Alternate</td>
<td>No</td>
</tr>
<tr>
<td>City of San Diego</td>
<td></td>
<td>Jerry Sanders</td>
<td>Member</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Jim Madaffer</td>
<td>Alternate</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Toni Atkins</td>
<td>Alternate</td>
<td>No</td>
</tr>
<tr>
<td>County of San Diego</td>
<td></td>
<td>Ron Roberts</td>
<td>Member</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Greg Cox</td>
<td>1st Alternate</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Bill Horn</td>
<td>2nd Alternate</td>
<td>No</td>
</tr>
</tbody>
</table>
STATE LEGISLATIVE STATUS REPORT

Introduction

The California State Legislature approved 964 bills during the first year of the 2007-2008 regular legislative session. Governor Schwarzenegger signed 750 bills and vetoed 214. This report provides an update on key legislation for SANDAG that was signed or vetoed by the Governor as well as two-year bills that will likely move again next session.

Discussion

Priority Bills Signed or Vetoed

The Executive Committee and Board of Directors reviewed several key bills this year. The following provides a brief update on the status of these bills:

- **SB 10 (Kehoe): Airport Land Use Commissions: San Diego County Regional Airport Authority – Chapter 287, Statutes of 2007**

  SB 10 replaces the current San Diego County Regional Airport Authority Board of Directors with a nine-member Board that includes representatives of the City of San Diego, County of San Diego, and four subregions (North County Coastal, North County Inland, East County, and South County). Among many things, this law also specifies that Authority shall have a three-person Executive Committee consisting of one board member from the City of San Diego, one from the County, and one from among the four subregions, adds three public members to the Authority's Audit Committee, and defines the responsibilities of SANDAG and the Authority in the preparation of a Regional Aviation Strategic Plan (RASP) and Airport Multimodal Accessibility Plan (AMAP). On or before June 30, 2008, SANDAG and the Authority shall enter into an agreement for the coordination of responsibilities for the adoption of and updates to the RASP and AMAP. The Authority shall be responsible for preparing a RASP by June 30, 2011, and shall submit the plan to SANDAG. SANDAG shall be responsible for preparing an AMAP by December 31, 2013.

- **SB 717 (Perata): Transportation Investment Fund – Chapter 733, Statutes of 2007**

  This law continuously authorizes sales tax revenue derived from the sale of motor vehicle fuels to be transferred to the Transportation Investment Fund (TIF) beginning in fiscal year 2008-2009, after the Traffic Congestion Relief Program sunsets. Sales tax revenues would continue to flow subject to the current Proposition 42 distribution formula at 40 percent to the State Transportation Improvement Program (STIP), 40 percent to cities and counties for street and road purposes, and 20 percent to the Public Transportation Account (PTA). As enacted, SB 717 also would change the historic PTA formula to the benefit of local public transit agencies, with 75 percent of PTA funds allocated to the State Transit Assistance (STA) formula program, and the remaining 25 available for transit capital projects in the STIP.
• AB 574 (Torrico): High-occupancy toll (HOT) lanes – Chapter 498, Statute of 2007

Existing law authorizes SANDAG to conduct, administer, and operate a value pricing and transit development demonstration program on two additional transportation corridors in San Diego County involving high-occupancy toll (HOT) lanes. Existing law authorizes this program for each corridor for a period of four years after SANDAG first collects revenues for that corridor. This law deletes the four-year sunset provision and provides SANDAG the authorization to bond against future HOT lane revenues, if desired.

• SB 451 (Kehoe): Energy: Renewable Electric Generation Facilities - Vetoed by the Governor

SB 451 would have allowed municipalities and organizations to offset their electricity load and associated costs at one location with a bill credit earned from excess renewable energy produced at another site. The Governor stated in his veto message that last year he signed AB 1969 (Yee, Chapter 731, Statutes of 2006) which created standard contracts for the purchase of renewable power generated by public water and wastewater agencies. The Governor stated that the purpose of signing AB 1969 was to create a standard program for the purchase of clean and renewable electricity which will promote additional investment and development of these projects. Although SB 451 intends to appropriately expand this concept to all renewable electricity generators, the Governor cited concern with the provisions of the bill that would transfer ownership of the renewable energy credits from the renewable energy generator to the Investor-Owned Utility. The Governor stated that the bill as written would remove a significant financial incentive for renewable generators.

SB 375 (Steinberg) Transportation Planning: Travel Demand Models: Sustainable Communities Strategy: Environmental Review

SB 375 was introduced by Darrell Steinberg (D-Sacramento) and is co-sponsored by the California League of Conservation Voters and the Natural Resources Defense Council. At the request of Senator Steinberg, in late August, SB 375 was left on the Assembly Appropriations Committee suspense file, making it a two-year bill. The bill was last amended on September 12, 2007, and it incorporates many of revisions requested to date by the Sacramento Area Council of Governments (SACOG). For a summary of key provisions of SB 375 see Attachment 1.

The September 12 amendments have been the starting point for discussions on how to amend the bill to achieve the goal of the legislation to reduce vehicle miles traveled as part of how California addresses greenhouse gas reductions. Last year’s AB 32 (Nunez) established emission reduction targets to 1990 levels by 2020.

On October 17, 2007, SANDAG Board members and staff were invited to Sacramento to meet with League of California Cities, Senator Steinberg’s staff, the California League of Conservation Voters, and Board members and staff from SACOG, Southern California Association of Governments (SCAG), and Association of Bay Area Governments (ABAG)/Metropolitan Transportation Commission (MTC) to discuss opportunities and issues presented by the September 12, 2007, version of SB 375. This was the first meeting in a series of meetings that the League will convene in an effort to work with Senator Steinberg and stakeholders on SB 375. Although this bill is a two-year bill, it will likely continue moving as the second year of the two-year session begins in January.
SANDAG will continue to participate in these meetings, and staff also plans to invite Senator Steinberg’s staff and the bill sponsor to San Diego to meet with elected officials from the region to further discuss SB 375.

KIM KAWADA
Policy and Legislative Affairs Program Manager

Attachment: 1. Key Provisions of SB 375

Key Staff Contact: Genevieve Morelos, (619) 699-1994, gmo@sandag.org
Summary of Key Provisions of SB 375 (Steinberg)

As amended 9/12/07, the main components of SB 375 include:

- Requires the California Transportation Committee (CTC) in consultation with the California Air Resources Board (CARB) to adopt guidelines for travel demand models used in the development of Regional Transportation Plans (RTPs) by July 1, 2008.

- Requires transportation agencies to report to the CTC about the relationship of projects included in the regional transportation improvement programs (RTIP) to the RTP and sustainable communities strategy supplement.

- Requires regional agencies to prepare a sustainable communities strategy (SCS) to meet greenhouse gas emissions targets by 2020 and 2035, as provided by CARB. In the event that the SCS does not reach the targets, requires the Metropolitan Planning Organization (MPO)/Regional Transportation Planning Agency (RTPA) to submit a supplement that would achieve the targets through alternative development patterns or additional transportation measures.

- Requires the action element of the RTP to describe all transportation projects proposed for development during the life of the plan to be consistent with SCS.

- Provides for a streamlined California Environmental Quality Act (CEQA) process for projects that are located within jurisdictions whose general plans are consistent with a SCS and that meet specific requirements.

Sustainable Communities Strategy

If passed, SB 375 would add Government Code Section 65080 (b)(2)(A) through (J) to require regional agencies to develop an SCS that:

1. Identifies areas within the region sufficient to house all the population of the region, including all economic segments of the population over the course of the planning period taking into account net migration into the region, population growth, household formation and employment growth.

2. Identifies a transportation network to service the transportation needs of the region.

3. Using the best practically available scientific information, identifies resource areas and significant farmland: “Significant Resource areas” are defined as:

   (1) All publicly owned parks and open space;

   (2) Open space or habitat areas protected by natural community conservation plans, habitat conservation plans, and other adopted natural resource protection plans;

   (3) Habitat for species identified as candidate, fully protected, sensitive, or species of special status by local, state, or federal agencies or protected by the Federal Endangered Species Act of 1973, the CA Endangered Species Act, or the Native Plant Protection Act;
(4) Lands subject to conservation or agricultural easements for conservation or agricultural purposes by local governments, special districts, or nonprofit 501(c)(3) organizations, and lands under Williamson Act contracts;

(5) Areas designated for open-space uses in adopted open-space elements of the local general plan or by local ordinance;

(6) Habitat blocks, linkages, or watershed units that protect regional populations of native species, including sensitive, endemic, keystone, and umbrella species, and the ecological processes that maintain them; and

(7) An area subject to flooding where a development project would not, at the time of development in the judgment of the agency, meet the requirements of the National Flood Insurance Program or where the area is subject to more protective provisions of state law or local ordinance.

4. Sets forth a development pattern for the region, a transportation network, and other transportation measures that will reduce the greenhouse gas emissions from automobiles and light trucks to achieve, if there is a feasible way to do so, the targets developed by CARB

5. Will allow the RTP to comply with the Federal Clean Air Act

The MPO/RTPA shall identify lands for growth in housing and employment in the SCS in accordance with the following priorities:

1. Infill and redevelopment in existing urbanized areas, and any lands within spheres of influence

2. Vacant lands or substantially undeveloped lands other than in (1) above, that are adjacent to an existing or reasonably foreseeable planned development area and do not include a significant resource area or significant farmlands

3. If it is not feasible to identify lands for all of the projected growth in jobs and housing on lands in (1) and (2) above, then the SCS may identify future development on vacant lands or substantially undeveloped lands that contain significant resource areas as defined under subsections (4) through (7) above.

4. If it is not feasible to identify lands for all of the projected growth in jobs and housing on lands in (1), (2) and (3) above, then the SCS may identify future development on vacant lands or substantially undeveloped lands that contain significant resource areas as defined under subsection (3) above.

5. If it is not feasible to identify lands for all of the projected growth in jobs and housing on lands in (1), (2), (3) and (4) above, then the SCS may identify future development on vacant lands or substantially undeveloped lands that contain significant resource areas as defined under subsections (1) and (2) above.

“Consistent with the SCS” means that the capacity of the transportation projects or improvements does not exceed that which is necessary to provide reasonable service levels for the existing population and planned growth of the region as set forth in the SCS.
The SANDAG annual retreat is scheduled to start on Wednesday, January 30, 2008, in the early afternoon, run all day Thursday, and conclude by midday on Friday, February 1, 2008. The venue is La Casa del Zorro in the desert community of Borrego Springs.

The primary objective of the retreat is to afford participants the opportunity to strategize about regional public policies and programs. From these retreat discussions, participants can develop ideas for the future direction of SANDAG. Board members also may want to consider some of these issues during the ensuing months as they develop the Fiscal Year (FY) 2009 Overall Work Program and associated Program Budget.

In previous years, the Executive Committee has served as the working group to help the Board of Directors and SANDAG staff develop the retreat agenda and format. Staff is suggesting that the Executive Committee continue in this important role and that the Executive Committee recommend agenda topics, speakers, and the format for the retreat to the SANDAG Board for approval at its November 30, 2007, Board meeting.

Discussion

To date, individual Board members and staff have suggested the following topics as potential retreat agenda items:

- Discuss opportunities for funding alternatives for habitat, stormwater, beach sand, transit and/or other quality of life priorities;
- Hold break-out sessions to identify and build consensus on priorities for FY 2009; and
- Hold forum with our state delegation to discuss policy initiatives such as climate change and funding for public transit.

During past retreats, participants also have found it useful to include:

- A primer on the agency’s vision, mission, and functions, and the roles and responsibilities of a Board member (important for new members beginning to serve during the new year as well as a refresher for veteran Board members); and
- A primer on topics to be discussed during the retreat so new members as well as veteran Board members can start with the same foundation of information.
In addition, staff welcomes suggestions the Executive Committee might have regarding a particular topic or specific keynote speaker for the retreat. Potential speakers under consideration include:

- A speaker from a city/region who has worked on passage of quality of life funding measures

**Why Have a Retreat?**

A retreat provides the opportunity for Board members and alternates to collaborate in a relaxed and informal atmosphere to allow time for more in-depth discussions on significant regional topics. A well-planned, well-executed retreat provides the time for reflection on and evaluation of the worthiness of existing programs as well as the development of new initiatives. For example, initiatives from past retreats have resulted in the development of the Regional Comprehensive Plan, the Regional Economic Prosperity Strategy, and the creation of the Public Safety Committee. In addition, a well-organized retreat enhances team building, program planning, commitment to goal accomplishment, and organizational development.

**Where Is the Best Location?**

The key to any retreat is to get participation. It is important to afford participants a different physical setting from the routine and pressures of their daily workplaces. The best location is a place that is relaxing and lends itself to clear, creative thought. After a competitive procurement process, La Casa del Zorro, located in the community of Borrego Springs, has been selected as the SANDAG retreat venue.

**What’s the Proper Duration for the Retreat?**

A one and one-half to two-day retreat offers the best opportunity to incorporate work time and team building, according to the California Association of Chambers of Commerce. A two-day session may allow time for a presentation by an outside speaker, reports on various committees and projects, brainstorming, development of a wish list, and time to fine tune the overall organization.

**Conclusion**

The annual retreat has been of immense value for SANDAG Board members and alternates to help set the direction of the agency. Based on the Executive Committee’s discussions, staff will draft an agenda report for the Board’s consideration at its November 30, 2007, meeting. Once the Board approves the retreat agenda, a letter of invitation along with an RSVP card will be mailed to Board members by mid-December 2007. The final agenda, background materials, and retreat logistics will be mailed to participants by mid-January 2008.

COLLEEN WINDSOR  
Communications Director

Key Staff Contact: Colleen Windsor, (619) 699-1960, cw@sandag.org
San Diego Association of Governments

EXECUTIVE COMMITTEE

November 9, 2007

AGENDA ITEM NO.: 5

Action Requested: DISCUSSION

DRAFT 2008 LEGISLATIVE PROGRAM

File Number 7000900

Introduction

Each year, the Executive Committee recommends a legislative program in priority order to the Board of Directors for the upcoming calendar year. Consistent with past programs, the Draft 2008 Legislative Program (Attachment 1) includes policies and proposals for federal and state legislation as well as local activities.

Recommendation

The Executive Committee is asked to review and discuss the Draft 2008 Legislative Program and provide input to staff on the recommended goals. Action on the final program is scheduled in December.

Discussion

The SANDAG Legislative Program serves as a road map for Board members and staff to follow as legislation is introduced and activities occur during the federal and state legislative sessions. The program is organized into three distinct sections which generally relate to the level of effort needed to support corresponding legislative activities: (1) Sponsor, (2) Support/Oppose, and (3) Monitor. Within each section, individual goals are assigned a priority level, ranging from highest priority to lower priority. The program also lists the Board position, position year, which committee is involved, and whether the goal involves federal, state, and/or local efforts.

The 2007 Legislative Program, which was approved by the Board in December 2006, includes 28 separate legislative goals. Staff has modified the 2007 program as a starting point to initiate Executive Committee discussion regarding the 2008 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 2008 are proposed. In Attachment 1, proposed deletions are shown in strikethrough text, and modifications and additions are underlined. The major changes include:

Proposed Deletions

Public meetings in jurisdictions that border SANDAG – Goal No. 8A – This goal is proposed to be removed from the legislative program, because it has been determined that separate legislative authority is not needed in order for SANDAG to conduct meetings with adjacent jurisdictions. SANDAG has been able to hold public meetings with officials in Mexico and neighboring counties by taking certain measures to ensure compliance with the existing requirements of the Brown Act.

Maintain and increase regional decision-making authority - Goal No. 15B – This goal is proposed to be removed in order to streamline our current goals. All of the goals within the legislative program help to promote the SANDAG mission and authority.
Proposed Modifications

Pursue policy and legislative changes – Goal No. 2A – This goal is proposed to be moved from the Sponsor section and included as an overarching goal for the legislative program.

SAFETEA-LU clean-up language – Goal No. 4A – This goal is proposed to be moved to the Sponsor section from the Support/Oppose section, because legislation has been introduced this year in Congress that addresses technical corrections to previously approved projects in SAFETEA-LU. Staff expects that the SAFETEA-LU technical corrections will be passed during this federal legislative session.

Freeway Shoulders as Transit Lanes – Goal No. 8A – This goal is proposed to be amended to allow freeway shoulders to be used as transit lanes on a continuing basis, rather than just as an interim priority measure. This would enable SANDAG to seek policy or legislative changes to enable the use of shoulders to transit lanes in key corridors. Staff would continue to work with Caltrans, California Highway Patrol (CHP), and the transit agencies to identify the appropriate corridors in the region. In 2005, SANDAG partnered with these agencies to implement a demonstration project on a limited portion of State Route 52/Interstate 805 to evaluate the effectiveness of using freeway shoulder lanes as a low-speed transit priority measure when regular freeway lanes are congested. The demonstration project has proven successful and expanding the application to other corridors is being considered.

Transportation Funding – Goal No. 3B – This goal is proposed to be updated to remove specific references to Proposition 42 funding, which has been protected under Proposition 1A (2006). Language concerning protecting public transit “spillover” funding is proposed to be included; this acknowledges the recent diversion of the spillover dollars to General Fund purposes in the 2007-2008 state budget.

Transportation Project Delivery – Goal No. 6B – This goal is proposed to be modified to reflect a change in terminology but not in substance. The previous term used was “Construction Management at-risk Procurements” and the new term is “Construction Manager/ General Contractor.”

Proposed New Goals

Regional Comprehensive Plan (RCP) Funding – Goal 2A – This new goal seeks the passage of a local tax measure, bond, or other funding measure to enable SANDAG to address regional funding needs and potential future investments for stormwater management, beach sand replenishment, habitat conservation, and public transit, as discussed by the Board of Directors on October 12, 2007. The Office of General Counsel has concluded that an amendment to the SANDAG taxation authority would be required to make the full range of the projects/programs in these infrastructure areas eligible for funding by a tax measure. The RCP, adopted by SANDAG in July 2004, includes these environmental infrastructure components and could serve as the justification for modification to the taxation authority.

State Route 11/East Otay Mesa Port of Entry – Goal No. 4A – As the binational region continues to grow, the need for new or improved cross-border transportation facilities becomes ever more important to the San Diego region and California’s economic competitiveness. This new goal is
proposed to enable SANDAG to seek state and federal legislation to implement State Route 11 and the East Otay Mesa Port of Entry as possible toll-funded facilities.

Federal Surface Transportation Reauthorization - Goal No. 5A - SAFETEA-LU, the current federal surface transportation legislation, is set to expire in 2009. This new goal is proposed as initial discussions by organizations and advocacy groups are getting underway on the next federal reauthorization.

Addressing Climate Change – Goal No. 2B – This new goal aims to address the upcoming discussions that will take place throughout the California and the nation on climate change. Assembly Bill 32 (Nunez, 2006) requires the state to reduce greenhouse gas emissions to 1990 levels by the year 2020. This new goal would allow SANDAG to support climate change policies and legislation that are consistent with our RCP and Regional Transportation Plan.

The Executive Committee also may want to discuss whether any additional goals are needed for the Draft 2008 Legislative Program.

Next Steps

Staff will prepare a final legislative program based on Executive Committee discussion on November 9. The Public Safety Committee is scheduled to review the public safety related goals during its November 16, 2007, meeting, and make a recommendation to the Executive Committee. Action on the final 2008 Legislative Program would be presented to the Executive Committee and Board of Directors in December.

KIM KAWADA
Policy and Legislative Affairs Program Manager

Attachment: 1. Summary of Legislative Goals for Calendar Year 2008

Key Staff Contact: Genevieve Morelos, (619) 699-1994, gmo@sandag.org
**OVERARCHING GOAL:** Pursue policy and legislatives changes that enable SANDAG to better implement its adopted plans and programs

**(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>X</td>
<td>X</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) Pursue amendments to statutes authorizing SANDAG to levy taxes, issue bonds, and/or other funding mechanisms to finance projects that implement the RCP.</td>
<td>Highest</td>
<td>Sponsor</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>Federal/State/Local</td>
</tr>
<tr>
<td>4A</td>
<td>Technical clean-up language to SAFETEA-LU, such as, but not limited to, revising and clarifying earmark language and policy changes. (2005) Pursue statutory authority to build a toll road and port of entry at East Otay Mesa.</td>
<td>Highest</td>
<td>Sponsor/Support Sponsor</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>Federal/State/Local</td>
</tr>
<tr>
<td>5A</td>
<td>Participate in discussions with stakeholders and begin developing SANDAG priorities for the next federal surface transportation reauthorization.</td>
<td>High</td>
<td>Sponsor</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td>Federal/State</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>X</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>X</td>
<td>X</td>
<td></td>
<td></td>
<td>Federal/State/Local</td>
</tr>
</tbody>
</table>

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>7A</td>
<td>Pursue policy and/or legislative changes to enable the use of freeway shoulders as transit lanes as an interim priority measure on major corridors in the San Diego region. (2006)</td>
<td>High</td>
<td>Sponsor</td>
<td>X</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>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>State</td>
</tr>
<tr>
<td></td>
<td>(B) SUPPORT/OPPOSE</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1B</td>
<td>Technical clean-up language to SAFETEA-LU, such as, but not limited to, revising and clarifying earmark language and policy changes. (2005)</td>
<td>Highest</td>
<td>Support</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td>Federal</td>
</tr>
<tr>
<td>2B</td>
<td>Support policies and/or legislation implementing AB 32's climate change guidelines that are consistent with the RCP and RTP.</td>
<td>Highest</td>
<td>Support</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td>State/Local</td>
</tr>
<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; and maximize flexibility of federal and state funds; and oppose efforts that reduce revenues for transportation including spillover funds 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>X</td>
<td></td>
<td></td>
<td></td>
<td>Federal/State/Local</td>
</tr>
<tr>
<td>2B</td>
<td>Legislation that provides incentives to rewards jurisdictions that produce opportunities for more housing, especially including affordable and transit-oriented developments; supports regional fair-share allocation of housing funds; and provides additional affordable housing funding for affordable housing with greater local/regional control. over the allocation of those funds. (2002)</td>
<td>Highest</td>
<td>Support</td>
<td>X</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, dedicated 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>X</td>
<td></td>
<td></td>
<td></td>
<td>Federal/State</td>
</tr>
<tr>
<td>NO.</td>
<td>GENERAL DESCRIPTION OF GOAL</td>
<td>PRIORITY</td>
<td>BOARD POSITION</td>
<td>T</td>
<td>R</td>
<td>P</td>
<td>B</td>
<td>JURISDICTION</td>
</tr>
<tr>
<td>-----</td>
<td>--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>---------</td>
<td>----------------</td>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
<td>-------------------------</td>
</tr>
<tr>
<td>4B</td>
<td>Efforts to expand available methods of transportation project delivery, e.g., including design-build, construction manager/general contractor, management at risk procurements, and other alternative delivery methods that expedite project delivery. (2005)</td>
<td>Highest</td>
<td>Support</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td>State</td>
</tr>
<tr>
<td>6B</td>
<td>Fiscal reform initiatives that enable enabling regions to develop their own fiscal strategies and oppose unfunded mandates on local governments. 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>X</td>
<td></td>
<td></td>
<td></td>
<td>Federal/State/Local</td>
</tr>
<tr>
<td>5B</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>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>State</td>
</tr>
<tr>
<td>7B</td>
<td>Efforts assisting in the implementation of key environmental issues efforts, including habitat conservation, planning, beach restoration and replenishment, and water quality-related issues. (2002)</td>
<td>Higher</td>
<td>Support</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td>State/Local</td>
</tr>
<tr>
<td>6B</td>
<td>Mechanisms providing for the implementation of the 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 efforts that promote provide for more efficient use of highways and local roads. (2003)</td>
<td>Higher</td>
<td>Support</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td>Federal/State</td>
</tr>
<tr>
<td>8B</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>X</td>
<td></td>
<td></td>
<td></td>
<td>Federal/State/Local</td>
</tr>
<tr>
<td>9B</td>
<td>Enhancing of border security and reducing border wait times; pursuit of funding, legislation, and other financing mechanisms supporting interregional partnerships and bi-national trade and border projects. (2002)</td>
<td>High</td>
<td>Support</td>
<td>X</td>
<td>X</td>
<td>X</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>X</td>
<td></td>
<td></td>
<td></td>
<td>Federal/State</td>
</tr>
</tbody>
</table>

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>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>X</td>
<td></td>
<td>Federal/State/Local</td>
</tr>
<tr>
<td>13B</td>
<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. (2002)</td>
<td>High</td>
<td>Support</td>
<td></td>
<td></td>
<td>X</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>X</td>
<td>X</td>
<td>Federal</td>
</tr>
<tr>
<td>15B</td>
<td>Maintain and increase regional decision-making authority in areas consistent with SANDAG mission/policies. (2005)</td>
<td>Medium</td>
<td>Support</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
<td>State</td>
</tr>
</tbody>
</table>

**(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>X</td>
<td>X</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>X</td>
<td>X</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>
<td></td>
<td></td>
<td>Federal/State/Local</td>
</tr>
<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>
<td></td>
<td></td>
<td>Federal/State</td>
</tr>
</tbody>
</table>

Legend: T: Transportation; R: Regional Planning; P: Public Safety; B: Borders
SAN DIEGO ASSOCIATION OF GOVERNMENTS

EXECUTIVE COMMITTEE

November 9, 2007

AGENDA ITEM NO.: 6

Action Requested: DISCUSSION/POSSIBLE ACTION

ANNUAL PROPOSED AMENDMENTS TO BOARD POLICIES

File Number 9800100

ANNUAL PROPOSED AMENDMENTS TO BOARD POLICIES

Introduction

Each year the Office of General Counsel solicits requests from staff for any suggested changes to Board Policies and reviews SANDAG Policies to determine if updates or changes should be recommended to the Board of Directors. These proposed amendments are attached and are brought to the Executive Committee for discussion and recommendation to the Board. If the proposed amendments are acceptable to the Executive Committee, the Executive Committee’s recommendation will be taken directly to the Board. If, however, the Executive Committee requests changes to the proposed amendments and asks that the changes be brought back for further comment, this item will return to the Executive Committee on December 7, 2007.

Recommendation

The Executive Committee is asked to discuss the proposed changes and either direct staff to bring this item back to the Executive Committee on December 7, 2007, or to recommend the amendments to the Board for approval.

Discussion

The significant changes for each of the Board Policies proposed for amendment are discussed below. The actual language changes are tracked in the attached draft versions of the Board Policies.

Board Policy No. 003 - Investment Policy (Attachment 1)

The California Government Code and the SANDAG Investment Policy require that the Director of Finance submit to the Board of Directors annually a statement of investment policy, which the Board shall consider at a public meeting. The Director of Finance and the SANDAG investment advisor, Public Financial Management (PFM), have reviewed the investment policy and recommend the following changes.

Section 2 would be amended to add the Automated Regional Justice Information System (ARJIS). ARJIS and the financial accounting functions have been transferred from the City of San Diego to SANDAG and as such, ARJIS will follow the SANDAG Investment Policy. In addition, we are recommending adding the Government Code’s specific requirements in order to allow for the use of deposit placement services for non-negotiable Certificate of Deposit (“CD”) purchases (AB 2011 effective January 1, 2007). AB 2011 added two new sections, 53601.8 and 56365.8, to the Government Code. These sections were added to explicitly allow local agencies, until January 1, 2012, to utilize deposit placement services for non-negotiable CD purchases. The bill also imposed a 30 percent overall limitation on CDs purchased under this subdivision along with negotiable CDs purchased under 53601(h).
In brief, a deposit placement service takes a customer’s large deposit and divides it into multiple pieces, each less than $100,000. These pieces are then placed in CDs at other banks within the deposit placement service’s network, ensuring FDIC protection on the customer’s full deposit. The other banks simultaneously send an amount of funds equal to the amount they received back to the original bank; therefore it receives the benefit of the full amount of the original deposit. The process is largely invisible to the customer (although the customer must approve the participation in the placement service.)

To the public agency, CDs purchased through a placement service function the same way as any other CD. However, deposit placement services allow smaller community banks to accept and receive the benefit of large public agency deposits without the burden of collateralizing those deposits (they only retain $100,000 of the public agency’s deposit, which is covered by deposit insurance, so no collateralization is required.)

The SANDAG policy currently allows investments in negotiable CDs, however it does not allow the purchase of CDs. In order to use a CD deposit placement service, the policy would need to be revised to allow the purchase of CDs. Because of the differing California Government Code (“Code”) provisions, the policy will need to list different requirements for CDs placed with an individual bank (Code Sections 53635 et. seq.) and for CDs placed through a deposit placement service (Code Section 53601.8). Our suggested policy language is shown below. The only change to the Negotiable Certificates of Deposit section is to indicate that there is a combined 30 percent limit for all negotiable and non-negotiable CD purchases as required under Code Section 53601.8. Given the liquidity constraints associated with nonnegotiable CDs, the Director of Finance is recommending a one-year maximum term for CDs.

**Negotiable Certificates of Deposit:** Negotiable certificates of deposit issued by a nationally or state-chartered bank or a state or federal savings and loan association or by a state-licensed branch of a foreign bank; provided that the senior debt obligations of the issuing institution are rated “AA” or better by Moody’s or Standard & Poor’s.

**Certificates of Deposit:** Nonnegotiable certificates of deposit shall meet the conditions in either paragraph (a) or paragraph (b):

a. Certificates of deposit shall meet the requirements for deposit under Government Code Section 53635 et. seq. To be eligible to receive SANDAG deposits, the financial institution must have received a minimum overall satisfactory rating for meeting the credit needs of California Communities in its most recent evaluation, as provided in Government Code Section 53635.2. Deposits are required to be collateralized as specified under Government Code Section 53630 et. seq. The Director of Finance, at his or her discretion, may waive the collateralization requirements for any portion that is covered by federal deposit insurance. SANDAG shall have a signed agreement with the depository per Government Code Section 53649.

b. Certificates of deposit placed through a deposit placement service shall meet the requirements of Government Code Section 53601.8. The full amount of the principal and the interest that may be accrued during the maximum term of each certificate of deposit shall at all times be insured by federal deposit insurance.
SANDAG staff is currently investigating utilizing this program and researching all aspects of the program including advantages versus disadvantages. The requested Policy changes will allow staff to have the option available, should it be deemed advantageous to the agency to utilize this investment option.

Board Policy No. 004 – Rules of Procedure for Board of Directors, Policy Advisory Committees and Other Legislative Bodies (Attachment 2)

Section 6.7 is proposed to be added to the end of this Board Policy to provide for a methodology for the Chair of the Board to regularly review the need for changes to the Chair and Vice Chair positions of legislative bodies reporting to a Policy Advisory Committee.

Board Policy No. 016 – Procurement of Services (Attachment 3)

Changes are proposed throughout this Policy to the nomenclature in order to make the Policy consistent with federal terminology and the nomenclature used in the SANDAG Procurement Manual. Section 2 is modified to correct changes that should have been made last year when the Board approved increasing the small/minor procurement limit from $50,000 to $100,000. Proposed amendments in Sections 3.1, 3.2, and 3.4 relate to changes in the Disadvantaged Business Enterprises (DBE) legal requirements. Updates are needed for consistency with current SANDAG DBE practices. Language is removed from Section 6.5 to remove dollar limitations on use of purchase orders in place of contracts. The current dollar limitation is not imposed by statute and a lengthy contract is not always needed to adequately protect SANDAG interests. Amended language is proposed in Section 7, which concerns conflicts of interest, to make it consistent with the other procurement policies and to cross-reference the SANDAG Standard of Conduct related to procurements and ethical decision making. Lastly, Sections 11.4 and 11.5 reflect changes that are intended to clarify the insurance requirements that SANDAG consultants must meet.

Board Policy No. 023 – Procurement and Contracting-Equipment & Supplies (Attachment 4)

Language is proposed to be removed from Section 2 to remove dollar limitations on use of purchase orders in place of contracts. The current dollar limitation is not imposed by statute and a lengthy contract is not always needed to adequately protect SANDAG interests. Staff proposes removal of language in Section 5.3 because the delegation of authority from the Executive Director to staff is set forth by dollar amount in a separate administrative policy and therefore this language is superfluous. Section 6.2 contains updates related to changes in the DBE legal requirements. Updates are needed for consistency with current SANDAG DBE practices. Sections 7 and 8 have minor language changes proposed to make the policy consistent with the current practices of the Contracts department. Amended language is proposed in Section 9, which concerns conflicts of interest, to make it consistent with the other procurement policies and to cross-reference the SANDAG Standard of Conduct related to procurements and ethical decision making.
Board Policy No. 024 - Procurement and Contracting-Construction (Attachment 5)

New language is proposed in Section 1.1.2.3 to clarify the bonding requirements for projects that do not exceed $50,000. Due to changes in the DBE legal requirements, updates are needed throughout Section 1 of the Policy concerning SANDAG DBE practices. Section 1.6.7 of the Policy currently states the bonding requirements applicable to most of SANDAG projects in the past; however, it is becoming more common for SANDAG projects to be funded with both FTA and FHWA funds, and staff would like the flexibility to adjust the bonding requirements based on the color of money used for the project. An additional ground for debarment of a contractor for making false statements or certifications in documents submitted as part of a bid is proposed in Section 1.11.1.11. An additional basis for sole source procurement that is approved by the federal DOT agencies has been added to Section 4.1.5. Amended language is proposed in Section 6, which concerns conflicts of interest, to make it consistent with the other procurement policies and to cross-reference the SANDAG Standard of Conduct related to procurements and ethical decision making. Finally, a new section has been added to the end of this Policy to specifically authorize staff to utilize job order contracting as a procurement methodology. Section 7 defines job order contracting and the circumstances under which it can be used in compliance with the competitive procurement requirements that SANDAG is governed by in statute.

Board Policy No. 025 — Public Participation/Involvement Policy (Attachment 6)

Amendments to this policy are proposed to clean-up some language inconsistencies, update references to North County Transit District (NCTD), and add clarifying language regarding the location of meetings involving construction of projects in the Metropolitan Transit System (MTS) jurisdiction. Additionally, a new section “B” is added to address the public participation steps SANDAG will take concerning the Short Range Program for the Regional Transportation Improvement Program. Finally, references regarding persons with limited English proficiency and the availability of notices in Spanish are added in sections “A” and “E.”

Board Policy No. 027 - Transportation Development Act (Attachment 7)

Several provisions in the existing policy reflect similar or exact language contained in the Transportation Development Act as set forth in the Public Utilities Code. The changes proposed herein reflect how SANDAG specifically applies the state provisions:

Section 1d would be revised to reflect that only MTS, NCTD, or SANDAG may file claims for rail passenger service. This would not allow other jurisdictions within the county to claim funds for this purpose.

Section 1e would be deleted reflecting SANDAG Board practice established in February 2007. In accordance with PUC Section 99233.5, this section of SANDAG Policy No. 027 currently provides that up to 10 percent of the funds apportioned to the MTS service area shall be shared by MTS and SANDAG to carry out administrative duties. As explained in the report for Agenda Item No. 4, February 23, 2007, consolidation under Senate Bill 1703 provided that SANDAG absorb most of the administrative, project development and planning functions from MTS making this provision unnecessary. MTS now claims its entire share (including transfers to SANDAG for assumed planning and development functions) under the remaining provisions of the act.
Section 1f would be revised to reflect that the full 5 percent allowed under PUC 99233.7 for Community Transit Services will be apportioned for this purpose by eliminating the phrase “up to.” Section 1g would identify MTS, NCTD, and SANDAG as the only eligible claimants for transit operator claims under Section 99233.8. Sections 1h and 1i identify MTS and NCTD as the only eligible claimants in the County for express bus (PUC Section 99400.6) and commuter ferry service (PUC section 99400.7).

Section 4 would be revised by eliminating the provision that SANDAG would act as a single claimant for MTS. MTS and NCTD will continue to serve as the claimants for their respective population share of TDA revenues. Section 4.1 would be revised to reflect that the operator claims must be received by April 30 of each year and that SANDAG will provide a preliminary summary of those claims to the SANDAG Transportation Committee in the following May. Transit claims are to be consistent with the SANDAG guidelines for development of transit operator budgets. Section 4.3 would be revised to include Consolidated Transportation Planning Agency claims with those claims exempt from farebox recovery ratio requirements.

Section 5 would be revised to extend the bicycle program Bicycle and Pedestrian TransNet claim requirements to the two percent of revenues coming from annual TransNet receipts for the Bicycle, Pedestrian and Neighborhood Safety program effective in FY 2009 consistent with the 2004 TransNet Extension Ordinance. Section 5.1 would move the date for submitting bicycle and pedestrian claims from April 1 to March 1 of each year. Section 5.2 would simplify the payment process for bicycle and pedestrian claims. Section 5.3 would include an added provision requiring the return of funds for inactive projects. Section 5.4 would delete reference to MTS rural as a separate service because the rural routes have been incorporated in the overall MTS operations. Reference to the former National City Transit also is deleted.

Section 9.2 no longer would require that SANDAG make certain findings with regard to the MTS State Transit Assistance (STA) claim as MTS, according to statute, submits its claim directly to the state without SANDAG involvement.

Section 10 would be revised to reflect the change of focus in performance measures approved by the SANDAG Transportation Committee on September 21, 2007, as part of the Regional Short Range Transit Plan and Coordinated Public Transit-Human Services Transportation Plan. That focus goes from annual recommended improvements to multi-year, long-term focused improvements specifically described in the Plan and Transportation Development Act Manual.

Section 11 would be revised to eliminate farebox recovery ratio calculations based on percentage of urbanized versus nonurbanized miles provided by a single operator.

Board Policy No. 031 – TransNet Ordinance and Expenditure Plan Rules (Attachment 8)

A technical correction is proposed for Rule 7 as it contains the wrong percentage. The wording in Rule 11 is also proposed to clarify that TransNet funds are to augment TDA funds. Therefore, 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 TDA funds, then the TransNet funds.
Rule 18 concerns the requirement in Section 2(C)(1) of the TransNet Extension Ordinance that 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. Grade separation projects are identified in Section 2(C)(1) as projects that qualify as congestion relief projects, but are not specifically listed in the guidance in Attachment 2 to this policy. A reference to the eligibility of grade separation projects as congestion relief projects has been added to Rule 18 to ensure consistency and clarity.

Rule 20 is proposed for addition to the Policy. It clarifies that it is the mayors from each of the subregions that are to select from among themselves to sit on the Selection Committee for the Independent Taxpayers Oversight Committee, not the representatives who sit on the Board who may or may not be a mayor. It also provides that members of the Selection Committee who are mayors from the subregions shall serve for a period of two years or until the designee no longer holds the office of mayor. At the end of this term, the mayors from the affected subregion(s) shall either inform the Clerk of the SANDAG Board that the same representative is being redesignated or identify the new mayor that they have selected to represent their subregion on the Selection Committee. (Note: The attached version of Board Policy No. 031 does not contain the new rule proposed for bicycle and pedestrian projects that will be discussed in a separate report to the Executive Committee.)

JULIE D. WILEY  
General Counsel

Attachments: 1. Board Policy No. 003 – Investment Policy  
   2. Board Policy No. 004 – Rules of Procedure for Board of Directors, Policy Advisory Committees, and Other Legislative Bodies  
   3. Board Policy No. 016 – Procurement of Services  
   4. Board Policy No. 023 – Procurement and Contracting-Equipment & Supplies  
   5. Board Policy No. 024 – Procurement and Contracting-Construction  
   6. Board Policy No. 025 - Public Participation/Involvement Policy  
   7. Board Policy No. 027 – Transportation Development Act  
   8. Board Policy No. 031 – TransNet Ordinance and Expenditure Plan Rules

Key Staff Contact: Julie Wiley, (619) 699-6966, jwi@sandag.org
INVESTMENT POLICY

1. Introduction

The purpose of this document is to identify various policies and procedures that enhance opportunities for a prudent and systematic investment policy, and to organize and formalize investment-related activities.

The investment policies and practices of the San Diego Association of Governments (SANDAG) are based upon state law and prudent money management. All funds will be invested in accordance with the SANDAG’s Investment Policy and California Government Code Sections 53600 et seq. The investment of bond proceeds will be further governed by the provisions of relevant bond documents.

2. Scope

It is intended that this policy cover all funds and investment activities, with the exception of bond proceeds, under the direction or care of SANDAG, including funds of the San Diego County Regional Transportation Commission, SourcePoint, the SANDAG’s chartered nonprofit corporation, and the Automated Regional Justice Information System (ARJIS). Investment of bond proceeds shall be subject to the conditions and restrictions of bond documents and Treasury regulations related to arbitrage restrictions on tax-exempt bonds.

3. Prudence

All persons authorized to make investment decisions on behalf of SANDAG are trustees and therefore fiduciaries subject to the prudent investor standard: “When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency.”

Investment officers acting in accordance with written procedures and the investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security’s credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

4. Objectives

The primary objectives, in priority order, of SANDAG’s investment activities are:
4.1 Safety. Safety of principal is the foremost objective of the investment program. Investments of SANDAG shall be undertaken in a manner that seeks to ensure preservation of capital in the portfolio.

4.2 Liquidity. The investment portfolio of SANDAG will remain sufficiently liquid to enable SANDAG to meet its cash flow requirements.

4.3 Return on Investment. The investment portfolio of SANDAG shall be designed with the objective of attaining a market rate of return on its investments consistent with the constraints imposed by its safety objective and cash flow considerations.

5. Delegation of Authority

5.1 The Board of Directors delegates the authority to invest or to reinvest funds, or to sell or exchange securities so purchased, to the Executive Director for a one-year period. The Executive Director is charged with the responsibility for carrying out the policies of the Board of Directors and shall assume full responsibility for investment transactions until the delegation of authority is revoked or expires. In accordance with the SANDAG's established system for internal control, all financial transactions of SANDAG require the signature of at least two individuals authorized by the Executive Director.

5.2 For the purposes of carrying out this investment policy, any two of the following individuals are hereby authorized to make investment decisions, in strict accordance with this investment policy, on behalf of SANDAG:

- Executive Director
- Deputy Executive Director
- Director of Finance
- Finance Manager
- Manager of Financial Programming and Project Control
- Such other individuals authorized, in writing, by the Executive Director.

5.3 All accounts established for the purpose of investing SANDAG funds shall require the written authorization of the Executive Director.

5.4 No single individual, acting alone, may engage in an investment activity.

5.5 The Executive Director may delegate investment management and decision authority, via written agreement, to one or more professional investment advisors/managers who are duly qualified and registered with the Securities and Exchange Commission under the Investment Advisers Act of 1940. All agents engaged in this capacity shall make all investment decisions and transactions in strict accordance with state law and this investment policy.

5.6 The daily management responsibility for the investment program is assigned to the Director of Finance, who shall monitor and review all investments for consistency with this investment policy.
6. **Ethics (Conflict of Interest)**

Officers, employees and agents thereof involved in the investment process shall comply with state law and refrain from personal business activities that could conflict with proper execution of the investment program, or which could impair their ability to make impartial decisions.

7. **Selection of Financial Institutions and Broker/Dealers**

6.1 SANDAG shall transact business only with banks, savings and loan associations, and registered investment securities dealers. The purchase by SANDAG of any investment other than those purchased directly from the issuer shall be either from an institution licensed by the State as a broker/dealer, as defined in Section 25004 of the Corporation Code, who is a member of the National Association of Securities Dealers, or a member of a federally-regulated securities exchange, a National or State-Chartered Bank, a Federal or State Association (as defined by Section 5102 of the Financial Code), or a brokerage firm designated as a Primary Government Dealer by the Federal Reserve Bank. The Director of Finance shall investigate all institutions which wish to do business with SANDAG, in order to determine if they are adequately capitalized, make markets in securities appropriate to the SANDAG's needs, and agree to abide by the conditions set forth in the SANDAG's Investment Policy.

6.2 The Director of Finance shall maintain a list of authorized broker/dealers and financial institutions which are approved for investment purposes, and it shall be the policy of SANDAG to purchase securities only from those authorized institutions and firms. If SANDAG has contracted investment advisors/managers, the Director of Finance may approve and use a list of authorized broker/dealers provided by the investment advisor/manager.

8. **Permitted Investment Instruments**

6.1 The portfolio shall be diversified by security type and institution to avoid incurring unreasonable and avoidable risks regarding specific security types or individual financial institutions. Government Code §53601 states that when there is a percentage limitation for a particular category of investment, that percentage is applicable only at the date of purchase.

6.2 **Treasury Obligations:** Government obligations for which the full faith and credit of the United States are pledged for the payment of principal and interest.

6.3 **Federal Agencies and U.S. Government Sponsored Enterprises:** Federal agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises.

6.4 **State of California Obligations:** Registered state warrants, treasury notes or bonds of the State of California, including bonds payable solely out of revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency or authority of the state. Such obligations must be rated A-1/P-1, or equivalent or
better short-term; or Aa/AA or better long-term by at least one of the nationally recognized statistical-rating organizations.

8.5 Local Agency Obligations: Bonds, notes, warrants, or other evidences of indebtedness issued by any local agency within the State, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority of the local agency. Such obligations must be rated A-1/P-1, or equivalent or better short-term; or Aa/AA or better long-term by one of the nationally recognized statistical-rating organizations.

8.6 Repurchase Agreements: Repurchase Agreements used solely as short-term investments not to exceed 90 days.

  8.6.1 The following collateral restrictions will be observed: Only U.S. Treasury securities or Federal Agency securities will be acceptable collateral. All securities underlying Repurchase Agreements must be delivered to SANDAG’s custodian bank or handled under a properly executed tri-party repurchase agreement. The total of all collateral for each Repurchase Agreement must equal or exceed, on the basis of market value plus accrued interest, 102 percent of the total dollar value of the money invested by SANDAG for the term of the investment. Since the market value of the underlying securities is subject to daily fluctuation, the investments in repurchase agreements shall be in compliance if the value of the underlying securities is brought back up to 102 percent no later than the next business day.

  8.6.2 Market value must be calculated each time there is a substitution of collateral.

  8.6.3 SANDAG or its trustee shall have a perfected first security interest under the Uniform Commercial Code in all securities subject to Repurchase Agreement.

  8.6.4 SANDAG may enter into Repurchase Agreements with (1) primary dealers in U.S. Government securities who are eligible to transact business with, and who report to, the Federal Reserve Bank of New York, and (2) California and non-California banking institutions having assets in excess of $1 billion and in the highest short-term rating category, as provided by Moody’s Investors Service, Inc. or Standard & Poor’s Corporation.

  8.6.5 SANDAG will have properly executed a Public Securities Association (PSA) agreement with each firm with which it enters into Repurchase Agreements.

8.7 Bankers’ Acceptances: Bankers’ Acceptances issued by domestic banks or domestic branches or foreign banks, which are eligible for purchase by the Federal Reserve System, the short-term paper of which is rated in the highest rating category by Moody’s Investors Services or by Standard & Poor’s Corporation. Purchases of Bankers’ Acceptances may not exceed 180 days maturity or 40 percent of SANDAG’s surplus money. No more than 10 percent of SANDAG’s surplus funds may be invested in the Bankers’ Acceptances of any one commercial bank.

8.8 Commercial Paper: Commercial paper of “prime” quality of the highest ranking or of the highest letter and number rating as provided for by a nationally recognized statistical-
rating organization. The entity that issues the commercial paper shall meet all of the following conditions in either paragraph (a) or paragraph (b):

(a) The entity meets the following criteria: (i) Is organized and operating in the United States as a general corporation. (ii) Has total assets in excess of five hundred million dollars ($500,000,000). (iii) Has debt other than commercial paper, if any, that is rated “A” or higher by a nationally recognized statistical-rating organization.

(b) The entity meets the following criteria: (i) is organized within the United States as a special purpose corporation, trust, or limited liability company. (ii) Has program wide credit enhancements including, but not limited to, over collateralization, letters of credit, or surety bond. (iii) Has commercial paper that is rated “A-1” or higher, or the equivalent, by a nationally recognized statistical-rating organization.

Purchases of eligible commercial paper may not exceed 270 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. No more than 10 percent of SANDAG’s surplus funds may be invested in Commercial Paper of any one U.S. corporation.

Purchases of commercial paper may not exceed 25 percent of SANDAG’s surplus money which may be invested.

8.9 **Medium-Term Notes:** Medium-term notes, defined as all corporate and depository institution securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or depository institutions licensed by the United States or any state and operating within the United States. Medium-term notes shall be rated in a rating category of “A” or better by a nationally recognized statistical-rating organization.

Purchase of medium-term corporate notes may not exceed 30 percent of the agency’s surplus money. No more than 10 percent of SANDAG’s surplus funds may be invested in the Medium-Term Notes of any one corporation.

8.10 **Certificates of Deposit:** The maximum term for certificates of deposit shall be one year. The combined amount invested in negotiable certificates of deposit and certificates of deposit shall not exceed 30 percent of SANDAG’s surplus money.

8.10.1 **Negotiable Certificates of Deposit:** Negotiable certificates of deposit issued by a nationally- or state-chartered bank or a state or federal savings and loan association or by a state-licensed branch of a foreign bank; provided that the senior debt obligations of the issuing institution are rated “AA” or better by Moody’s or Standard & Poor’s.

8.10.2 **Nonnegotiable** The maximum term for certificates of deposit shall be one year. Purchase of negotiable certificates of deposit may The combined amount invested in negotiable certificates of deposit and certificates of deposit shall not exceed 30 percent of SANDAG’s surplus money.
Certificates of Deposit: Nonnegotiable certificates of deposit shall meet the conditions in either paragraph (a) or paragraph (b):

a. Certificates of deposit shall meet the requirements for deposit under Government Code Section 53635 et. seq. To be eligible to receive SANDAG deposits, the financial institution must have received a minimum overall satisfactory rating for meeting the credit needs of California Communities in its most recent evaluation, as provided in Government Code Section 53635.2. Deposits are required to be collateralized as specified under Government Code Section 53630 et. seq. The Director of Finance, at his or her discretion, may waive the collateralization requirements for any portion that is covered by federal deposit insurance. SANDAG shall have a signed agreement with the depository per Government Code Section 53649.

b. Certificates of deposit placed through a deposit placement service shall meet the requirements of Government Code Section 53601.8. The full amount of the principal and the interest that may be accrued during the maximum term of each certificate of deposit shall at all times be insured by federal deposit insurance.

8.11 State of California’s Local Agency Investment Fund: State of California’s Local Agency Investment Fund (LAIF) may be invested in for the benefit of local agencies up to $40 million. For on-going due diligence, the Director of Finance shall maintain on file a copy of LAIF’s current investment policy and its requirements for participation, including limitations on deposits or withdrawals.

8.12 San Diego County Treasurer’s Pooled Investment Fund: Deposits in the County pooled investment fund shall be limited to the dollar maximums of the State LAIF. For on-going due diligence, the Director of Finance shall maintain on file a copy of the County pool’s current investment policy and its requirements for participation, including limitations on deposits or withdrawals.

8.13 Savings/Money Market Accounts: Savings/Money Market Accounts deposits placed with commercial banks and savings and loans. The amount on deposit shall not exceed the shareholder’s equity in the financial institution. To be eligible to receive SANDAG deposits, the financial institution must have received a minimum overall satisfactory rating for meeting the credit needs of California Communities in its most recent evaluation, as provided in Government Code Section 53635.2. Deposits are required to be collateralized as specified under Government Code Section 53630 et. seq. The Director of Finance, at his or her discretion, may waive the collateralization requirements for any portion that is covered by federal insurance. SANDAG shall have a signed agreement with the depository per Government Code Section 53649.

8.14 California Asset Management Program: Shares in a portfolio of the California Asset Management Program, so long as the portfolio is rated among the top two rating categories by one of the nationally recognized statistical-rating organizations. For on-going due diligence, the Director of Finance shall maintain on file a copy of the Program’s current information statement to include its requirements for participation, including limitations on deposits or withdrawals.

8.15 Money Market Funds: Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.). To be
eligible for investment pursuant to this subdivision, these companies shall either: (1) attain the highest ranking letter or numerical rating provided by not less than two of the three largest nationally-recognized statistical-rating organizations, or (2) have an investment advisor registered or exempt from registration with the Securities and Exchange Commission with not less than five years experience managing money market mutual funds with assets under management in excess of $500,000,000.

The purchase price of shares shall not include any commission that the companies may charge. The purchase of shares may not exceed 20 percent of SANDAG’s surplus money. For on-going due diligence, the Director of Finance shall maintain on file a copy of the money market fund’s current information statement to include its requirements for participation, including limitations on deposits or withdrawals.

8.16 Mortgage and Asset-Backed Obligations: Any mortgage pass-through security collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable-pass-through certificate, or consumer receivable-backed bond of a maximum of 5 years maturity. Such obligations must be rated Aa/AA or higher by two national rating agencies and the issuer of such obligations must be rated Aa/AA or higher by two of the national rating agencies as well. Purchases of securities authorized by this section may not exceed 20 percent of SANDAG’s surplus funds that may be invested pursuant to this section.

8.17 Ineligible Investments: Security types which are thereby prohibited include, but are not restricted to:

(a) Reverse repurchase agreements.

(b) “Complex” derivative securities such as range notes, dual index notes, inverse floating-rate notes, leveraged or deleveraged floating-rate notes, or any other complex variable-rate or structured note.

(c) Interest-only strips that are derived from a pool of mortgages, or any security that could result in zero interest accrual if held to maturity.

(d) Securities lending.

In the event that SANDAG possesses ineligible investments purchased prior to the adoption of this policy, SANDAG may hold these investments to their maturity dates. The limitation in this section shall not apply to SANDAG’s investments in shares of beneficial interest issued by diversified management companies registered under the Investment Company Act of 1940.

9. Maximum Maturity

9.1 Investment maturities shall be based upon a review of cash flow forecasts. Maturities will be scheduled so as to permit SANDAG to meet all projected obligations.

9.2 The maximum maturity will be no more than five years from purchase date to maturity date.
10. Performance Standards

The investment performance of the SANDAG’s portfolio shall be evaluated and compared to appropriate indices in order to assess the success of the investment program. The comparable benchmarks should be consistent with the SANDAG’s portfolio in terms of maturity and composition, which includes credit quality and security type.

11. Reporting Requirements

11.1 The Director of Finance shall submit to the Board annually a statement of investment policy, which the Board shall consider at a public meeting.

11.2 A monthly report of all investment transactions shall be submitted to the Board Members.

11.3 Quarterly investment reports shall be submitted to the Board Members. The reports should include information in accordance with Section 56346(b) of the California Government Code.

12. Safekeeping and Custody

12.1 All security transactions, including collateral for repurchase agreements, entered into by SANDAG shall be conducted on a delivery-versus-payment (DVP) basis. Securities shall be held by a third party custodian and evidenced by safekeeping receipts.

12.2 The only exception to the foregoing shall be securities purchases made with: (i) local government investment pools; and, (ii) money market mutual funds, since the purchased securities are not deliverable.

Adopted January 2003
Amended November 2004
Amended September 2005
Amended December 2007
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 the SANDAG'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 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 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 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 the SANDAG's area of jurisdiction shall be published at least five (5) days prior to the 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 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 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 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.
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.

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.

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:

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:

- 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
- 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
- any real property which SANDAG Board member or a member of SANDAG Board member’s immediate family has invested $2,000 or more; and
- 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
- 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;
- the personal expenses, income, assets, or liabilities of a SANDAG Board member or a member of SANDAG Board member’s immediate family.
4.5.7 Prohibitions Applicable to Former Board Members

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

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

4.6 Lobbying and Campaign-Related Activities

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

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

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

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

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

4.6.2.2 the former SANDAG Board Member received compensation from SANDAG for his or her service as a SANDAG Board Member; and

4.6.2.3 the former SANDAG Board Member is receiving compensation from a private business to engage in the direct communication with SANDAG.
4.6.3 The prohibitions contained in 4.6.2 shall not apply:

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

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

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

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

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

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

4.8 If a Board member has an actual, potential, or apparent conflict of interest in the subject of an agenda item to be discussed during a closed session meeting, the Board member must state that he or she has a conflict of interest and shall be disqualified and shall leave the room during such discussion so as not to make, participate in making, or in any way attempt to use his or her official position to influence the decision or discussion. In the case of uncertainty, the Board member must request a binding determination from the Board’s legal counsel. In accordance with the Brown Act, any Board member who is disqualified shall be entitled to any information that is publicly reported. The Board member will not, however, be privy 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 of **SANDAG** 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 the **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 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 Board or one of the Policy Advisory Committees are covered by the Act.

6.1 All of the SANDAG 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 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 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 Committee and Working Group Guidelines should be used for additional guidance.

6.6 New committees shall not be created by SANDAG staff without approval of either (1) the Board, (2) a Policy Advisory Committee, or (3) the Executive Director with the concurrence of the Chair of the Board. 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.

6.7 Upon assuming office, the Chair of Board shall be provided with a list of all of the SANDAG’s legislative bodies that are not Policy Advisory Committees and the Chairs and Vice Chairs of those bodies. The Chair shall determine if a new Chair and/or Vice Chair should be appointed for these bodies and shall report any changes he/she wishes to make at a Board meeting. When making decisions concerning the Chair and Vice Chair appointments to legislative bodies, the potential appointee’s participation at the Policy Advisory Committee reported to by the legislative body shall be taken into consideration.

Adopted June 2003
Amended November 2004
Amended January 2006
Amended December 2006
Amended December 2007
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. 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 Purchase 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 Small Purchase Agreements ($2,501 - $100,000). 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 $100,000 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 $102,501 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 or best value 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 ($100,001 and greater). These procedures apply to the procurement of all services, except Section 4525 Services, of $100,001 or more and including procurement of Section 4525 Services in excess of $2,501.

3.1 Normally, a "one-step" selection procedure will be used for service contracts in excess of $100,000. The "one-step" competitive process is as follows:

3.1.1 Firms shall submit a response to a SANDAG Request for Proposals (RFP) or Request for Qualifications (RFQ). The RFP/RFQ 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 Disadvantaged Business Enterprises (DBE)/Small business directed-certified newspapers and in such other minority or community newspapers as appropriate in San Diego County, at least three weeks before the proposal due date. The notice shall state that the Board of SANDAG 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) / vendor database and the California Unified Certification Program (CUCP) Database.

3.1.4 Responses to an RFP/RFQ 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/RFQ shall include a detailed 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 5.2 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/RFQ, 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 if the program is considered race conscious (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 returned or disposed of or returned, unopened, to the respective companies via certified mail. Alternatively, companies may, at their option, arrange to pick up
their sealed cost proposals in person by contacting the SANDAG Contract Administrator.

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 may 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 vanpool freeway service patrol services 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/Small business directed newspapers and in such other minority or community newspapers as appropriate 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 of SANDAG 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 if the program is considered race conscious.
3.4.4 An evaluation committee will be formed, which should consist of SANDAG staff and at least one person from outside the agency.

3.4.5 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).

3.4.6 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 - Sole Source (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 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 the SANDAG’s best interests of SANDAG.

6.4 The Executive Director may approve contract amendments that exceed the project budget totaling up to $100,000 that are necessary to complete the contract 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 more than 25% over the original contract amount and/or with $100,000 or those contemplating a significant change in the original scope of services must be processed in accordance with the SANDAG procurement manual and policies.

6.5 For purchases involving no federal funds and not exceeding $50,000 for A&E services and $100,000 for non A&E, 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 $50,000 for A&E services and $100,000 for non A&E, a contract must be used in order to ensure provisions are included to protect the interests of SANDAG.

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

7.1 A consultant is eligible for award of service contracts by SANDAG so long as the contract in question does not create an actual, potential, or apparent conflict of interest. A prohibited conflict of interest exists when a firm is or may be unable to render impartial, objective assistance or advice to SANDAG or where a firm would receive an unfair competitive advantage. Prohibited conflicts of interest include, but are not limited to, the following situations:

7.1.1 Any firm that provides design services to SANDAG for a design-bid-build project will be ineligible for award of a construction contract to construct the improvements, which are the subject of the design services.

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

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

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

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

7.1.5.1 Persons employed by SANDAG;

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

7.1.5.3 Persons who, within the immediately preceding twelve (12) months, were employed by SANDAG and (1) were employed in positions of substantial responsibility in the area of service to be performed by the contract, or (2) participated in any way in developing the contract or its service specifications; or
7.1.5.4 Profit-making firms or businesses in which the former employees described in subsection 7.1.5.3 serve as officers, principals, partners or major shareholders.

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

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

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

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

7.6 If there is any doubt by a firm regarding a potential conflict of interest for a specific project or function, the appropriate member of management staff, depending on type of project, will, upon written request, provide a written ruling. This procedure is encouraged prior to submittal of proposals or bidsRFPs. 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 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.

7.8 SANDAG staff and third parties with whom SANDAG does business shall comply with SANDAG’s administrative policies concerning Standard of Conduct and all relevant Board Policies.
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 $50,000, 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 must provide the minimum scope of insurance as stipulated in the contract.

11.5 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 a certificate of compliance to SANDAG.

11.6 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.

11.7 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.

11.8 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 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. Approval of such items by the Chairperson or a Vice Chairperson is not the preferred practice and should only be used if a regular or special meeting of an authorized legislative body is infeasible or impractical. In such an instance, the Executive Director shall notify the Board of the Committee’s action or Chairperson/Vice Chairperson’s action at the next regular Board meeting.
12.3 All amendments that impact or potentially impact Board-adopted policies shall be brought before the Board for decision.

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

Adopted October 2003
Amended November 2004
Amended December 2006
Amended December 2007
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 the best interest of SANDAG to do so. All references to the Executive Director in this policy also apply to the Executive Director’s designee.

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 $50,000, 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 $50,000, a purchase order or a contract must be used in order to ensure provisions are included to protect SANDAG’s interests.

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

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

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

3.1.2 Staff solicited competitive bids and was unable to obtain a responsive bid from a responsible bidder.
3.1.3 The grantor agency providing funds for the project has approved sole source acquisition.

3.1.4 The item is only available from a single source.

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

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

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

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

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

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

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

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

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

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

5. For purchases between $2,500 and $50,000, a simplified competitive procurement method may be used:
5.1. Staff shall obtain written bids or document oral bids from at least three suppliers in a manner that permits prices and other terms to be compared.

5.2. Staff shall recommend the supplier that will provide the best value to SANDAG, taking into account the possible range of competing product and materials available, fitness of purpose, manufacturer’s warranty, and other similar factors in addition to price.

5.3. Staff shall obtain approval as required in the administrative delegation of authority policy and the small procurement procedures 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 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. The IFB may also be published in one or more Disadvantaged Business Enterprise (DBE)/Small business directed newspapers and in such other minority or community newspapers and business trade publications as appropriate at least two weeks before the bid opening date. The notice shall state that SANDAG is interested in receiving bids from qualified firms, and indicate how additional information can be obtained, 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/Manager to utilize a different procurement process. An alternate procurement process to the IFB may be in the SANDAG’s best interest of SANDAG 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 folders submitted in the requisition packet.

9. **Conflicts of Interest**

9.1 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:

9.1.1 Persons employed by SANDAG;

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

9.3.9.1.3 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

9.4.9.1.4 Profit-making firms or businesses in which the former employees described in subsection 9.1.3 serve as officers, principals, partners or major shareholders.

9.2 **SANDAG staff and third parties with whom SANDAG does business shall comply with SANDAG’s administrative policies concerning Standard of Conduct and all relevant Board Policies.**

9.3 **A Notice of Potential for Conflict of Interest shall be included when relevant in any procurement issued by SANDAG. The Notice shall be the policy of the Board as listed herein. Any agreement issued in accordance with this policy shall include or make reference to the policy listed herein.**

9.4 **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.**

9.5 **“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.**

9.6 **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 proposals or bids. 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.
PROCUREMENT AND CONTRACTING – CONSTRUCTION

Purpose

To establish a method for administering SANDAG construction contracts.

Background

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

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.

1.1.2.3 Bid bonds will only be required on bids that are $50,000 or less when requested by the Director of Mobility Management & Project Implementation or his or her designee.

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);

1.2.1.3 In at least one DBE/Special business directed newspaper or trade publication and in such other minority or community newspapers as appropriate.

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 the 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.
1.5.4.3 Acknowledgment of Addenda.
1.5.4.4 Contractor’s License Requirements.
1.5.4.5 Ability to Meet Minimum Insurance Requirements.
1.5.4.6 Public Contract Code 10162 Questionnaire.
1.5.4.7 Bidder’s Bond.
1.5.4.8 Noncollusion Affidavit.
1.5.4.9 Certification of Restrictions on Lobbying.
1.5.4.10 Disclosure of Lobbying Activities.
1.5.4.11 Certification Regarding Debarment

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

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

1.5.6.1 Financial Requirements:

1.5.6.1.1 Contractors shall have evidence of the availability of working capital that, times a factor of ten, must exceed the contract bid price;
1.5.6.2 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. Notwithstanding the foregoing, depending upon authorization from the funding source(s), the performance and payment bond requirements may be modified within the Invitation for Bids with prior approval of the Director.

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; and

1.11.1.11 false statements or certifications in documents submitted as part of a bid or any supplementary documentation thereto.

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 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 – Sole Source

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.
4.1.5 The item is a capital maintenance item directly procured from the original manufacturer and that supplier is the only source for such item.

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. 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 **A contractor 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:**

   6.1.1 **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.**

   6.1.2 **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.**

   6.1.3 **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.**

   6.1.4 **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.**

6.2 **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:**

   6.2.1 **Persons employed by SANDAG;**

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

   6.2.3 **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**
6.2.4 Profit-making firms or businesses in which the former employees described in subsection 6.2.3 serve as officers, principals, partners or major shareholders.

6.3 SANDAG staff and third parties with whom SANDAG does business shall comply with SANDAG’s administrative policies concerning Standard of Conduct and all relevant Board Policies.

6.4 A Notice of Potential for Conflict of Interest shall be included when relevant in any procurement issued by SANDAG. The Notice shall be the policy of the Board as listed herein. Any agreement issued in accordance with this policy shall include or make reference to the policy listed herein.

6.5 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.

6.6 “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.

6.7 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 proposals or bids. 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. Job Order Contracting

A Job Order Contract (JOC) is a competitively bid, firm fixed price, indefinite quantity contract that is based upon specific unit pricing contained in a unit price book (prepared by the public agency or by independent commercial sources) setting forth detailed repair and construction items of work, including descriptions, specifications, units of measurement and individual unit prices for each item of work. The JOC includes unit pricing for work at time of award, but not the specified quantity and location of the work to be performed. At the time a Job Order (JO) is issued, the scope of work will identify the quantity and specific location of the work to be performed. JOC may be used when it will result in a cost savings through economies of scale or expedite the delivery of work.

7.1 General Requirements

7.1.1 Job Order Contracts shall be awarded under written agreement subject to the following limitations:
7.1.1.1 The specifications were advertised in accordance with Board Policy No. 024, Section 1, "Bidding Process" based on the maximum potential value of the Job Order Contract.

7.1.1.2 The specifications provided for sealed competitive bidding on unit-cost terms for all labor, material, and equipment necessary to perform all work contemplated for individual Job Orders.

7.1.1.3 The Job Order Contract does not exceed a term of three years in duration.

7.1.1.4 The Job Order Contract shall only be used for the performance of minor routine or recurring construction, or for the renovation, alteration, or repair of existing public facilities.

7.1.2 A Job Order Contract may not contain any provision which would guarantee the contractor cumulative Job Orders in excess of $50,000.

7.2 Issuance of Job Orders

7.2.1 Following award of a JOC, JOs may be issued by the Executive Director in accordance with SANDAG Board Policies, administrative polices, and procedural manuals upon certification by that individual that it is not in conflict with other Board Policies and it is in SANDAG's best interest of SANDAG to use the JOC procurement process because one or more of the following criteria have been met:

7.2.1.1 Use of the JOC process will result in a cost savings through economies of scale or expedite the delivery of work; or

7.2.1.2 Compliance with the traditional competitive bidding requirements will not produce an advantage to SANDAG; or

7.2.1.3 Advertising for bids is undesirable because it will be practically impossible to obtain what is needed or required by an unforeseen deadline if the traditional competitive bidding method is used; or

7.2.1.4 The entity or entities providing funds for the project have authorized use of the JOC process.

7.2.2 An individual Job Order may not exceed the sum of $2,000,000, except in the case of an emergency as defined in Section 3.3.1 of this Policy, or as specifically authorized by the Executive Director, whose authorization shall not be delegated.

7.2.3 No public work that logically should be performed as a single contractual transaction requiring the expenditure of more than $2,000,000 shall be separated into separate Job Orders for purposes of avoiding this limitation.

7.2.4 Non-prepriced items of work may be included in JOs provided that the non-prepriced items are within the scope and intent of the JOC and are priced reasonably and in conformity all applicable laws, regulations and policies.
7.3 Job Order Contract Intergovernmental Agreements

7.3.1 The SANDAG Executive Director may permit, subject to requirements of this section and subject to such terms and conditions that the Executive Director may prescribe, any public entity, including the California Department of Transportation, or any municipal corporation, school or other special district within San Diego County, to participate via the Service Bureau in JOCs entered into by SANDAG, and may enter into any agreements necessary to do so.

Adopted November 2003
Amended December 2006
Amended December 2007
PUBLIC PARTICIPATION/INVOLVEMENT POLICY

Purpose

This policy establishes a process for obtaining input from and providing information to the public concerning agency programs, projects, and program funding in order to ensure the public is informed and has the opportunity to provide SANDAG with input so plans can reflect the public's desire. SANDAG will review and update this plan every three years. Various federal and state laws and regulations require that an agency such as SANDAG conduct public participation programs to ensure that the public is involved and that community concerns are addressed. For example, planning of mass transit capital projects, development of short range service policies and plans, and fare policy and structure changes to public transportation require public participation. The California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA) also have public information components that require an agency such as SANDAG to conduct public participation programs to ensure that the public is involved and that community concerns are addressed. A significant component of the SANDAG's mission is a strong commitment to public participation and involvement to include all residents and stakeholders in the regional planning process.

The public participation policy is consistent with the requirements of Public Utility Code Section 132360.1 established with the passage of Assembly Bill 361 which reads as follows:

(c) The agency shall engage in a public collaborative planning process; recommendations from that process shall be made available and considered for integration into the plan. A procedure to carry out this process including a method of addressing and responding to recommendations from the public shall be adopted.

Social Equity and Environmental Justice

Ensuring the meaningful involvement of low income, minority, disabled, senior, and other traditionally underrepresented communities is a key component of SANDAG's public participation activities. SANDAG's policies, procedures, and programs are consistent with federal and state environmental justice laws, regulations, and requirements, Title VI, related nondiscrimination requirements, and reflect the principles of social equity and environmental justice. Social equity means ensuring that all communities are treated fairly and are given equal opportunity to participate in the planning and decision-making process, with an emphasis on ensuring that traditionally disadvantaged groups are not left behind. Environmental justice means ensuring that plans, policies, and actions do not disproportionately affect low income and minority communities.

Scope

The policy addresses public participation policies and public information efforts in the following areas:
A. Overall Public Participation Process
B. Short range program – Regional Transportation Improvement Program
C. Development Planning
D. Design and Construction
E. Short Range Transit Service Planning and Fare Changes
F. Native American Consultation

A. Overall Public Participation Process -- Unless otherwise noted or required, these are SANDAG’s general policies for public participation for major planning initiatives such as the Regional Transportation Plan, Regional Comprehensive Plan, Regional Short Range Transit Plan, and other planning and programming projects.

1. The SANDAG’s Public Participation/Involvement Program is designed to inform and involve the region’s residents in the decision-making process on issues such as growth, transportation, environmental management, housing, open space, air quality, energy, fiscal management, economic development, and public safety.

2. The Public Participation/Involvement Program seeks to involve all citizens, including but not limited to low income households, limited English proficient individuals, Hispanic, African American, Asian, Native American Indian, senior, and other communities, persons with disabilities, as well as community and civic organizations, public agencies, business groups and associations, environmental organizations, and other stakeholders.

3. SANDAG’s Board meetings provide the public forum and decision point for significant regional issues. SANDAG Directors usually hold one or two Board meetings each month: a Board Policy Meeting the second Friday of each month and a Board Business Meeting the fourth Friday of each month. Meetings held at the SANDAG office are accessible by public transit. During these meetings, Directors adopt plans, allocate transportation funds, approve transit construction plans, approve transit fare changes, and establish policies and develop programs that are used by local governments as well as other public and private organizations.

4. The SANDAG’s Public Participation/Involvement Program shall comply with the Americans with Disabilities Act (ADA). SANDAG shall hold public meetings in buildings, rooms, or locations that are accessible to persons with disabilities. SANDAG shall provide public meeting information in alternate formats and shall provide special accommodations at public meetings with three business days notice.

5. The SANDAG’s Public Participation/Involvement Program is carried out as an integrated work element of the agency’s Overall Work Program and Budget and as part of other programming, development, and implementation processes such as the Regional Transportation Plan, the Regional Comprehensive Plan, Regional Short Range Transit Plan, Regional Transportation Improvement Program, Environmental Impact Reports, transit capital project development, project construction, transit fare changes, corridor studies, and other projects.
6. SANDAG shall proactively seek and promote public participation in SANDAG's workshops and public hearings, as well as participation and attendance at committees, working groups, and task forces. SANDAG shall follow local, state, and federal guidelines for posting public meeting and hearing notices. Depending upon the specific project, SANDAG shall endeavor to hold meetings at times that can attract as many participants as possible, including evenings and weekends and at locations in communities throughout the region. SANDAG shall endeavor to hold these meetings in locations that are accessible by public transit.

7. SANDAG shall inform the public in a timely manner about regional issues, actions, and pending decisions through a number of efforts. As needed or required, SANDAG shall post public notices in newspapers of general circulation for publication of legal notices. Other publication and distribution efforts can include mail distribution to residents, agencies, and city/county governments, the SANDAG Web site, e-mail lists, and rEgion - the SANDAG's monthly electronic newsletter. As needed, SANDAG also shall distribute press releases and media alerts to local, regional, and Mexico border area print and broadcast media.


9. SANDAG shall use its Web site to provide the public with useful and timely information including meeting schedules and agendas; plans and environmental documents; reports and other publications; demographic profiles and data downloads; and interactive database and mapping applications.

10. As appropriate and depending on the specific project as required by local, state, and federal guidelines, SANDAG shall translate into Spanish, and other languages, publications, announcements, and Web content. In addition, numerous staff members are bilingual Spanish-English speakers and participate in public outreach and conduct presentations in Spanish. Translators shall be hired as needed and as required by local, state, and federal guidelines to provide services in Spanish and other languages as appropriate.

11. SANDAG conducts periodic public opinion surveys as part of the outreach and citizen participation component of the SANDAG's work program. These surveys shall be designed to include the San Diego region's residents in the regional planning process and to keep SANDAG officials aware of issues that are of concern to the people who live here.

12. SANDAG will endeavor to respond to general comments received by phone, fax, letter, or e-mail within five (5) business days of receipt. Comments shall be routed to
the SANDAG staff person who is responsible for that issue. Comments may be responded to in writing (e-mail or letter) or may be resolved with the initial phone call. Some comments may need to be resolved by another agency or jurisdiction so the customer is referred to the appropriate entity. When a comment is submitted as part of a public review process (e.g., a plan or environmental report) the comment and response is logged into a database. Comments, concerns, and responses received as part of a public review process shall be included in the final plan or report.

B. Short Range Program – Regional Transportation Improvement Program (RTIP) – document updated every two years outlining major transportation projects to be implemented during a five-year period.

1. SANDAG shall follow the latest federal and state regulations regarding participation by interested parties.

2. As the document that implements the long range plan, the RTIP shall be incorporated as part of the Board adopted public involvement process established for the Regional Transportation Plan (October 27, 2006) including participating in public outreach efforts, providing adequate public notice (legal notice publications), employing visualization techniques, holding public meetings at convenient and accessible locations.

3. SANDAG shall respond to any significant public input or comment received during the development of the biennial update and/or during the amendment cycle as part of its report to the Board or Transportation Committee (as appropriate).

4. The biennial RTIP update will be noticed in newspapers of general circulation including in alternate languages and a public hearing shall be held prior to final adoption by the Board of Directors.

5. During the amendment cycle, SANDAG will provide a draft of the amendment to all interested parties for a 15-day comment period.

C. Development Planning – Planning, environmental, preliminary engineering activities on major capital projects.

1. SANDAG shall follow current federal and state regulations regarding public involvement processes and procedures. SANDAG shall develop public involvement programs tailored to meet specific project needs which address the unique challenges presented by each project. Programs shall be developed using the joint Federal Highway Administration and Federal Transit Administration (FHWA/FTA) guidelines titled “Public Involvement Techniques for Transportation Decision-Making.”

2. The public involvement program shall set objectives, identify people to be reached, develop public involvement strategy, and define specific outreach techniques.

3. The public involvement program shall be developed so that critical community concerns and technical issues are identified in the study. The issues need to address the engineering, environmental, economic, and financial analyses that respond
effectively to community needs and preferences and satisfy local, state, and federal environmental clearance requirements.

4. To facilitate community participation, lists of individuals, agencies, and organizations shall be developed for distribution of agency materials. These lists will include persons who have indicated an interest in transportation planning projects during previous public information efforts and/or focused on the specific project. Project information would be distributed to the persons on this list in conjunction with public meetings and workshops, to solicit comments and recommendations.

5. Environmental documents shall be prepared in accordance with California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA), as appropriate, and in coordination and consultation with various federal, state, and local agencies, and with elected officials, community leaders, organizations, and other individuals from the neighborhoods and communities potentially affected by the proposed action. Coordination and public involvement shall be achieved through a variety of means, such as formal public hearings and meetings, circulation of draft documents, mailings, focus group meetings, workshops, and individual/group contacts.

6. Formal scoping meetings, public hearings, and/or other meetings during the comment period and environmental document certification shall be held in accordance with the requisite environmental document. As required, meetings shall be announced in the Federal Register, local publications, and on the SANDAG's Web site. Persons and organizations on the project mailing list also will be notified. SANDAG shall endeavor to hold public meetings in locations accessible by public transit.

7. SANDAG shall prepare and distribute appropriate notices and communications to comply with CEQA and NEPA requirements.

8. A public information program shall be developed to inform the community of factors related to the project. The information program may include briefings for the news media, informational meetings, presentations to include community and professional associations and educational institutions, business groups and associations, environmental organizations, and other public forums.

9. A project working group may be organized to review and comment on the project to build understanding and identify support for feasible alternatives. This group may consist of various elected officials/staff, community and neighborhood organizations, business organizations, property owners, and other stakeholders and interested parties. This group would be formed to provide comment and guidance regarding technical issues, review study alternatives and evaluation results, and provide community input regarding the alternatives. This iterative process would allow for identified issues and concerns to receive follow-up responses. Meeting summaries of project working group activities shall be produced. Meeting notices, agendas, and/or other information shall be posted to the SANDAG's Web site.
10. Other public input opportunities include SANDAG Board of Directors meetings and meetings of SANDAG’s five policy committees: Executive, Transportation, Regional Planning, Borders, and Public Safety. Other opportunities for public participation are at working group meetings, general public meetings, and presentations to planning and community groups.

DC. Design and Construction - Design and construction of capital projects.

1. For all capital improvement projects with significant community impacts, SANDAG shall provide opportunities for members of the public to provide input and express concerns. SANDAG also shall implement a program designed to inform the public of progress, as well as safety and community impacts in the event of construction.

2. SANDAG shall hold publicly noticed meetings at key stages of project development and implementation in the area(s) being impacted. The location of the meetings shall depend upon the geographic location of the project. Meetings concerning projects exclusively within the North San Diego County Transit Development District (NCTD) Board’s (NSDCTDB’s) service area shall be held in North County locations, and if appropriate, at SANDAG’s offices. Meetings concerning projects exclusively within the Metropolitan Transit System (MTS) service area shall be held in MTS service areas affected, and if appropriate, at SANDAG’s offices. Meetings concerning all other projects shall be held at SANDAG’s offices or other locations specified in SANDAG’s agendas. SANDAG, MTS, and NCTD offices are accessible by public transit. SANDAG shall endeavor to hold off-site public meetings at locations accessible by public transit.

3. SANDAG shall solicit input from the representatives of interest groups of the local population, such as community groups, planning groups, business groups and associations, business improvement districts, environmental organizations, neighborhood associations, and senior and disabled riders. These stakeholders will be consulted during the design and construction of capital projects.

4. SANDAG shall work to advise the public regarding actual and perceived disruption during construction of capital projects by distributing informational, educational, and public information materials, and by using other traditional community relations tools.

5. SANDAG shall endeavor to meet citizen concerns as they arise and attempt to resolve those concerns.

6. For all projects requiring environmental review under CEQA and NEPA, such as major capital improvement projects, SANDAG shall provide opportunities for members of the public to provide input and comply with all related legal requirements.

6.1 SANDAG shall solicit input from the representatives of interest groups of the local population, such as community groups, planning groups, business groups and associations, and neighborhood associations.
6.2 SANDAG shall incorporate public input into project planning and development where practical and feasible.

6.3 SANDAG shall hold a public hearing to seek public comment whenever required under CEQA and/or NEPA.

6.3.1 Published notifications for such hearings shall be published in newspapers of general circulation for publication of legal notices. Notices also may be published in regional, community, or Spanish-language newspapers to reach the affected area.

6.3.2 Any item subject to a public hearing will be listed and described in the Board’s published agenda, which shall be posted at least 72 hours in advance of the meeting at the Board’s meeting place and on the SANDAG’s Web site.

6.3.3 Public hearings shall be conducted by SANDAG at the published date, time, and place. The public hearing will allow for interested parties to be heard. The Board also will consider any written comments that were forwarded to the Board prior to the hearing.

ED. Short Range Transit Service Planning and Fare Changes

1. SANDAG has adopted Transit Service Planning and Fare Setting policies to provide policy guidance for transit service and fare changes. This section of the policy is designed to inform and involve public transit riders, stakeholders, and the general public about proposed changes in transit fares. Public information and involvement programs for service changes would fall under adopted policies of the Metropolitan Transit System (MTS) and North San Diego County Transit Development Board District (NSDCTDBNCTD).

1.1 A public hearing will be held by SANDAG for transit fare changes. The public hearings will be held at the SANDAG offices during a regularly scheduled meeting of the SANDAG Transportation Committee and/or Board of Directors and/or in the general geographic area of the affected public at a special or relocated meeting of the SANDAG Transportation Committee or Board of Directors, as determined by the SANDAG Transportation Committee or Board. Public meetings shall be held at a time and location that is accessible by users of public transit. Public hearings for fare changes affecting North County and/or NCTD service area residents shall be held by SANDAG in the North County area. Public hearings for fare changes affecting MTS service area residents shall be held by SANDAG in the affected area.

1.2 Take One, Rider Alerts, or other public notices in both English and Spanish will be posted on all affected public transit vehicles within the affected area at least 15 calendar days prior to the public hearing and will include a
description of the proposed fare change, the date, time, intent and location of the public hearing, and the deadline for written, e-mail and phone comments from the public. The notices will be posted to the SANDAG and Transit Agency Web site(s).

1.3. Print notice of public hearings will be provided at least 15 calendar days prior to the public hearing meeting date in newspapers of general circulation in the affected area(s), including appropriate minority and community publications. **Public notices will be printed in Spanish in Spanish-language newspapers.** The public hearing notice will include a description of proposed fare changes, the date, time, intent, and location of the public hearing, and the deadline for written, e-mail, and phone comments from the public.

1.4. An open phone line will be made available to take public comments at least 15 calendar days prior to public hearing.

1.5. A SANDAG Policy Committee and/or Board report (as appropriate) will be completed and available for public review at least 72 hours prior to the public hearing and posted to the SANDAG Web site(s).

2. After a fare change is approved by SANDAG:

2.1. The public will be notified via news release(s)

2.2. Take One, Rider Alerts, or other public notices in both English and Spanish will be posted on all affected transit vehicles at least 15 calendar days prior to changes going into effect and posted to the SANDAG and Transit Agency Web site(s).

3. SANDAG shall follow federal Title VI and environmental justice requirements when implementing transit fare changes.

3.1. Residential, employment, and transportation patterns of low-income and minority populations shall be identified so that their needs can be identified and addressed, and the benefits and burdens of transportation investments can be fairly distributed. SANDAG shall endeavor to involve the affected communities in evaluating the benefits and burdens of transportation investments.

3.2. SANDAG shall evaluate and - where necessary - improve the public involvement processes to eliminate participation barriers and engage minority and low-income populations in transportation decision making.
E. Native American Consultation

1. SANDAG shall establish and adhere to government-to-government relationships when interacting with Tribal Governments, acknowledging these tribes as unique and separate governments within the United States.

2. SANDAG shall recognize and respect important California Native American rights, sites, traditions, and practices.

3. SANDAG engages in “consultation” with Tribal Governments prior to making decisions, taking actions, or implementing programs that may impact their communities.

4. To facilitate effective consultation with Tribal Governments, SANDAG has established a Tribal Government Liaison. The Liaison shall serve as an initial contact for Tribal Governments and communicates with tribal governments regarding SANDAG’s activities.

   4.1. “Consultation” is the active, affirmative process of: (1) identifying and seeking input from appropriate American Indian government bodies, community groups, and individuals; and (2) considering their interests as a necessary and integral part of the decision-making process.

Adopted March 2005
Amended January 2006
Amended December 2007
TRANSPORTATION DEVELOPMENT ACT

The Transportation Development Act (TDA) Statutes\(^1\) and the California Code of Regulations (CCR) require the San Diego Association of Governments (SANDAG), as the Regional Transportation Planning Agency (RTPA), to adopt rules and regulations supplemental to and consistent with those of the California Department of Transportation (Caltrans) to establish procedures for the administration of TDA funds. These procedures provide for the local implementation of the Transportation Development Act of 1971, as amended, in the San Diego region.

Background

The TDA became effective on July 1, 1972, and was enacted to assist local jurisdictions at the county level to improve public transportation and encourage regional public transportation coordination. To this end, the TDA created a Local Transportation Fund (LTF) in each county into which is deposited \(\frac{1}{4}\) percent out of the \(7\frac{1}{2}\) percent state sales taxes collected in the county. The TDA was amended in 1979 (Senate Bill [SB] 620) to create the State Transit Assistance (STA) program.

As the RTPA for the San Diego region, SANDAG is responsible for the annual allocation of monies from the LTF. There are various eligibility requirements for the receipt of TDA funds. This policy outlines those requirements while the TDA Manual provides further details for the different Articles of the TDA and the STA.

Procedures

1. **Priorities for the Use of TDA Funds**

   The TDA sets priorities on the distribution of funds. The following priorities apply to the San Diego region:

   a. **Administrative Costs (Section 99233.1):** Funds are allocated to the County Auditor and SANDAG for administrative expenses as necessary.

   b. **Planning by Statutorily Created Agencies (Section 99233.2):** Up to 3 percent of annual revenues may be allocated to SANDAG for the conduct of the transportation planning process.

   c. **Bicycle and Pedestrian Facilities (Section 99233.3):** Two percent of the money remaining in the fund may be available to counties and cities for development of bicycle and pedestrian facilities. These funds are allocated by SANDAG based on a regionwide priority list of projects.

   d. **Rail Passenger Service (Section 99233.4):** Any county, city, county transportation commission, or operator within the San Diego region, only Metropolitan Transit System...
(MTS), North County Transit District (NCTD), or SANDAG may file a claim under this provision for rail passenger service operating or capital improvement expenditures.

e. **Metropolitan Transit System (MTS) 10 Percent Funding (Section 99233.5):** Up to 10 percent of the remaining money in the fund in the MTS service area shall be shared between SANDAG and MTS to carry out administrative duties and functions for services and projects in the MTS service area.

f.e. **Community Transit Services (Section 99233.7):** Within the San Diego region, five percent of the remaining money in the fund shall be available to MTS, NCTD cities, counties, operators, and Consolidated Transportation Service Agencies (CTSA) to provide community transit services. Community transit service means transportation services that link intracommunity origins and destinations including services for those such as the disabled who cannot use conventional transit services.

g.f. **Transit Operator Claims (Section 99233.8):** The remaining money in the fund may be allocated to support public transit systems within the San Diego region by eligible claimants MTS, NCTD and SANDAG.

h. **Miscellaneous Transportation Claims (Section 99233.9):** In San Diego County, jurisdictions that are classified as operators are not eligible for these funds, nor are jurisdictions that contract with an operator (Section 99232).

i. **Multimodal Transportation Terminals (Section 99400.5):** Local jurisdictions are eligible to file a claim to finance the construction and maintenance of multimodal transportation terminals located anywhere in the city or county, as the case may be.

h.g. **Express Bus Services and Vanpool Services (Section 99400.6):** Eligible operators within the San Diego region, MTS and NCTD may file a claim for express bus services or vanpool services, subject to specified conditions.

i.h. **Commuter Ferry Services (Section 99400.7):** Eligible operators within the San Diego region, MTS and NCTD may file a claim to provide commuter ferry service on San Diego Bay for purposes of serving peak-period commute trips for pedestrians and bicycles.

2. **County Auditor's Responsibilities**

The County Auditor in each county in the state is the designated trustee for that county's TDA funds. Prior to February 1 of each year, the San Diego County Auditor is required (CCR 6620) to furnish SANDAG with an estimate of monies anticipated to be deposited in the LTF during the ensuing fiscal year. The County Auditor must also provide an estimate of the TDA fund balance after all allocation instructions and payment schedules have been honored for the current fiscal year. Estimates include interest income for the ensuing fiscal year as well as sales tax revenues. In addition, the County Auditor is also responsible for maintaining accounting records for the LTF and for disbursing TDA monies in accordance with allocation instructions from SANDAG.
3. **Apportionment Schedule**

It is the responsibility of SANDAG to apportion TDA monies for the ensuing fiscal year based on estimates received from the County Auditor. In the San Diego region, the development of the annual apportionment schedule reflects the existence of two transit development board boundaries: (1) the San Diego MTS area and (2) the North County Transit District (NCTD) area. The MTS and NCTD service areas encompass the entire county. Prior to March 1 of each year, SANDAG shall provide its apportionment estimates to NCTD and MTS.

4. **Operator Claims**

There are four separate articles of the TDA. Each article provides funding for specific purposes with differing eligibility requirements and restrictions.

As the consolidated agency, SANDAG shall act as the single claimant for all eligible transit operators in the MTS area that receive TDA. Pursuant to SB 521 (effective 2003), the use of TDA funds are prioritized as follows: (1) services provided pursuant to the Americans with Disabilities Act (ADA), (2) local match requirements for federal and state transit capital grants, (3) guaranteed levels of local and regional services based on prior-year level of service, and (4) any additional planning and operation of transit services approved by the SANDAG Transportation Committee (with recommendation from the MTS Board). NCTD can continue to submit a separate claim based on NCTD's annual operating budget. For Article 3 funds, eligible local agencies submit requests for funds through the Bicycle Pedestrian Working Group (BPWG). This policy discusses the general requirements, while detailed instructions will be included in the TDA Manual.

4.1 **Claim Process**: Consistent with the Guidelines for Development of Transit Operating Budgets (approved by the Transportation Committee at its February 6, 2004 meeting), the transit operators shall provide budget information to SANDAG in sufficient detail to submit all required forms and data supporting their TDA claims are due by April 30 of each year. These forms are included in the TDA Manual and available on the TDA web page. For Article 3, claims are due by April/March 1 to the BPWG, which prioritizes the projects. An information item that provides a summary of the draft preliminary budget and TDA allocations based on preliminary review of the claims shall be presented to the Transportation Committee at its April/May meeting with the final TDA allocation to be approved by the SANDAG Board of Directors at its meeting in June of each year. Transit claims must be consistent with the Guidelines for Development of Transit Operating Budgets approved annually by the Board.

4.2 **Project Eligibility**: Article 3 funds are designated for bicycle and pedestrian projects. Article 4 funds are used to provide general public transit services. Article 4.5 funds are designated for community transit services and, by SANDAG Board policy, are allocated within the San Diego region to support paratransit services required by the ADA. Article 8 provides special provisions to support express bus service, multimodal transit centers, and ferry service. Finally, the STA fund is a state program, administered locally, that provides additional support for public transit.
4.3 Farebox Recovery Ratio: Except for Article 3 projects and the commuter ferry service, and services provided by the Consolidated Transportation Service Agency (CTSA), all transit operators must maintain a certain ratio of fare revenue to operating cost (farebox recovery ratio as set forth in Section 6.2.1 of this policy).

4.4 Reporting Requirements: Each recipient of TDA funds is required to submit the annual State Controller’s Report within 90 days after the end of the fiscal year (CCR 6665). In addition, an annual certified fiscal audit is due within 180 days after the end of the fiscal year (Section 99245). As the TDA administrator, SANDAG procures an independent auditor for the annual fiscal audit and submits to Caltrans on behalf of the recipients.

4.5 Claim Revisions: Where changes in circumstances warrant, a claimant may request a revision to an approved allocation. A request for an allocation revision or amendment shall include detailed information and the reason for the request. The SANDAG Transportation Committee approval is required for an amendment. For Article 3 funds, the BPWG will review the request for revisions and forward a recommendation(s) to the Transportation Committee.

5. Article 3 - Bicycle and Pedestrian Claims

Two percent of TDA funds are apportioned each year for facilities provided for the exclusive use of pedestrians and bicyclists. In addition to the TDA funds, the TransNet program (local sales tax approved by voters in 1987) provides $1 million for bicycle facilities on an annual basis. The $1 million set-aside expires with the 1987 Ordinance. Beginning in FY 2009 the 2004 TransNet extension provides two percent of total annual revenues for this purpose. This policy applies to the allocation and administration of both TransNet and TDA Article 3 funds.

5.1 Project Eligibility: Public Utilities Code (PUC) Sections 99233.33 and 99234 describe the project eligibility. SANDAG, as the RTPA, has the authority to establish criteria applicable to evaluating claims for bicycle and pedestrian funds (Section 99401). The claims are due by April 1 of each year. Each claim must include required claim forms and supplemental information. Additional SANDAG requirements are outlined in the TDA Manual. The evaluations of the claims are delegated to the BPWG. The BPWG includes a representative from each member agency, Caltrans, the transit districts, the San Diego Port District, and four members from the community at large. The projects selected by the BPWG receive TDA Article 3 and TransNet bicycle funds.

5.2 Payment of Funds: Payment of funds for bicycle and pedestrian projects will be made based on payment requests submitted to SANDAG, in at least two installments. When project development begins, the agency may request, in writing, the design portion of the allocation. The balance may be paid once the construction costs are known through the awarding of a construction contract or other means. Larger projects with construction schedules longer than one year shall request payment of funds in annual increments.
5.3 **Project Completion**: Prior to the consideration of projects for the next fiscal year, the BPWG will review the status of each previously approved project that remains uncompleted. If a capital project has not maintained the schedule for project development provided in the claim documents, the BPWG will recommend that the Transportation Committee rescind the allocation for all unexpended funds. Projects for which funding has been rescinded may be resubmitted for future funding in a subsequent year. The BPWG may use its discretion to consider special circumstances that would warrant a recommendation to retain funding for projects that would otherwise be rescinded due to lack of progress. It will be the responsibility of the sponsoring agency to demonstrate that an exception is warranted. Funds from a rescinded allocation will be available for allocation to any eligible project under the normal review and allocation process. If a project that has had no activity for the past two years and the sponsoring agency cannot provide sufficient documentation of project continuation, the agency will be requested to return any remaining funds. All returned funds will be re-allocated to other eligible projects.

5.4 **Project Maintenance**: The claim for either TDA funds or for TransNet bicycle funds requires the applicant to identify how the facility will be maintained. Beyond routine maintenance, agencies that construct bikeways or pedestrian improvements with these funds assume the responsibility to maintain those improvements so long as the right-of-way in which the improvements are provided remains open to the public.

6. **Article 4 – General Purpose Claims**

This article provides for the following purposes: (1) support of public transportation system, (2) aid to public transportation research and demonstration projects, and (3) contribution for the construction of grade separation projects (Section 99260).

6.1 **Eligible Expense**: Public transit operators can use Article 4 funds for all purposes necessary for the development and operation of a public transportation system including the following (Section 99262):

- a. Planning and contributions to the transportation planning process
- b. Acquisition of real property
- c. Construction of facilities and buildings
- d. Purchase and replacement of vehicles
- e. Systems operation
- f. Maintenance and repair
- g. Debt service

6.2 **Eligibility Requirements**:

6.2.1 **Farebox Recovery Ratio**: In order to qualify for TDA funds, an operator must maintain a certain ratio of fare revenue to operating cost (farebox recovery ratio). Under the provisions of Section 99269, all operators within the MTS service area are considered a single operator for meeting the farebox recovery ratio requirement. To be eligible for Article 4 funds, the farebox recovery ratio must equal or exceed the required ratio (see table below).
If an operator fails to maintain the required ratio, certain penalties apply (Section 99268.9). Should an operator’s service expand by more than 25 percent, the ratio requirement is waived for two years after the end of the fiscal year in which the expansion was implemented (Section 99268.8).

### Farebox Recovery Ratio Requirements

<table>
<thead>
<tr>
<th>Operator</th>
<th>Required Ratio</th>
<th>PUC Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>MTS Area Operators*</td>
<td>31.9%</td>
<td>99269</td>
</tr>
<tr>
<td>NCTD</td>
<td>18.8%</td>
<td>99270.1</td>
</tr>
<tr>
<td>MTS Rural</td>
<td>10.0%</td>
<td>99268.4</td>
</tr>
<tr>
<td>MTS Express</td>
<td>20.0%</td>
<td>99268.3</td>
</tr>
</tbody>
</table>
| *MTS Operators = San Diego Transit, San Diego Trolley, Chula Vista Transit, MTS Contract Services, National City Transit.*

6.2.2 Staffing of Vehicles: Transit vehicles routinely staffed by more than two or more persons are prohibited (Section 99262).

6.2.3 Retirement System: The current cost of the transit operator’s retirement system must be fully funded with respect to the officers and employees of its public transportation system (Section 99271). An operator with a private pension plan can be eligible for Article 4 funds only if it meets all the requirements of Sections 99272 and 99273.

6.2.4 Maximum Fund Eligibility: Each operator shall determine the maximum amount of LTF and STA funds using the Fund Eligibility Worksheet (CCR 66234).

6.2.5 Fund Use: All operators shall expend funds from the LTF only in accordance with the terms and conditions of the allocations.

6.2.6 Charter Service: Any operator providing charter service must meet the requirements of Section 99250 – all charter bus service must contribute financially to the reduction of deficits incurred in the operation of scheduled bus service.

6.2.7 Pull Notices: Each operator must include a certification completed within the last 13 months from the Department of the California Highway Patrol indicating that the operator is in compliance with Section 1808.1 of the Vehicle Code (maintaining current driver records).

7. **Article 4.5 - Community Service Claims**

The State Legislature provides up to 5 percent of the annual TDA funds for community transit services, which include services for those such as the disabled who cannot otherwise use conventional transit services. Eligible applicants are cities, counties, public transit operators, and consolidated transportation service agencies. Only public agencies are eligible; however,
private operators (e.g., taxicab companies) can provide community transit services under contract with a public agency on a competitive bidding basis.

The total funds apportioned are divided between the MTS and the NCTD service areas based on the ratio of the total population in each area to the total population in the county.

In order to include the CTSA in the fund distribution process, a maximum of 2 percent of the total available will be set aside to support the CTSA.

7.1 **Board Adopted Priorities:** Due to the limited funds available under the Article 4.5 program, the SANDAG Board adopted the following priorities for the allocation of article 4.5 funds:

1. The Article 4.5 program is intended to serve those population groups that cannot use conventional, fixed-route transit services, primarily persons with disabilities as defined by the ADA. Service to persons such as the nondisabled elderly should be provided only when capacity is available.

2. Priority shall be given to providing accessible curb-to-curb services to all communities within the urbanized area. Currently service is limited to a ¾-mile radius of an existing fixed-route service area. Based on fund availability, service shall expand beyond the ¾-mile radius.

3. Additional services proposed within areas currently served by another operator will be considered only on the basis of fund availability and a clear demonstration of unmet need.

7.2 **Eligibility Requirements:** Applicants must meet the following requirements:

1. That the proposed community transit service is responding to a transportation need currently not being met in the community of the claimant.

2. That the service shall be integrated with existing transit services, if appropriate.

3. That the applicant is in compliance with the applicable farebox recovery ratio requirements (Sections 99268.3, 99268.4, 99268.5 or 99268.9). For exclusive elderly and handicapped services, 10 percent of the claimant’s operating costs must be recovered through fare revenues. However, local support may be included toward meeting the 10 percent requirement. A CTSA performing coordination activities is exempt from this requirement.

4. That the applicant is in conformance with the requirements of Section 99155 and Section 99155.5 relating to the honoring of specified identification cards by operators offering reduced fares for seniors and the disabled and other eligibility requirements.
8. **Article 8 – Special Provisions**

Special provision claims generally refer to Article 8 claims for local street and road improvements; multimodal terminals; and express, vanpool, and commuter ferry services. Article 8 allows for the construction and maintenance of multimodal transportation terminals anywhere in the County of San Diego or any city, as the case may be (Section 99400.5). The transit operators may also file for express bus services (Section 99400.6).

8.1 **Multimodal Transportation Terminals**: Eligible uses include planning or feasibility studies undertaken to develop new transit centers. The applicant(s) must include a work program describing the objectives and tasks of the study, and projected time frame of the study. The funding request should cover work scheduled to begin, construction costs, and if the project is to be implemented in phases, including in the project description the estimated implementation dates and related costs for each phase (i.e., preliminary engineering, right-of-way acquisition, construction, etc.).

8.2 **Express Bus**: Operators may file for express bus service oriented toward serving work commute trips and providing accessibility between residential areas and major activity centers.

8.3 **Commuter Ferry Service**: Cities within the County of San Diego may file for commuter ferry service on San Diego Bay for the purpose of serving peak-period commute trips for pedestrian and bicycles. The commuter ferry service may be located anywhere on San Diego Bay, but shall be consistent with the RTP, shall serve employment centers and high-volume activity centers, and may be provided by contract with operators, private entities operating under a franchise or license, or nonprofit corporations. Pursuant to SB 1433, the ferry service is exempt from the farebox recovery ratio requirement.

9. **State Transit Assistance (STA) Funds**

The State Transit Assistance program (SB 620) as amended, provides for a second source of operating and capital funding for transit operators. Pursuant to SB 45, funds transferred into the Public Transportation Account each year may be appropriated by the Legislature only for transportation planning and mass transportation purposes. The appropriated funds are divided equally between the state programs, including planning and administration and the STA program. Twenty-five percent is allocated to regional entities such as SANDAG according to a population formula, and 25 percent to regional entities to be allocated in turn to individual operators proportionately based on a revenue formula. Section 99312.7 requires the State Controller to issue estimates of funds to be allocated to each regional entity by January 10 of each year.

9.1 **Funding Priorities**: The intent of the Legislature, and thereby SANDAG, is to give priority consideration to claims for the following purposes (Section 99314.5(D)):

1. To offset reductions in federal operating assistance.

2. To offset unanticipated increases in the cost of fuel.
3. To enhance existing public transportation services.

4. To meet high-priority regional, countywide, or areawide public transportation needs.

9.2 **Required Findings:** Each regional entity is required to make all of the findings listed below before it can allocate funds to a claimant (CCR 6754). It is the responsibility of the operator to provide the regional entity with sufficient information upon which to make these findings. **This required findings in this section do not apply to MTS. By state statute, MTS is designated as a regional entity for STA purposes. As a result, MTS is a direct recipient of these funds and SANDAG is not required to make findings.** In order to allocate STA monies, SANDAG must find that:

1. The operator’s proposed expenditures are in conformance with the RTP.

2. The level of fare revenues proposed is sufficient to enable the operator to meet the fare revenue requirements of Sections 99268.2, 99268.3, 99268.4, 99268.5, and 99268.9, as applicable.

3. The operator is making full use of federal funds available under the Federal Transit Act, as amended.

4. The sum of the operator’s allocations from the STA fund and from the LTF does not exceed the amount the operator is eligible to receive during the fiscal year (see CCR 6634). Such finding, however, shall not relieve the operator of its responsibility pursuant to CCR 6735.

5. Priority consideration has been given to offset reductions in federal operating assistance and unanticipated increases in the cost of fuel; to enhance existing public transportation services; and to meet high-priority regional, countywide, or areawide public transportation needs.

6. The operator has made a reasonable effort to implement the productivity improvements recommended pursuant to Section 99244. This finding shall make specific reference to the improvements recommended and to the efforts made by the operator to implement them.

7. The operator is not precluded by any contract entered into on or after June 28, 1979, from employing part-time drivers or from contracting with common carriers of persons operating under a franchise or license (Section 99314.5(c)). However, no person who was a full-time employee of an operator on June 28, 1979, shall have his or her employment terminated or his or her regular hours of employment, excluding overtime, reduced by the operator as a result of it employing part-time drivers or contracting with those common carriers.

8. The operator has been certified within the last 13 months by the California Highway Patrol to be in compliance with Section 1808.1 of the Vehicle Code.
9. The operator is in compliance with the eligibility requirements of Section 99314.6 (STA Operator Qualifying Criteria).

This requirement is enforceable by SANDAG for NCTD only. By state statute, MTS is designated as a regional entity for STA purposes. As a result, MTS is a direct recipient of these funds and does not require SANDAG approval.

10. Transit Productivity Improvement Recommendations

Pursuant to the provisions of Section 99244, SANDAG is responsible for identifying and recommending potential productivity improvements that can lower the operating costs of transit operators. The recommendations for improvements and productivity shall include, but not be limited to, those recommendations related to productivity made in the triennial performance audit pursuant to Section 99246. SANDAG has implemented the Productivity Improvement Program (PIP) to measure operator performance and to monitor productivity.

Section 99244 further requires SANDAG to review and evaluate the efforts made by the transit operator to implement the recommended improvements during the current fiscal year prior to determining the allocations of TDA funds for the next fiscal year. Should SANDAG determine that an operator has not made a reasonable effort to implement the recommended improvements, the allocation of TDA funds to an operator shall be no more than the amount allocated in the prior fiscal year. Performance improvement is best measured over a multi-year timeframe that focuses on longer term trends. In order to measure multi-year improvements, performance recommendations for fixed-route and demand response operators are divided into two categories: (1) performance improvement recommendations and (2) performance audit recommendations. The TDA Manual describes the requirements and forms to be submitted as part of the annual claim process.

11. Additional Regulations

Sections 99261, 99275.5, and 99401 provide for SANDAG to further delineate procedures for the administration of TDA funds.

1. Interest Earned on TDA Monies in the County Treasury: Interest earned on TDA monies in the County Treasury accrue to the LTF and will be apportioned as part of the total funds estimated as determined by the County Auditor and Controller.

2. Interest Earned on TDA Monies Allocated to Operators: Recipients of TDA funds shall maintain separate accountability for such funds and interest earned on such funds. In addition, operators should invest TDA funds received in a prudent manner and any interest earned on such funds shall be expended only for the purposes for which the TDA funds were allocated.

3. Operator Performance Audits: A performance audit guide shall be maintained and the performance audits of operators who claim TDA funds shall be conducted as required by law.

4. Apportionment Schedule Population Estimates: In determining the annual apportionment of TDA funds to member jurisdictions, SANDAG shall utilize the most
recent California Department of Finance population figures.

5. **TDA Payment Schedules**: The SANDAG Executive Director determines the cash flow needs of individual TDA claimants and is directed to issue allocation instructions and payment schedules to the County Auditor that will meet said cash flow needs within the limits of available TDA monies and within the limits of individual claim amounts approved by the Board. Capital claims for fixed facilities shall be treated as reserves and paid on a progress-payment basis.

6. **Article 4.5 Claimants - Farebox Recovery Requirements**: Claimants of funds under Article 4.5 shall be in compliance with the applicable farebox recovery requirements as contained in Sections 99268.3, 99268.4, 99268.5, and 99268.9. However, for the purpose of meeting the farebox recovery requirement, an operator may include local support, as defined by CCR 6611.3, in the calculation. A CTSA performing coordination activities is exempt from any farebox recovery requirement.

7. **Technical Changes to Adopted Resolutions**: When a minor technical revision to an adopted resolution approving a TDA claim is necessary, and where the revision does not amend the allocated amount of funds, the SANDAG Board has authorized the SANDAG Executive Director to make said revisions subject to approval of SANDAG Counsel.

8. **Use of TDA Funds for Local Street and Road Improvements**: PUC Section 99232 restricts the use of TDA funds in urbanized counties, including San Diego County, for transit purposes. TDA funds shall be allocated for local street and road improvements only when such improvements are directly related to a major transit facility, such as a multimodal terminal or transit center. The local street and road improvements must be an integral part of the transit facility and the transit facility must be identified in the regional Short-Range Transit Plan (SRTP) and in the RTP.

Adopted February 2004
Amended December 2007
TransNet ORDINANCE AND EXPENDITURE PLAN RULES

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

Rule #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 No. 11.

Rule #2: Loan of Funds for Privately Funded Projects

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

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

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

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

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

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

Rule #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.

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.

**Rule #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.

**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.

**Rule #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.

**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.
Rule #6: Fund Accounting and Interest Allocation

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

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

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.

Rule #7: Program of Projects Approval Process and Amendments

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


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 delete an approved project in its entirety, or to change the TransNet funds programmed for a project by $2 million or 10\%20 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 #8: Determination of New Transit Services**

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

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

**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 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.

**Rule #9: Use of TransNet Revenue for Bus Purchases**

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

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

**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 Rule 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 NCTD and be made available to the operator chosen to operate the new services.

Rule #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.

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 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.

Rule #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, and December 21, 2007, Board Meetings

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 TDA funds, then the TransNet funds, then the TDA funds.

Rule #12: Use of TransNet Revenues for Accessibility Improvements

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

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.

Rule #13: Investments

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

Amendment: Repealed at November 18, 2005, Board Meeting. This rule 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).

Rule #14: Capital Equipment Acquisition Loans to SANDAG

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

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.

Rule #15: Local Agency Hold Harmless Agreements

Adoption Date: October 25, 1992 (Resolution RC92-7)

Text: Each local agency shall be required to hold harmless and defend the Commission against challenges related to local TransNet projects. This rule is to be implemented by requiring that each local agency agree in its resolution approving its projects for TransNet funding to hold the Commission harmless.

Rule #16: Repayment of Commercial Paper Program Proceeds

Adoption Date: September 23, 2005

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

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 #17: Fiscal and Compliance Audits**

**Adoption Date:** November 18, 2005

**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 its annual apportionment (after debt service payments) must use the remaining balance to fund projects. SANDAG will defer payment until the unused balances fall below the 30 percent threshold.

Rule #18:

Adoption Date: June 23, 2006
Amended: December 21, 2007

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. Grade separation projects are identified in Section 2(C)(1) of Ordinance 04-01 as projects that qualify as congestion relief projects. Attachment 2 provides a set of guidelines to be used in the implementation of this 30 percent maintenance limitation 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

Rule #20: Selection Procedures for ITOC Representatives

Adoption Date: December 21, 2007

Policy Text: 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, Section 3 under the heading “Membership and Selection Process” of that document states that a Selection Committee shall be established to select the ITOC members from the list of qualified candidates recommended by the technical screening committee. The Selection Committee is to consist of two members of the County of San Diego Board of Supervisors, the Mayor of the City of San Diego; and a mayor from each of the four subregions. It is the mayors from each of the subregions that are to select from among themselves to sit on the Selection Committee, not the representatives who sit on the Board who may or may not be a mayor. The members of the Selection Committee who are mayors from the subregions shall serve for a period of two years or until the designee no longer holds the office of mayor. At the end of this term, the mayors from the affected subregion(s) shall either inform the Clerk of the SANDAG Board that the same representative is being redesignated or identify the new mayor that they have selected to represent their subregion on the Selection Committee.
## Metropolitan Transit Development Board (MTS) Area

<table>
<thead>
<tr>
<th>Fund Source</th>
<th>Operator/Service</th>
<th>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>San Diego Transit</td>
<td>10,473,323</td>
<td></td>
</tr>
<tr>
<td>San Diego Trolley</td>
<td>1,033,084</td>
<td></td>
</tr>
<tr>
<td>Strand Express Agency</td>
<td></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 |
|                         | La Mesa Dial-A-Ride| 251,516 |
|                         | 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  |
| County Transit System - WHEELS | 219,906 |
|                         | National City Wheels  | 15,159  |
|                         | Poway Call-A-Ride    | 60,156  |
|                         | San Diego Dial-A-Ride| 1,149,541|
| **Total**              |                      | **1,573,623**|

### MTDB (MTS) Area Total

16,768,923

## North County Transit District

<table>
<thead>
<tr>
<th>Fund Source</th>
<th>Operator/Service</th>
<th>Vehicle Services Miles</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 4.0</td>
<td>NCTD Fixed Route</td>
<td>7,651,408</td>
</tr>
<tr>
<td></td>
<td>NCTD FAST</td>
<td>126,744</td>
</tr>
<tr>
<td><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>▪ Lane removal for bike lanes</td>
</tr>
<tr>
<td>2. Roadway and bridge widening</td>
<td>▪ Pavement overlay (less than 1 inch)</td>
</tr>
<tr>
<td>3. Roadway widening for bike lanes</td>
<td>▪ Pot hole repair, chip seal, fog seal, crack seal (except when part of roadway rehabilitation project)</td>
</tr>
<tr>
<td><strong>Major Rehabilitation and Reconstruction</strong></td>
<td></td>
</tr>
<tr>
<td>4. Roadway rehabilitation (grinding and overlay, or new structural pavement, or new overlay 1-inch thick or greater)</td>
<td>▪ Roadway realignment that does not increase roadway capacity</td>
</tr>
<tr>
<td>5. Roadway realignment</td>
<td>▪ Bridge replacement for aesthetic purposes</td>
</tr>
<tr>
<td>6. Bridge retrofit or replacement</td>
<td>▪ Minor drainage improvements not part of a congestion relief project</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></td>
</tr>
<tr>
<td>8. New sidewalk or sidewalk widening</td>
<td></td>
</tr>
<tr>
<td><strong>Traffic Operations</strong></td>
<td></td>
</tr>
<tr>
<td>9. Median installation for safety improvement or left-turn movement</td>
<td>▪ Stand alone landscaping project of an existing median</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>▪ Traffic signal replacement, bulb replacement, hardware, software, inductive loop repair</td>
</tr>
<tr>
<td>11. Traffic signal coordination</td>
<td></td>
</tr>
<tr>
<td>12. Traffic signal interconnection</td>
<td></td>
</tr>
<tr>
<td>Congestion Relief (At least 70%)</td>
<td>Maintenance and Non-Congestion Relief (No more than 30%)</td>
</tr>
<tr>
<td>------------------------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------</td>
</tr>
<tr>
<td>13. Centrally controlled traffic signal optimization system</td>
<td></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><strong>Smart Growth-Related Infrastructure</strong></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>
</tr>
<tr>
<td>19. Pedestrian crossings/overcrossings</td>
<td></td>
</tr>
<tr>
<td>20. Buffer area between sidewalk and street</td>
<td></td>
</tr>
<tr>
<td>21. Pedestrian roadway lighting</td>
<td></td>
</tr>
<tr>
<td><strong>Transit Facilities</strong></td>
<td></td>
</tr>
<tr>
<td>22. New bus stops</td>
<td></td>
</tr>
<tr>
<td>23. Bus stop enhancements</td>
<td></td>
</tr>
<tr>
<td>24. Bus-only lanes</td>
<td></td>
</tr>
<tr>
<td>25. Queue jumper lanes for buses</td>
<td></td>
</tr>
<tr>
<td>26. Traffic signal priority measures for buses</td>
<td></td>
</tr>
<tr>
<td>27. Transit operational costs for shuttle and circulator routes</td>
<td></td>
</tr>
<tr>
<td><strong>Non-Congestion Relief</strong></td>
<td></td>
</tr>
<tr>
<td>28. Erosion control (unless required as part of a congestion relief project)</td>
<td></td>
</tr>
<tr>
<td>29. Landscaping (unless required as part of a congestion relief project)</td>
<td></td>
</tr>
<tr>
<td>30. Roadway signing and delineation (unless it is a congestion relief project)</td>
<td></td>
</tr>
</tbody>
</table>

Light bulb replacement

Bus-only lanes that do not provide congestion relief

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.
San Diego Association of Governments
EXECUTIVE COMMITTEE

November 9, 2007

AGENDA ITEM NO.: 7

Action Requested: APPROVE

REVIEW OF NOVEMBER 30, 2007, DRAFT BOARD AGENDA

+1. APPROVAL OF MEETING MINUTES
   A. OCTOBER 12, 2007, POLICY MEETING MINUTES
   B. NOVEMBER 9, 2007, MEETING MINUTES

2. PUBLIC COMMENTS/COMMUNICATIONS/MEMBER COMMENTS

Members of the public shall have the opportunity to address the Board on any
issue within the jurisdiction of SANDAG. Anyone desiring to speak shall reserve
time by completing a “Request to Speak” form and giving it to the Clerk of the
Board prior to speaking. Public speakers should notify the Clerk of the Board if
they have a handout for distribution to Board members. Speakers are limited to
three minutes. Board members also may provide information and announcements
under this agenda item.

+3. ACTIONS FROM POLICY ADVISORY COMMITTEES

This item summarizes the actions taken by Executive Committee on November 9

CONSENT ITEMS (4 through X)

+4. ANNUAL MEETING CALENDAR (Deborah Gunn)

The Board of Directors is asked to approve the meeting calendar for the Board
and the Policy Advisory Committees for the upcoming year.

+5. QUARTERLY INVESTMENT REPORT - PERIOD ENDING SEPTEMBER 30,
   2007 (Lauren Warrem)

The SANDAG Investment Policy requires that the Board be provided a quarterly
report of investments held by SANDAG. This report includes all money under the
direction or care of SANDAG as of September 30, 2007.
+6. QUARTERLY PROGRESS REPORT ON TRANSPORTATION PROJECTS (José A. Nuncio)  

This quarterly report summarizes the current status of major highway, transit, arterial, traffic management, and transportation demand management projects in SANDAG’s five-year Regional Transportation Improvement Program for the period July through September 2007.

+7. REPORT ON CALIFORNIA BIODIVERSITY COUNCIL QUARTERLY MEETINGS (Keith Greer)  

This item provides a summary of the California Biodiversity Council (CBC) meeting on October 3-4, 2007, in Clarksburg, California. The focus of the meeting was to discuss the effect of climate change on biodiversity conservation. The CBC is a statewide council established to design a strategy to preserve biological diversity and coordinate implementation of this strategy through regional and local institutions. The CBC holds meetings three times a year around the state to improve coordination among state and federal land management agencies and local interests.

+8. REPORT SUMMARIZING DELEGATED ACTIONS TAKEN BY EXECUTIVE DIRECTOR (Renée Wasmund)  

In accordance with SANDAG Board Policy Nos. 003 (Investment Policy), 017 (Delegation of Authority), and 024 (Procurement and Contracting-Construction), this report summarizes certain delegated actions taken by the Executive Director since the last Board meeting.

+9. REPORTS ON MEETINGS AND EVENTS ATTENDED ON BEHALF OF SANDAG (Deborah Gunn)  

Board members will provide brief reports orally or in writing on external meetings and events attended on behalf of SANDAG since the last Board of Directors meeting.
12. REMARKS FROM MAYOR KURT HONOLD, CITY OF TIJUANA

Mayor Kurt Honold would like to take the opportunity to thank SANDAG for its continued support of the City of Tijuana during the City’s 18th administration (2005-2007). Working together, SANDAG and the City of Tijuana have enhanced the border dialogue and advanced important crossborder initiatives including the region’s first binational plan: The Otay Mesa - Mesa de Otay Binational Corridor Strategic Plan. Mayor Honold is proud of the accomplishments that SANDAG and the City of Tijuana have jointly achieved, and he wishes SANDAG much success in its future crossborder planning endeavors.

+13. 2008 ANNUAL SANDAG BOARD RETREAT (Colleen Windsor) APPROVE

The next SANDAG Board retreat is scheduled for January 30 through February 1, 2008, in the desert community of Borrego Springs. The primary objective of this public meeting is to afford participants the opportunity to discuss strategies for some of the agency’s more important regional policies and programs, and develop ideas for the future direction of the agency. The Executive Committee recommends approval of the 2008 retreat agenda.

+14. REPORT FROM NOMINATING COMMITTEE ON SLATE OF BOARD OFFICERS FOR 2008 (San Diego Councilmember Jim Madaffer, Nominating Committee Chair) INFORMATION

In September, Chair Sessom appointed a six-person Nominating Committee for Board officers. After consideration of the applications and interviews, the Committee recommends the attached slate of nominees for SANDAG Chair, First Vice Chair, and Second Vice Chair positions for 2008. In accordance with SANDAG Bylaws, the election of officers is scheduled for the December Board meeting. Additional nominations from the floor also may be made at the December meeting.

15.

16.
+17. 2007 REGIONAL TRANSPORTATION PLAN (Mike Hix)  APPROVE

The 2007 Regional Transportation Plan (RTP) is the public policy blueprint for how people and goods will move around the San Diego region over the next 25 years. At the November 9, 2007, meeting, the SANDAG Board of Directors reviewed the proposed modifications to the 2007 RTP. The Board is asked to certify the Final Environmental Impact Report (EIR) prepared for the 2007 RTP, make a finding that the 2007 Revenue Constrained RTP and the 2006 Regional Transportation Improvement Program are in conformance with the State Implementation Plan for air quality, and adopt the Final 2007 RTP.

+18. 2006 REGIONAL TRANSPORTATION IMPROVEMENT PROGRAM: AMENDMENT NO. 9 (Sookyung Kim)  APPROVE

On August 4, 2006, the Board of Directors adopted the 2006 Regional Transportation Improvement Program (RTIP) and found it in conformance with the Regional Air Quality Strategy/State Implementation Plan (RAQS/SIP), a federal requirement for transportation plans and programs. The 2006 RTIP is a five-year program of major transportation projects in the San Diego region covering the period from FY 2007 to FY 2011. SANDAG is required to redetermine conformity of the 2006 RTIP within six months of the adoption of an updated Regional Transportation Plan (RTP). Because the air quality analysis for this amendment is based on the regional emissions analysis used for the 2007 RTP, Board is asked to adopt Resolution No. 2008-xx approving the 2006 RTIP Amendment No. 9.

+19. TRANSIT PROJECT PROGRAMMING AMENDMENT (José A. Nuncio, SANDAG; Sharon Cooney, MTS)  APPROVE

The Transportation Committee recommends approval to re-direct $4.5 million programmed for the Regional Transportation Management System (RTMS) project to another project to add fare boxes to MTS contract vehicles that will be able to work with the Smart Card system. This report discusses the need to change priorities and the strategy to implement both projects.

20. UPCOMING MEETINGS  INFORMATION

The next meeting of the Board of Directors is scheduled for Friday, December 21, 2007, at 9 a.m. Please note that the December Board meeting will be held on the third Friday of the month due to the holiday schedule.

21. ADJOURNMENT

+next to an agenda item indicates an attachment
* next to an agenda item indicates a San Diego Regional Transportation Commission item
Good morning Chair Sessom, Board members, Staff, and other fellow citizens. Chuck Lungerhausen of 5308 Monroe Ave. which is in the San Diego SDSU neighborhood. 92115 Phone 619-546-5610

The price of gasoline is on the rise again and according to one source KPBS it could hit $4.00 a gallon sometime in 2008. Now all board members who drive single occupant vehicles please remember that it was this governor that balanced the most recent state budget by taking money from California's State Public Transportation Account.

Would like to propose say a $2.00 temporary fee increase to all registered vehicles in the state to more fairly share the load. You have just recently approved a fair increase to those who use public transportation or it is in the process of being approved.

Thank you for listening and the opportunity to speak
# 2008 Legislative Program

**Overarching Goal:** Pursue policy and legislative changes that enable SANDAG to better implement its adopted plans and programs.

## (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>X</td>
<td>X</td>
<td></td>
<td></td>
<td>State</td>
</tr>
<tr>
<td>2A</td>
<td>Pursue amendments to statutes authorizing SANDAG to levy taxes, issue bonds, and/or other funding mechanisms to finance projects that implement the RCP.</td>
<td>Highest</td>
<td>Sponsor</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td>State</td>
</tr>
<tr>
<td>4A</td>
<td>Pursue statutory authority to build a toll road and port of entry at East Otay Mesa.</td>
<td>Highest</td>
<td>Sponsor</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>Federal/State/Local</td>
</tr>
<tr>
<td>5A</td>
<td>Participate in discussions with stakeholders and begin developing SANDAG priorities for the next federal surface transportation reauthorization.</td>
<td>High</td>
<td>Sponsor</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td>Federal/State</td>
</tr>
<tr>
<td>6A</td>
<td>Pursue resources to improve regional public safety voice and data communications and interoperability, including connectivity with state and federal systems. (2005)</td>
<td>High</td>
<td>Sponsor</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
<td>Federal/State/Local</td>
</tr>
</tbody>
</table>

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>7A</td>
<td>Pursue Homeland Security funding at both the state and federal levels to improve public</td>
<td>High</td>
<td>Sponsor</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td>Federal/State/Local</td>
</tr>
<tr>
<td></td>
<td>safety and security in the San Diego region, through Automated Regional Justice</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Information System (ARJIS) operations and enhancements; regional transportation system</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>improvements; and activities related to emergency preparedness, prevention, and response</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>to catastrophic events. (2003, 2005)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8A</td>
<td>Pursue policy and/or legislative changes to enable the use of freeway shoulders as transit</td>
<td>High</td>
<td>Sponsor</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td>State</td>
</tr>
<tr>
<td></td>
<td>lanes on major corridors in the San Diego region. (2006)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**B) SUPPORT/Oppose**

<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>Technical clean-up language to SAFETEA-LU, such as, but not limited to, revising and</td>
<td>Highest</td>
<td>Support</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td>Federal</td>
</tr>
<tr>
<td></td>
<td>clarifying earmark language and policy changes. (2005)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2B</td>
<td>Support policies and/or legislation implementing AB 32’s climate change guidelines that</td>
<td>Highest</td>
<td>Support</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td>State/Local</td>
</tr>
<tr>
<td></td>
<td>are consistent with the RCP and RTP.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3B</td>
<td>Efforts consistent with financial strategies adopted in the RTP such as, but not limited</td>
<td>Highest</td>
<td>TBD</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td>Federal/State/Local</td>
</tr>
<tr>
<td></td>
<td>to, increase revenues for transportation and other related purposes through measures</td>
<td></td>
<td>(based on</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>that would increase gas tax or equivalent revenue sources, bond measures, developer</td>
<td></td>
<td>activity)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>fees, and public/private partnerships; and maximize flexibility of federal and state</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>funds; and oppose efforts that reduce revenues for transportation including spillover</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>funds.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4B</td>
<td>Legislation that provides incentives to jurisdictions that provide opportunities for</td>
<td>Highest</td>
<td>Support</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td>Federal/State</td>
</tr>
<tr>
<td></td>
<td>more housing including affordable and transit-oriented developments; supports regional</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>fair-share allocation of housing funds; and provides additional affordable housing</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>funding with greater local/regional control. (2002)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5B</td>
<td>Legislation assisting in the implementation of the RCP, including dedicated ongoing</td>
<td>Highest</td>
<td>Support</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td>Federal/State</td>
</tr>
<tr>
<td></td>
<td>funding source for regional blueprint planning and funding incentives for smart growth</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(mixed-use projects, transit-oriented development, walkable communities, etc.).</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(2002)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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>6B</td>
<td>Efforts to expand available methods of transportation project delivery including design-build, construction manager/ general contractor, and other alternative delivery methods that expedite project delivery. (2005)</td>
<td>Highest</td>
<td>Support</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td>State</td>
</tr>
<tr>
<td>7B</td>
<td>Fiscal reform initiatives that enable regions to develop their own fiscal strategies and oppose unfunded mandates on local governments. 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>X</td>
<td></td>
<td></td>
<td></td>
<td>Federal/State/Local</td>
</tr>
<tr>
<td>8B</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>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>State</td>
</tr>
<tr>
<td>9B</td>
<td>Efforts assisting in the implementation of key environmental issues including habitat conservation, planning, beach restoration and replenishment, and water quality-related issues. (2002)</td>
<td>Higher</td>
<td>Support</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td>State/Local</td>
</tr>
<tr>
<td>10B</td>
<td>Mechanisms providing for the implementation of the RTP, including value pricing, managed lanes, high occupancy toll (HOT) lanes; the alleviation of current constraints on transponder technology; transit priority treatments; and other efforts that promote efficient use of highways and local roads. (2003)</td>
<td>Higher</td>
<td>Support</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td>Federal/State</td>
</tr>
<tr>
<td>11B</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>X</td>
<td></td>
<td></td>
<td></td>
<td>Federal/State/Local</td>
</tr>
<tr>
<td>12B</td>
<td>Enhancing of border security and reducing border wait times; pursuit of funding, legislation, and other financing mechanisms supporting interregional partnerships and bi-national trade and border projects. (2002)</td>
<td>High</td>
<td>Support</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td>Federal/State/Local</td>
</tr>
</tbody>
</table>

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>14B</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>X</td>
<td>Federal/State/Local</td>
</tr>
<tr>
<td>15B</td>
<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. (2002)</td>
<td>High</td>
<td>Support</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
<td>State</td>
</tr>
<tr>
<td>16B</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>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td>Federal</td>
</tr>
</tbody>
</table>

(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>X</td>
<td>X</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>X</td>
<td>X</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>
<td></td>
<td></td>
<td>Federal/State/Local</td>
</tr>
<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>
<td></td>
<td></td>
<td>Federal/State</td>
</tr>
</tbody>
</table>

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