MEETING NOTICE AND AGENDA

TransNet INDEPENDENT TAXPAYER OVERSIGHT COMMITTEE (ITOC)
The ITOC may take action on any item appearing on this agenda.

Wednesday, June 10, 2009
9:30 a.m.
SANDAG
7th Floor Conference Room
401 B Street, 7th Floor
San Diego, CA 92101

Staff Contact: Charles “Muggs” Stoll
(619) 699-6945
mst@sandag.org

AGENDA HIGHLIGHTS

- **TransNet ENVIRONMENTAL MITIGATION PROGRAM: STATUS REPORT**
- **FY 2009 TransNet COMPLIANCE AUDIT APPROACH**
- **PROPOSED AMENDMENT TO THE TransNet EXTENSION ORDINANCE REGARDING AUDIT REPORTING FOR THE REGIONAL TRANSPORTATION CONGESTION IMPROVEMENT PROGRAM**

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Welcome to SANDAG. Members of the public may speak to the TransNet Independent Taxpayer Oversight Committee (ITOC) members on any item at the time the ITOC is considering the item. Also, members of the public are invited to address the ITOC on any issue under the agenda item entitled Public Comments/Communications/Member Comments. Speakers are limited to three minutes. The ITOC 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 ITOC meeting.

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<table>
<thead>
<tr>
<th>ITEM #</th>
<th>RECOMMENDATION</th>
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<tr>
<td>+1.</td>
<td><strong>APPROVE</strong></td>
</tr>
<tr>
<td>SUMMARY FOR THE MAY 13, 2009, ITOC MEETING</td>
<td>A summary of the May 13, 2009, ITOC meeting has been prepared for the Committee's review and approval. Estimated Start Time: 9:30</td>
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<td>2.</td>
<td><strong>INFORMATION</strong></td>
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<tr>
<td>PUBLIC COMMENTS/COMMUNICATIONS/MEMBER COMMENTS</td>
<td>Members of the public will have the opportunity to address the ITOC on any issue within the jurisdiction of the ITOC. Speakers will be limited to three minutes each. Committee members also may provide information and announcements under this agenda item. Estimated Start Time: 9:35</td>
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<td><strong>RECOMMEND</strong></td>
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<tr>
<td>MEMORANDUM OF UNDERSTANDING BETWEEN SANDAG AND THE CITY OF SANTEE REGARDING TransNet EXTENSION ORDINANCE COMMERCIAL PAPER PROGRAM AND REQUEST FOR AN EXCEPTION TO RULE NO. 16 OF BOARD POLICY NO. 031 (Lauren Warrem)</td>
<td>The Santee City Council has approved the borrowing of $3.95 million from the SANDAG commercial paper program, which will allow the City to complete funding for the Forester Creek Improvement Project. The City is requesting a one-time waiver of the repayment policy period to allow the repayment period to extend up to ten years. Estimated Start Time: 9:40</td>
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<td><strong>INFORMATION</strong></td>
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<td>TransNet ENVIRONMENTAL MITIGATION PROGRAM: STATUS REPORT (Keith Greer)</td>
<td>ITOC is requested to review and discuss the first TransNet Environmental Mitigation Program (EMP) annual report. This report outlines the status, successes, and challenges of implementing the TransNet EMP under the Memorandum of Agreement executed in March 2008 by the Board of Directors. Estimated Start Time: 10:00</td>
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<td><strong>APPROVE</strong></td>
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<td>FY 2009 TransNet COMPLIANCE AUDIT APPROACH (Lauren Warrem)</td>
<td>The independent auditors will begin performing their annual compliance audit on the FY 2009 TransNet sales tax revenue recipient agencies in a few months. A review of the proposed agreed-upon procedures audit approach will be presented. Estimated Start Time: 10:15</td>
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<td>+6.</td>
<td><strong>DISCUSSION/ POSSIBLE ACTION</strong></td>
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<td>TRANSPORTATION DEVELOPMENT ACT/TransNet BICYCLE AND PEDESTRIAN PROGRAM: FY 2010 FUNDING CYCLE PROJECTS (Chris Kluth)</td>
<td>The Board of Directors annually allocates funds under the Transportation Development Act (TDA) and the TransNet local sales tax program to support nonmotorized transportation projects in the San Diego region. For FY 2010, approximately $7.7 million is available for allocation. The Bicycle and Pedestrian Working Group used the project selection criteria approved at the April 3, 2009, Transportation Committee meeting to produce this year's project list. The ITOC role is to review and comment on the eligibility of the proposed projects. Estimated Start Time: 10:45</td>
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7. **OVERVIEW OF DEVELOPMENTS IN THE FINANCIAL MARKETS**  
(Lauren Warrem and Marney Cox)  

Given the recent turbulence in the financial markets, the SANDAG Finance Director and Chief Economist will provide an oral update of events that affect sales tax revenues and/or TransNet program financing plans.  

Estimated Start Time: 11:00

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8. **PROPOSED AMENDMENT TO POLICY NO. 031: TransNet ORDINANCE AND EXPENDITURE PLAN RULES**  
(Lauren Warrem)  

The ITOC has the overall responsibility to conduct annual fiscal audits. A proposed amendment to Board Policy No.031 would provide additional clarification for various practices.  

Estimated Start Time: 11:15

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9. **PROPOSED AMENDMENT TO THE TransNet EXTENSION ORDINANCE REGARDING AUDIT REPORTING FOR THE REGIONAL TRANSPORTATION CONGESTION IMPROVEMENT PROGRAM**  
(Charles "Mugs" Stoll)  

The TransNet Extension Ordinance (Commission Ordinance 04-01) includes language suggesting that all local jurisdictions have their Regional Transportation Congestion Improvement Program (RTCIP) financial records available for audit by July 1 of each calendar year. It is proposed that the audit requirements for the RTCIP be aligned with the annual fiscal and compliance audit requirements for the TransNet program. The ITOC is asked to recommend that the Board of Directors approve Commission Ordinance 09-01 as an amendment to Commission Ordinance 04-01 (“Amendment”) in substantially the same form as contained in Attachment 1. The ITOC is further asked to recommend that the Board of Directors approve a one-time extension of time to September 1, 2009, for jurisdictions to submit financial records pertaining to their RTCIP Funding Programs for review and audit in order to allow sufficient time for the proposed Amendment to be reviewed and potentially approved.  

Estimated Start Time: 11:45

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10. **FUTURE MEETING SCHEDULE**  

The next ITOC meeting is scheduled for Wednesday, July 8, 2009, at 9:30 a.m.

11. **ADJOURNMENT**  

+ next to an agenda item indicates an attachment
The meeting of the TransNet Independent Taxpayer Oversight Committee (ITOC) was called to order by Chair John Meyer at 9:34 a.m.

1. APPROVAL OF MEETING SUMMARY

Chair Meyer directed staff to provide the members with information on how to follow the soni-clear audio on the Web site.

Action: Upon a motion by Mr. Garcia and a second by Mr. Bahadori, the ITOC approved the April 8, 2009, meeting summary. Mr. Cummins and Ms. Harrison abstained due to their absence from the meeting.

2. PUBLIC COMMENTS/COMMUNICATIONS/MEMBER COMMENTS

There were no public comments or member communications.

3. REQUEST BY THE CITY OF Santee TO EXECUTE A MEMORANDUM OF AGREEMENT (MOA) WITH SANDAG TO USE $3.95 MILLION IN SHORT-TERM DEBT THROUGH THE COMMERCIAL PAPER PROGRAM AND EXCEPTION TO RULE NO. 16 OF BOARD POLICY NO. 031 (RECOMMEND)

The Santee City Council has approved the borrowing of $3.95 million from the SANDAG Commercial Paper (CP) program, which will allow it to complete funding for the Forester Creek Improvement Project. The City of Santee also requested a one-time waiver of the repayment policy period to allow the repayment period to extend up to ten years.
Mr. Stoll introduced Lauren Warrem, Acting Director of Finance, and stated that Renée Wasmund had been promoted to the position of Chief Deputy Executive Director.

The ITOC directed staff to provide the following comments to the Transportation Committee to: (1) include in the agenda report the fiscal advantage of this action; (2) establish reasonable criterion for repayment, such as limiting the extension for repayment to ten years; (3) include the criterion that if a jurisdiction loses eligibility for TransNet in any year repayment of the borrowed funds would occur in full in that year; (4) include an analysis of any other funding source or lack thereof; and (5) clearly state that the calculation is from the portion of TransNet funds for congestion relief. Additionally, the ITOC directed staff to request that the Transportation Committee delay action until after the ITOC hears the item with the above changes included at its June 10, 2009, meeting and take the item for approval after that to the Transportation Committee and the Board of Directors.

4. **TransNet BICYCLE AND PEDESTRIAN ACCOMMODATION CONSISTENCY FINDING – CITY OF POWAY (DISCUSSION/POSSIBLE ACTION)**

Staff provided a report that summarized results from the City of Poway's request for a consistency finding under the guidelines of the TransNet Routine Bicycle/Pedestrian Accommodations Policy and requested the review and potential recommendation of the ITOC for approval to the Transportation Committee.

**Action:** Upon a motion by Ms. Lee and a second by Mr. Garcia, the ITOC recommended that the Transportation Committee make a consistency finding that the proposal from the City of Poway for exclusion from Board Policy No. 31, TransNet Ordinance and Expenditure Plan Rules, Rule #21: Accommodation of Bicyclists and Pedestrians for Poway Road. Mr. Cummins abstained.

9. **DISCUSSION OF RECENT TransNet-RELATED REPORTS PRESENTED TO THE TRANSPORTATION COMMITTEE AND BOARD OF DIRECTORS (DISCUSSION)**

An overview was presented by staff regarding two TransNet-related reports recently presented to the Transportation Committee and Board of Directors. The first report was presented on April 10, 2009, to a joint meeting of the Transportation Committee and the Board of Directors. A follow-up report was presented to the Board of Directors on April 24, 2009. The ITOC discussed the results of the presentations and current status of the issues addressed.

**Action:** This item was presented for discussion.

5. **REVIEW OF FY 2008 TransNet COMPLIANCE AUDITS (INFORMATION)**

All recipients of TransNet funds are required to undergo an annual compliance audit. The preliminary draft reports are ready for review for the last five recipients that had requested an extension through April 30, 2009.

The ITOC directed staff to include balances of amounts that exceed the FY 2008 30 percent rule on the graph for Compliance with 30 Percent Fund Balance Limitation for FY 2006 and FY 2007.

**Action:** This item was presented for information only.
6. **OVERVIEW OF DEVELOPMENTS IN THE FINANCIAL MARKETS (INFORMATION)**

Given the recent turbulence in the financial markets, the SANDAG Finance staff and Chief Economist provided an update of events that affect sales tax revenues and/or TransNet program financing plans. Staff also reported on revised Transportation Development Act and TransNet revenue estimates.

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

7. **LAKE HODGES BICYCLE AND PEDESTRIAN BRIDGE STATUS REPORT (INFORMATION)**

The San Dieguito River Park Joint Powers Authority has undertaken construction of a bicycle and pedestrian bridge over Lake Hodges, west of Interstate 15. The bridge is scheduled to be open for use beginning May 15, 2009. Funding in the amount of $1,875,000 was provided by the TransNet Extension Ordinance for the project, which is subject to review by the ITOC. SANDAG provided the additional $1,875,000 in funds in March 2007 under the condition that the River Park would not come back to request additional funding. The ITOC requested that SANDAG staff take an active role in providing oversight on the project and that the River Park provide a regular status report on the progress of the project. With the pending project opening and close out of the construction contract, staff provided the final informational update of the project to the ITOC.

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

8. **ESTABLISHMENT OF AN ITOC SUBCOMITTEE FOR THE IMPLEMENTATION OF THE FIRST TRIENNIAL TransNet PERFORMANCE AUDIT (DISCUSSION)**

As a means to assure the recommendations of the first Triennial TransNet Performance Audit are addressed and/or implemented, the ITOC discussed the establishment of a subcommittee to work with key project development staff on appropriate follow-up actions. Issues discussed included the need to select an ITOC subcommittee and potential workload, appropriate project development staff to assign, and organizational strategies for assessing the recommendations.

The ITOC provided input and directed staff to work on implementation recommendations for the audit and report to the ITOC at its July 8, 2009, meeting. The ITOC will appoint a subcommittee at that July meeting to work on specific ITOC implementation recommendations.

**Action**: This item was presented for discussion.

10. **FUTURE MEETING SCHEDULE**

The next ITOC meeting is scheduled for Wednesday, June 10, 2009, at 9:30 a.m.

11. **ADJOURNMENT**

Chair Meyer adjourned the meeting at 1:03 p.m.
MEMORANDUM OF UNDERSTANDING BETWEEN SANDAG AND
THE CITY OF Santee REGARDING TransNet EXTENSION ORDINANCE
COMMERCIAL PAPER PROGRAM AND REQUEST FOR AN EXCEPTION
TO RULE NO. 16 OF BOARD POLICY NO. 031

Introduction

In accordance with Rule No.16 of Board Policy No. 031, “TransNet Ordinance and Expenditure Plan Rules,” local jurisdictions may access the SANDAG Commercial Paper (CP) program to advance local TransNet eligible projects with a repayment period of up to five years. Local jurisdictions must document their understanding of the requirements for using the TransNet CP program in an executed Memorandum of Agreement (MOA) (Attachment 1). The City of Santee has requested access to TransNet CP to cover the shortfall in funding for the Forester Creek Improvement project.

Recommendation

The Independent Taxpayer Oversight Committee (ITOC) is asked to review and recommend approval of the proposed MOA and an exception to Rule No. 16 of Board Policy No. 031 to increase the repayment period from five years to ten years to the Transportation Committee at its June 19, 2009, meeting. On May 1, 2009, the Transportation Committee approved Amendment No. 12 to the 2008 Regional Transportation Improvement Program (RTIP), which included the Forester Creek Improvement congestion relief project, contingent upon the Board of Directors approving the CP request.

Discussion

The Forester Creek Improvement project, a congestion relief project, is a regionally significant project that included both TransNet Highway and Surface Transportation Program (STP) funding. This project included construction of the Olive Lane and Mission Gorge Road bridges over the flood control channel and was open to traffic in August 2007. The entire Forester Creek Improvement project qualifies as congestion relief because it prevents flooding and minimizes bridge lengths for the State Route 52 projects and two local streets, Olive Lane and Mission Gorge Road.

At its September 28, 2005, meeting, the Santee City Council approved a resolution awarding the contract for the Forester Creek Improvement project (Attachment 2). A funding shortfall was discussed in the Council Report and it was noted that SANDAG agreed to provide interim funding of $4.5 million through the TransNet CP program, once it was needed. Should there be no alternative funding source available, the City of Santee (City) would then use its TransNet local funds as the permanent funding source.
The City has determined that it cannot adequately address the gap funding needs for the Forester Creek Improvement project and has pursued numerous options to cover the gap, originally at $4.5 million. The City has borrowed temporarily from various City funds to cover the shortfall while pursuing funding options and was able to locate funding for $550,000 of the shortfall, thereby reducing the gap to $3.95 million. Other funding sources of the City that were deemed unavailable for the funding gap are: (1) the General Fund, which currently has a fiscal year operating deficit in excess of $1.2 million and the deficit is expected to increase next year; (2) redevelopment funds which are expected to have an undesignated fund balance next year below $2 million with declining property tax revenues; (3) Drainage Development Impact Fees currently have a shortfall for the Mission Gorge Road Drainage Improvement project and Corrugated Metal Pipe Replacement project; and (4) Traffic Mitigation Development Impact Fees which currently has a shortfall for the Olive Lane Widening project. The City also has pursued numerous federal and state grants since late 2005 with no success.

At its meeting on April 22, 2009, the Santee City Council approved the request to borrow against its annual TransNet Extension Ordinance revenue for this purpose (Attachment 3). On May 1, 2009, the Transportation Committee approved Amendment No. 12 to the 2008 RTIP, which included the Forester Creek Improvement congestion relief project, contingent upon the Board of Directors approving the CP request.

Rule No.16 of Board Policy No. 031 requires repayment of the principal amount of CP to be completed within five years of the agency’s receipt of the proceeds. The City has requested an exception to the five-year repayment period in an effort to continue with other approved local projects. Based on the capacity analysis (Attachment 4), it was determined that a 10-year repayment period would allow the City to meet its annual CP obligations and receive enough TransNet funds to continue with other Local Street Improvement projects.

General advantages of the CP program include accelerating the delivery of TransNet-funded local street and road improvement projects, a historically significantly lower cost of capital than fixed rate bonds, and the flexibility to refinance. In addition, agencies may take advantage of the current low construction bid environment by advancing the construction of the TransNet-funded projects.

Allowing the City to make repayment over ten years rather than five years provides additional funding capacity for street rehabilitation projects in the early years of the repayment period. The American Public Works Association (APWA) has conducted studies on the cost of delaying pavement rehabilitation projects. Attachment 5 shows that performing pavement maintenance five years later (during year 16 instead of year 11) results in an 800 percent increase in the cost of pavement repair. Attachment 6 indicates that there is a $2.7 million increase in estimated TransNet funding capacity available for street repairs performed in the first five years (using the 10-year repayment period). Should the $2.7 million not be available due to approval of a 5-year repayment period in lieu of the proposed 10-year repayment period, the costs to perform pavement maintenance will increase by an estimated $7.0 million. In addition, recent bids have resulted in pavement repair costs 15 percent to 18 percent below 2008 pricing. The cost is highly dependent upon petroleum pricing, however, conservatively assuming a 3 percent increase per year; this favorable pricing could result in savings of over $188,000 in the next five years using the 10-year repayment period (Attachment 6).

Using an interest rate of 4.5 percent over the 10-year repayment period, the anticipated cost of borrowing the $3.95 million CP is approximately $1.2 million. This is substantially lower than the $7.2 million estimated cost of delaying work on the street rehabilitation projects as planned.
This Rule includes an option to roll the outstanding CP amount into a long-term bond issue during the repayment period. It is the intent of the City to take the option and include any outstanding CP in the next San Diego County Regional Transportation Commission long-term bond issue.

Attachments: 1. MOA between SANDAG and the City of Santee
            2. Santee City Council Agenda Item No. 6A
            3. Santee City Council Agenda Item No. 2B
            4. City of Santee Capacity Analysis
            5. Approximate Cost to Bring a Pavement Back to Excellent Condition
            6. Increased Costs of Pavement Repair Analysis

Key Staff Contact: Lisa Kondrat-Dauphin, (619) 699-1942, lko@sandag.org
MEMORANDUM OF AGREEMENT
BETWEEN SAN DIEGO ASSOCIATION OF GOVERNMENTS, ACTING AS
THE SAN DIEGO COUNTY REGIONAL TRANSPORTATION COMMISSION
AND THE CITY OF Santee
REGARDING DEBT FINANCING THROUGH THE TRANSNET PROGRAM

This Memorandum of Agreement ("MOA") is made and entered into effective as of this _____ day of _____________, 2009, by and between the San Diego Association of Governments, acting as the San Diego County Regional Transportation Commission ("SANDAG") and City of Santee (City).

RECITALS

The following recitals are a substantive part of this Agreement:

WHEREAS, SANDAG serves as the San Diego County Regional Transportation Commission, and in that role is responsible for the administration of programs under the TransNet Extension Ordinance (Proposition A, November 2004), which sets forth permitted uses for revenues from a one-half cent transactions and use tax in San Diego County (TransNet Extension Program); and

WHEREAS, in order to accelerate the implementation of TransNet tax-funded projects, SANDAG has established a commercial paper program for short-term debt financing program to provide advanced funding for eligible projects under the TransNet Extension program; and

WHEREAS, SANDAG Board Policy No. 031, Rule No.16 requires that an 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; and

WHEREAS, the City wishes to borrow three million, nine hundred-fifty thousand dollars ($3,950,000) from the TransNet Extension program for the Forester Creek project; and

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

AGREEMENT

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

SANDAG AGREES:

1. To lend City three million, nine hundred-fifty thousand dollars ($3,950,000) through debt financing for the Forester Creek project from the TransNet Extension Program subject to certain conditions set forth below and SANDAG Board Policies concerning TransNet Extension Program loans.
2. SANDAG will transfer the funds to the City within thirty (30) days following execution of this MOA.

THE CITY AGREES:

1. The governing body of the City at its April 22, 2009, meeting approved the request to borrow three million, nine hundred-fifty thousand dollars ($3,950,000) through debt financing using the SANDAG commercial paper program for Forester Creek project.

2. The City agrees to use the funding provided under this MOA solely for the Forester Creek project.

3. The City will pay its proportionate share of the annual interest and administrative costs from the date the proceeds are received until the principal amount of the loan is fully repaid.

4. Repayment of the principal amount shall commence within three (3) years of the receipt of the proceeds and shall be completed within ten (10) years. Repayment of the proceeds will be accomplished by rolling the outstanding amount into a long-term bond issued during the ten (10) year repayment period if the opportunity for the conversion exists and is agreed to by SANDAG. In such case, the City would be responsible for its proportionate share of the bond issuance costs and annual debt service costs.

5. The repayment of debt, in all cases, is the first priority on the use of the City’s annual TransNet revenues. The City agrees not to subordinate the SANDAG lien on the TransNet revenues to any other claim upon these funds. The amounts to be deducted and the terms of repayment (if appropriate) are estimated and set forth in the Repayment Schedule, which is Attachment A hereto.

6. In the event City becomes ineligible for TransNet funding in any year in which repayment is due to SANDAG under this Agreement, City shall pay the full amount owed SANDAG for borrowed funds for that year within thirty (30) days of receiving written notice from SANDAG.

7. The City agrees to indemnify, hold harmless, and defend SANDAG, the San Diego County Regional Transportation Commission, and all officers and employees thereof against all causes of action or claims related to projects financed through funding provided under this MOA.

THE PARTIES MUTUALLY AGREE:

1. That all obligations of SANDAG under the terms of this MOA are subject to the appropriation of the required resources by SANDAG and the approval of the SANDAG Board of Directors.

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

   For SANDAG
   401 B Street, Suite 800
   San Diego, CA 92101
   Attn: Director of Finance

   For the City of Santee
   10601 Magnolia Ave.
   Santee, CA 92071
   Attn: Tim McDermott
3. That unless it is amended by the parties in writing, this MOA shall terminate on June 30, 2019, or on such earlier or later date as the parties may agree to in writing.

4. The indemnification provisions of this MOA shall survive termination of the MOA.

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

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

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

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

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

10. This MOA may be executed in any number of identical counterparts, each of which shall be deemed to be an original, and all of which together shall be deemed to be one and the same instrument when each party has signed one such counterpart.

11. This MOA may be executed and delivered by facsimile signature, and a facsimile signature shall be treated as an original.

   IN WITNESS WHEREOF, the Parties hereto have executed this MOA effective on the day and year first above written.

SAN DIEGO ASSOCIATION OF GOVERNMENTS

GARY L. GALLEGOS
Executive Director

APPROVED AS TO FORM:

Office of General Counsel

CITY OF Santee

KEITH TILL
City Manager

APPROVED AS TO FORM:

Legal Counsel
MEETING DATE         September 28, 2005       AGENDA ITEM NO. 6A

ITEM TITLE          RESOLUTION AWARDING THE CONSTRUCTION CONTRACT, AUTHORIZING STAFF TO APPROVE CONSTRUCTION CHANGE ORDERS, APPROVING A CONSULTANT CONTRACT FOR CONSTRUCTION MANAGEMENT AND TESTING, AND APPROVING A CHANGE TO THE DESIGN CONTRACT FOR FORESTER CREEK IMPROVEMENTS, CIP 2002-21, AND AUTHORIZING APPROPRIATION OF FUNDS

DIRECTOR/DEPARTMENT Douglas Willford, Development Services

SUMMARY          This item is to award the construction contract for the Forester Creek Improvement Project. The project includes improving a one-mile stretch of the creek from the Mission Gorge Bridge upstream to Prospect Avenue. This portion of the creek can currently only handle less than a 10-year flood and has experienced a number of storms that have flooded and damaged nearby properties.

Past flooding from Forester Creek has also closed major thoroughfares such as Mission Gorge Road, Carlton Hills Boulevard, Olive Lane, and Via Zapador, inhibiting the safe travel of regular and emergency vehicles. The proposed project will achieve 100-year flood protection in Forester Creek, protect transportation facilities, minimize risk to public health and safety, reduce damage to private property, protect and enhance natural resources, and significantly improve water quality. Additionally it will encourage redevelopment that is consistent with the City's General Plan and Redevelopment Plan, as well as improve traffic circulation.

A critical related project that necessitates the need for moving forward with the Forester Creek improvements is the extension of State Route (SR) 52 through Santee. The State of California Department of Transportation (CalTrans) is currently preparing design of this portion of the highway, which is planned to cross the city eastward from the SR 125/SR 52 interchange to Cuyamaca Street and then eastward to SR 67. Without the Forester Creek project, SR 52 would not be able to proceed.

FINANCIAL STATEMENT
RECOMMENDATION       See budget exhibits attached and staff report.

Adopt the attached Resolution approving the following actions:
1. Awarding the construction contract to Archer Western for a total of $23,190,000;
2. Authorizing staff to approve change orders totaling $1,000,000;
3. Approving a change order to the pre-construction services contract with PBS&J in the amount of $55,000;
4. Approving a contract to PBS&J for Construction Management in an amount not to exceed $1,781,000, and changes to the contract not to exceed $200,000;
5. Authoring purchase of office equipment for the project in an amount not to exceed $20,000;
6. Approving a change order to the designer, Earth Tech, for additional design services in an amount not to exceed $140,000;
7. Approving a contract with Earth Tech for construction support in the amount of $175,000, and changes to the contract not to exceed $50,000;
8. Authorizing payments to Caltrans not to exceed $4.15 Million for right of way costs.

ATTACHMENTS
Resolution          Bid Summary          Project Budget and Estimated Costs
B. PROJECT DESCRIPTION

At its June 25, 2003 meeting, Council certified the Environmental Impact Report (EIR) for the Forester Creek Improvements, CIP 2002-21. Final plans and bidding, right of way takes, resident and business relocations, and structure demolition have now been completed.

The proposed project widens and revegetates a one-mile stretch of Forester Creek, between Mission Gorge Road and Prospect Avenue, to contain the 100-year flood within the channel banks. The current channel is between 85 feet and 110 feet in width. The proposed project consists of an earthen channel varying in width from 180 feet to 380 feet, which will maximize infiltration to improve water quality. The downstream portion of the channel is to be protected from erosion with use of a soil stabilization material and lining under the Mission Gorge Bridge. A trash collection and energy dissipation structure will be placed at the upstream end of the channel to reduce water velocity and further improve water quality. Enhancement of the channel with the planting of fresh water marsh and southern willow scrub is provided.

Additionally, lengthening of the Mission Gorge Bridge by 123 feet is required to pass the 100-year flow under the bridge. The project includes an eight-foot wide paved bikeway on the south-side of the channel from Prospect Avenue to Mission Gorge Road. A landscaped "mini-park" bike rest area is provided near Prospect and will include picnic tables and interpretative signage with information on the native flora and fauna.

Also included is the demolition of the undersized Via Zapador bridge and replacement with a new bridge at Olive Lane, in accordance with the City’s new Circulation Element and in conjunction with the SR 52 project (which will eliminate the link between Via Zapador and Atlas View Drive). The new bridge extends Olive Lane southward to a signalized intersection at Prospect Avenue and Arget Street. This will improve traffic circulation by providing a more efficient link between Mission Gorge Road and Prospect Avenue to serve as an alternate to Cuyamaca Street.

This project will protect over 40 single family residences, 130 mobile home units, 96 apartment units and several businesses from the floodway and/or floodplain, including the Rollerskateland complex, Goodyear Tire, Al’s Sport Shop, and the former Southland Envelope site.

Construction Contract

Eleven Contractors were pre-qualified to bid on the project. The project was advertised for a January 2005 bid; however, all prospective bidders dropped out just days prior to the bid citing concerns regarding unknown risks associated with possible additional requirements of the Regional Water Quality Control Board as well as the relocation of other agencies’ utilities. Staff met with contractors and made revisions to plans to address these concerns. The plans were re-advertised in May 2005.

On July 14, 2005, four bids were received and opened, with a low of $23,190,000 and a high of $24,172,883. The low bid was submitted by Archer Western and was 24.1% higher than the most recent Engineer’s estimate of $18,677,783. The difference between the high and low bid was only 4.2%. An in depth analysis of the bids revealed that the bid price was higher than the Engineer’s estimate due mostly to increased prices for steel and concrete related bid items. Other agencies have recently experienced similar bid cost increases which have been reported to be a result of increased material costs for items such as steel, concrete and fuel. Given the bids varied by a maximum of 4.2%, it is staff’s opinion that the bids received are competitive and reflect the actual costs to perform the work and that re-bidding would not result in a lower cost.
Staff and the City Attorney have reviewed the bid submitted by Archer Western and have concluded that it is complete and accurate and meets all standards for acceptance. Staff recommends award of the contract to Archer Western in the amount of $23,190,000.

Staff requests authorization to approve contingency construction change orders up to $1,000,000, which is 4.3% of the total project cost. Given the cost of the project, this additional authorization is requested to ensure that delays do not occur in processing and approving change orders, if needed. If the cumulative total of change orders exceeds $1,000,000, staff will return to City Council for further approval.

Construction Administration/Support
Given the size, length and complexity of the project, it is necessary to hire a Construction Administration firm to provide full time testing, inspection and management of the construction. Early this year, the City published a request for qualifications for construction administration firms and received six responses. Four firms were selected as the most qualified and were asked to provide proposals. The four firms were interviewed by a panel consisting of representatives from the City, Caltrans and the design engineer's staff. PBS&J was selected as the most qualified firm due to their extensive experience managing similar projects. After selection, Council authorized a contract with PBS&J for $98,985 to perform pre-construction services for the project, plus $6598 in staff authorized change orders. Additional services in the amount of $55,000 are required of PBS&J as a result of the re-advertisement of the bid, to assist with utility relocations, and to prepare documents for the Caltrans pre-award audit. Staff requests authorization for a change to the PBS&J pre-construction services contract in the amount of $55,000.

PBS&J’s performance on the pre-construction services contract has been excellent. As part of the review of their work, Caltrans conducted a pre-award audit of PBS&J’s accounting procedures and hourly rates, as required by Federal Aid regulations. For the construction management of the entire project, Staff has negotiated a scope of services with a fee not to exceed $1,781,000. Staff requests Council authorization for a consultant contract with PBS&J for an amount not to exceed $1,781,000. Staff additionally requests authorization to approve changes to the consultant contract not to exceed $200,000 for additional work that may be required to manage construction.

PSB&J will have four staff members dedicated to the project and various additional specialists involved as needed. At least one staff member will be located primarily in City offices. The balance of PBS&J’s staff will work from a construction trailer furnished by the contractor. Staff requests authorization to purchase computers, software, telephones, fax machines, service connections and related equipment for staff dedicated to the project. All software and equipment would remain City property for use by City staff after completion of construction. It is estimated that the cost of required items will not exceed $20,000.

Design Contract Change Order
Additional services in the amount of $140,000 are needed from the project engineering designer, Earth Tech, including costs to re-bid the project, coordinate relocation of utilities, and prepare floodplain mapping. Additionally, support from the designer will be required during construction which may include clarification or changes of design, review of contractor work, shoring and pre-stressing plans, and review of contractor proposed material substitutions. Staff has negotiated a scope of services for construction support for a fee not to exceed $175,000. Staff requests approval of a change to the existing design contract with Earth Tech in the amount of $140,000, and a new contract for construction services in the amount of $175,000. Additionally, staff requests authorization to approve changes to the construction support contract in an amount not to exceed $50,000, on an as-needed basis.
Right of Way Costs
On December 17, 2003, Council approved an amendment to the Cooperative Agreement with Caltrans for right of way takes which added six parcels to the Agreement increasing the City’s obligation to $3.693 Million. The City’s share of costs has increased to $4.034 Million as a result of increases in the cost of relocation assistance and associated costs. Additional costs may be incurred as court cases are settled. Staff requests authorization to amend the City’s share of right of way costs to not to exceed $4.15 Million.

Additionally, Caltrans and utility owners are obligated to pay certain portions of utility relocation costs. At its June 9, 2004 and November 10, 2004 meetings, Council approved Agreements with Caltrans, Padre Dam, the City of El Cajon, the County of San Diego and SDG&E to share costs of utility relocations. The City will pay for relocations of utilities which are within easements and are required for the Forester Creek project. Caltrans will pay for relocation required for the SR 52 project. Utility owners, the City of El Cajon, County of San Diego, and Padre Dam will pay for relocation of utilities not within easements and betterments to their facilities. These agencies are responsible for an estimated $2.38 Million of the construction cost, as established in executed relocation Agreements. Approximately $471,000 of cost responsibilities of the City of El Cajon are being disputed and will require further action to resolve.

Additional Funding
Due to the bids being higher than expected, there is an approximate $4.5 million shortfall in current funding for the project. It is critical to both Santee and the region that this project goes forward at this time. Delaying the project would result in direct delays to the completion of State Route 52, which is a regionally significant freeway and would also likely result in higher construction costs for Forester Creek itself.

Recognizing this, SANDAG has agreed to provide interim funding for the additional $4.5 million, once it is needed. Given the projected timing of construction, it is expected these funds will not actually be needed for 12 to 15 months (i.e. – late 2006 \ early 2007). From the point of receipt of these funds, the City will pay low interest only payments to SANDAG until the next Transnet bond issuance is completed in 2008. At that point, the City’s portion of annual Transnet payments will go up from our current level of $817,000, to approximately $1.4 million. From this amount we would be obligated to pay back to SANDAG approximately $350,000 per year, based on a 20-year payment schedule, to fully pay back the $4.5 million.

However, before this occurs, the City will be seeking any and all available alternative funding sources to permanently fund the $4.5 million deficit, including Federal and State grants and bond monies for freeway, flood protection and clean water purposes. If the City can achieve these additional funding sources in the next three years, it would alleviate all additional financial obligations to the City.

Documents related to the interim funding to be provided by Sandag will be brought forward to the City Council at a subsequent meeting.
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF Santee, California awarding the Construction Contract, Authorizing Staff to Approve Construction Change Orders, Approving a Consultant Contract for Construction Management and Testing, and Approving a Change to the Design Contract for Forester Creek Improvements, CIP 2002-21, and Authorizing the Advance and Appropriation of Funds

WHEREAS, the City Clerk, on the 14th day of July, 2005, publicly opened and examined sealed bids for the Forester Creek Improvements, CIP 2002-21; and

WHEREAS, Archer Western was found to be the lowest responsible bidder with their bid amount of $23,190,000; and

WHEREAS, staff requests authorization to approve change orders totaling $1,000,000 which is 4.3% of the total contract amount; and

WHEREAS, additional services in the amount of $55,000 are required for pre-construction services by PBS&J; and

WHEREAS, staff has selected PBS&J as the most qualified construction administration and testing firm and has negotiated a fee in the amount of $1,781,000 and staff requests authorization to approve change orders up to $200,000; and

WHEREAS, staff requests authorization to purchase office equipment and software as need for PBS&J staff dedicated to the project for an amount not to exceed $20,000; and

WHEREAS, additional services in the amount of $140,000 are needed from the designer, Earth Tech; and

WHEREAS, construction support in the amount of $175,000 is needed from the designer, Earth Tech and staff requests authorization to approve change orders up to $50,000; and

WHEREAS, the City's share of right of way costs for properties acquired by Caltrans have increased to $4.034 Million and staff requests authorization to make payments to Caltrans not to exceed $4.15 Million; and

WHEREAS, additional funding in the amount of $4.5 Million is needed to complete the project.
NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Santee, California, that the construction contract for the Forester Creek Improvements, CIP 2002-21, be awarded to Archer Western for the amount of $23,190,000 and the City Manager is authorized to execute the contract on behalf of the City; and

1. That staff has authorization to approve change orders totaling $1,000,000; and

2. That a contract with a PBS&J for construction administration and testing in the amount of $1,781,000 be approved and the Deputy City Manager is authorized to execute the contract on behalf of the City and approve change orders not to exceed $200,000; and

3. That a change to the pre-construction services contract with PBS&J in the amount of $55,000 be approved; and

4. That staff has authorization to purchase office equipment and software as need for the project for an amount not to exceed $20,000; and

5. That a change to the design contract with Earth Tech in the amount of $140,000 be approved for costs to re-bid the project, coordinate utility relocation and provide floodplain mapping; and

6. That a contract with Earth Tech for construction support in the amount of $175,000 be approved and the Deputy City Manager is authorized to execute the contract on behalf of the City and approve change orders not to exceed $50,000; and

7. That payments to Caltrans for joint right of way acquisitions be increased up to $4.15 Million; and
ADOPTED by the City Council of the City of Santee, California, at a regular meeting thereof held this 28th day of September 2005, by the following roll call vote to wit:

AYES:

NOES:

ABSENT:

APPROVED:

RANDY VOEPEL, MAYOR

ATTEST:

LINDA A. TROYAN, CITY CLERK
City of Santee
COUNCIL AGENDA STATEMENT

MEETING DATE        April 22, 2009
ITEM TITLE            RESOLUTIONS OF THE CITY COUNCIL OF THE CITY OF SANTEE
                      REQUESTING AN AMENDMENT TO THE 2008 REGIONAL TRANSPORTATION
                      IMPROVEMENT PROGRAM FOR TRANSNET LOCAL STREET IMPROVEMENT PROJECTS
                      FOR THE CITY OF SANTEE FOR FISCAL YEARS 2009 THROUGH 2013 AND
                      REQUESTING SANDAG, ACTING AS THE SAN DIEGO COUNTY REGIONAL
                      TRANSPORTATION COMMISSION TO PROVIDE ADVANCED FUNDING THROUGH DEBT
                      FINANCING FOR THE FORESTER CREEK IMPROVEMENTS PROJECT (CIP 2002-21)

DIRECTOR/DEPARTMENT  Jim O'Grady, Interim Director of Development Services
                      Tim K. McDermott, Director of Finance

SUMMARY

This item requests that the City Council adopt the attached resolutions to 1) amend the City's list
of projects to be completed through TransNet funding for Fiscal Years 2009 through 2013 as the
result of the swap of American Recovery and Reinvestment Act ("ARRA") federal stimulus funds
for additional TransNet funds, and 2) authorize an advance of TransNet funding in an amount
not to exceed $3,950,000 for the Forester Creek Improvements Project.

(see attached staff report)

FINANCIAL STATEMENT

$918,000 in additional TransNet funding will be received in exchange for the federal stimulus
(ARRA) funds. The repayment of TransNet funds advanced to the City through the commercial
paper borrowing program will be made from a portion of the City's annual TransNet revenues.
Repayment will ultimately be accomplished by rolling the outstanding amount into a long-term
bond issued by SANDAG.

CITY ATTORNEY REVIEW  □ N/A  □ Completed

RECOMMENDATION

Conduct and close the public hearing. Adopt the attached resolutions approving an
amendment to the 2008 Regional Transportation Improvement Program for TransNet local
street improvement projects for fiscal years 2009 through 2013 and requesting SANDAG to
provide advanced funding through debt financing for the Forester Creek Improvements project.

ATTACHMENTS
Staff Report
Resolutions (with attachments)
STAFF REPORT

A. Amendment to the 2008 Regional Transportation Improvement Program

The American Recovery and Reinvestment Act (ARRA) of 2009 included funds for local agency transportation projects. At its March 27, 2009 meeting, the SANDAG Board approved a plan to replace ARRA funds allocated to Cities with TransNet funding. The TransNet funding has fewer restrictions and administrative requirements.

The City of Santee’s allocation of funding is $918,000. Staff recommends that the following project be added to the Regional Transportation Improvement Program for TransNet projects for Fiscal Years 2009-2013:

SNT12 – Major Street Rehabilitation and Improvements

The proposed project includes major pavement rehabilitation on Mission Gorge Rd. from Fanita Dr. to the Post Office, and on Magnolia Ave. from Mast Blvd. to Second St. Should additional funding become available, staff recommends additional pavement rehabilitation be conducted on Magnolia Ave. from Mast Blvd. to El Nopal and on Mission Gorge Rd from Big Rock Rd. and West Hills Pkwy.

B. TransNet Funding Advance – Forester Creek Improvements Project

On September 28, 2005 the City Council approved a resolution awarding the construction contract for the Forester Creek Improvements project. The State Route 52 extension project, a critical and regionally significant freeway project necessitated the need for moving forward with the Forester Creek Improvements project. Without the Forester Creek project being completed the SR 52 extension would not have been able to proceed. At the time of the award of the Forester Creek Improvements contract a $4.5 million funding shortfall was identified. The City planned to seek any and all available alternative funding sources to permanently fund this shortfall, including a variety of federal and state grants for freeway, flood protection and clean water purposes. SANDAG agreed to provide interim funding of $4.5 million through its TransNet commercial paper program as needed. Should insufficient alternative funding sources be obtained the City could then use our TransNet funds as the permanent funding source through a long-term bond issue by SANDAG.

The City has pursued numerous options to cover this gap, which as the result of project cost savings is now down to $3.95 million. The City has temporarily borrowed from
various City funds to cover this shortfall while pursuing numerous funding alternatives. Staff now recommends that the City Council authorize the use of the SANDAG commercial paper program to borrow against future TransNet revenues to eliminate this shortfall.

In accordance with SANDAG board policy the repayment of the principal amount of commercial paper borrowing is to be completed within five years of an agency’s receipt of the proceeds. We have requested (with approval from SANDAG staff) an exception to the five-year repayment period in order to receive sufficient TransNet revenues (after debt-service obligations) to enable the City to continue to invest in other local street projects such as the ongoing Street Repair and Rehabilitation program. Based upon a capacity analysis (Attachment A) it was determined that a ten-year repayment period would allow the City to meet its debt obligations and receive enough annual TransNet funds to continue with such local street improvement projects. Under a ten-year repayment period the total debt service payment for each of the next three years would be approximately $177,750, leaving more than $1 million in available TransNet revenues for other projects each of the next three years.

The City has an option to roll the outstanding commercial paper balance into a long-term bond issue during the repayment period. Staff recommends that the City utilize this option and roll the outstanding amount into the next SANDAG long-term bond issue, which is currently estimated to occur in 2011.
RESOLUTION NO. 008 – 2009

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTÉE REQUESTING SANDAG, ACTING AS THE SAN DIEGO COUNTY REGIONAL TRANSPORTATION COMMISSION, TO PROVIDE ADVANCED FUNDING THROUGH DEBT FINANCING FOR THE FORESTER CREEK IMPROVEMENTS PROJECT (CIP 2002-21)

WHEREAS, SANDAG, acting as the San Diego County Regional Transportation commission, is responsible for the administration of programs under the TransNet Extension Ordinance (Proposition A, November 2004), which sets forth permitted uses for revenues from the ½ cent transactions and use tax in San Diego County (TransNet Extension Program); and

WHEREAS, to accelerate the implementation of TransNet tax funded projects, SANDAG has established a commercial paper program to provide advanced funding for eligible projects under the TransNet Extension program; and

WHEREAS, SANDAG Board Policy No. 31, Rule #16 requires that an 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; and

WHEREAS, the following project(s) being implemented by the City of Santee have been approved by SANDAG through the TransNet Extension Program of Projects included in the 2008 Regional Transportation improvement Program and would benefit from the availability of funding:

FORESTER CREEK IMPROVEMENTS which requires an amount of three million, nine hundred-fifty thousand dollars ($3,950,000) in debt financing.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Santee, California as follows:

1. That the City Manager is hereby authorized to request advance funding from SANDAG through the commercial paper program in an amount not to exceed three million, nine hundred-fifty thousand ($3,950,000) dollars.

2. That the City Manager is hereby authorized to execute any necessary documents relating to the receipt of said funds from SANDAG, including but not limited to a Memorandum of Agreement in substantially the same form as attached to this Resolution (Attachment 1).

3. That the City of Santee will be responsible for paying its proportionate share of the annual interest and administrative costs of the commercial paper program based on the ratio of the amount of financing provided to the City of Santee compared to the total commercial paper outstanding for each fiscal year.
RESOLUTION NO. 008 – 2009

4. That SANDAG will deduct said interest and administrative costs from the monthly TransNet tax allocations for the City of Santee prior to remitting any remaining TransNet tax proceeds for projects of the City of Santee.

5. That the City of Santee will repay to SANDAG the principle amount borrowed according to the Payment Schedule that will be attached to the proposed MOA.

6. That the first priority use of the City of Santee annual allocation of TransNet revenues shall be payment of the principle amount borrowed according to the Payment Schedule and any administrative costs and interest due. The City of Santee agrees not to subordinate SANDAG’s lien on the TransNet revenues to any other claim upon these funds.

7. That the City of Santee agrees to indemnify, hold harmless, and defend SANDAG, the San Diego County Regional Transportation Commission, and all officers and employees thereof against all causes of action or claims related to projects financed through funding provided under this MOA.

ADOPTED by the City Council of the City of Santee, California, at a Regular Meeting thereof held this 22nd day of April 2009, by the following roll call vote to wit:

AYES: JONES, MINTO, RYAN

NOES: NONE

ABSENT: DALE, VOEPEL

APPROVED:

BRIAN W. JONES, VICE MAYOR

ATTEST:

PATSY BELL, CMC, INTERIM CITY CLERK

Attachment: Attachment 1 – Memorandum of Agreement (MOA) with SANDAG
MEMORANDUM OF AGREEMENT
BETWEEN SAN DIEGO ASSOCIATION OF GOVERNMENTS, ACTING AS THE SAN
DIEGO COUNTY REGIONAL TRANSPORTATION COMMISSION
AND THE CITY OF SANTEE
REGARDING DEBT FINANCING THROUGH THE TRANSNET PROGRAM

This Memorandum of Agreement ("MOA") is made and entered into effective as of this ____ day
of ____________, 2009, by and between the San Diego Association of Governments, acting as the San
Diego County Regional Transportation Commission ("SANDAG") and City of Santee (City).

RECITALS

The following recitals are a substantive part of this Agreement:

WHEREAS, SANDAG serves as the San Diego County Regional Transportation Commission,
and in that role is responsible for the administration of programs under the TransNet Extension Ordinance
(Proposition A, November 2004), which sets forth permitted uses for revenues from a ½ cent transactions
and use tax in San Diego County (TransNet Extension Program); and

WHEREAS, in order to accelerate the implementation of TransNet tax funded projects, SANDAG
has established a commercial paper program for short term debt financing program to provide advanced
funding for eligible projects under the TransNet Extension program; and

WHEREAS, SANDAG Board Policy No. 31, Rule #16 requires that an 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; and

WHEREAS, the City wishes to borrow three million, nine hundred-fifty thousand dollars
($3,950,000) from the TransNet Extension program for the Forester Creek project; and

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

AGREEMENT

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

SANDAG AGREES:

1. To lend City three million, nine hundred-fifty thousand dollars ($3,950,000) through debt financing
for the Forester Creek project from the TransNet Extension Program subject to certain conditions
set forth below and SANDAG Board Policies concerning TransNet Extension Program loans.
2. SANDAG will transfer the funds to the City within 30 days following execution of this MOA.

THE CITY AGREES:

1. The governing body of City at its April 22, 2009, meeting approved the request to borrow three million, nine hundred-fifty thousand dollars ($3,950,000) through debt financing using SANDAG’s commercial paper program for Forester Creek project.

2. The City agrees to use the funding provided under this MOA solely for the Forester Creek project.

3. The City will pay its proportionate share of the annual interest and administrative costs from the date the proceeds are received until the principal amount of the loan is fully repaid.

4. Repayment of the principal amount shall commence within three years of the receipt of the proceeds and shall be completed within ten years. Repayment of the proceeds will be accomplished by rolling the outstanding amount into a long-term bond issued during the ten year repayment period if the opportunity for the conversion exists and is agreed to by SANDAG. In such case, the City would be responsible for its proportionate share of the bond issuance costs and annual debt service costs.

5. The repayment of debt, in all cases, is the first priority on the use of the City’s annual TransNet revenues. The City agrees not to subordinate SANDAG’s lien on the TransNet revenues to any other claim upon these funds. The amounts to be deducted and the terms of repayment (if appropriate) are estimated and set forth in the Repayment Schedule, which is Attachment A hereto.

6. The City agrees to indemnify, hold harmless, and defend SANDAG, the San Diego County Regional Transportation Commission, and all officers and employees thereof against all causes of action or claims related to projects financed through funding provided under this MOA.

THE PARTIES MUTUALLY AGREE:

1. That all obligations of SANDAG under the terms of this MOA are subject to the appropriation of the required resources by SANDAG and the approval of the SANDAG Board of Directors.

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

   For SANDAG       For the City of Santee
   401 B Street, Suite 800       10601 Magnolia Ave.
   San Diego, CA 92101       Santee, CA 92071
   Attn: Director of Finance      Attn: Director of Finance

3. That unless it is amended by the parties in writing, this MOA shall terminate on June 30, 2019 or on such earlier or later date as the parties may agree to in writing.

4. The indemnification provisions of this MOA shall survive termination of the MOA.
5. This MOA shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this MOA, the action shall be brought in a state or federal court situated in the County of San Diego, State of California.

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

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

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

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

10. This MOA may be executed in any number of identical counterparts, each of which shall be deemed to be an original, and all of which together shall be deemed to be one and the same instrument when each party has signed one such counterpart.

11. This MOA may be executed and delivered by facsimile signature, and a facsimile signature shall be treated as an original.

IN WITNESS WHEREOF, the Parties hereto have executed this MOA effective on the day and year first above written.

SAN DIEGO ASSOCIATION OF GOVERNMENTS

GARY L. GALLEGOS
Executive Director

APPROVED AS TO FORM:

Office of General Counsel

CITY OF SANTEE

KEITH TILL
City Manager

APPROVED AS TO FORM:

City Attorney
### Santee $3.95M Commercial Paper Capacity Analysis

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### Notes:
1. Assumes other project expenditures from the TransNet Extension program will fully utilize available balance after D/S obligation
2. Estimated revenues based on January 2009 projections for the next 5 years, updated on an annual basis.
3. Years 6 through 10 (FY15 through FY19) are not part of the 5 year projection, therefore Estimated Allocations for year 5 (FY13) are used.
## Five-Year Scenario

### Santee $3.95M Commercial Paper Capacity Analysis

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<td>CP Principal Repayment</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>(1,975,000)</td>
<td>(1,975,000)</td>
<td>(3,950,000)</td>
</tr>
<tr>
<td>CP Interest/Other Fees ³</td>
<td>(177,750)</td>
<td>(177,750)</td>
<td>(177,750)</td>
<td>(137,016)</td>
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</tr>
<tr>
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<td>(3,950,000)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>(3,950,000)</td>
</tr>
<tr>
<td>RTIP programmed projects¹</td>
<td>(1,026,729)</td>
<td>(824,747)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>(1,851,476)</td>
</tr>
<tr>
<td>Ending Balance</td>
<td>$ -</td>
<td>$ 242,966</td>
<td>$ 1,353,094</td>
<td>$ 596,726</td>
<td>$ -</td>
<td>$ -</td>
</tr>
</tbody>
</table>

### Notes:

1. Assumes other project expenditures from the TransNet Extension program will fully utilize available balance after debt service obligation.
2. Estimated revenues based on January 2009 projections for the next five years, updated on an annual basis. Assumes 100% of estimated revenues are programmed for Congestion Relief projects. The City has no projects programmed for Maintenance.
3. Years six and seven (FY15 and FY16) are included in the five year projection, therefore Estimated Allocations for year five (FY14) are used.
4. The seven year repayment analysis results in an estimated cost of $718,407.

## Seven-Year Scenario

### Santee $3.95M Commercial Paper Capacity Analysis

<table>
<thead>
<tr>
<th></th>
<th>FY10</th>
<th>FY11</th>
<th>FY12</th>
<th>FY13</th>
<th>FY14</th>
<th>FY15</th>
<th>FY16</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beginning Balance (est)</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
</tr>
<tr>
<td>Estimated Allocations²</td>
<td>1,204,479</td>
<td>1,245,463</td>
<td>1,287,879</td>
<td>1,355,647</td>
<td>1,426,415</td>
<td>1,426,415</td>
<td>1,426,415</td>
<td>9,372,713</td>
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<tr>
<td>CP Proceeds</td>
<td>3,950,000</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<td>-</td>
<td>(987,500)</td>
<td>(987,500)</td>
<td>(987,500)</td>
<td>(987,500)</td>
<td>(3,950,000)</td>
</tr>
<tr>
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<td>(177,750)</td>
<td>(177,750)</td>
<td>(177,750)</td>
<td>(157,383)</td>
<td>(112,945)</td>
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<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>(3,950,000)</td>
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<tr>
<td>RTIP programmed projects¹</td>
<td>(1,026,729)</td>
<td>(1,067,713)</td>
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<td>(210,764)</td>
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<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
</tr>
</tbody>
</table>

### Notes:

1. Assumes other project expenditures from the TransNet Extension program will fully utilize available balance after debt service obligation.
2. Estimated revenues based on January 2009 projections for the next five years, updated on an annual basis. Assumes 100% of estimated revenues are programmed for Congestion Relief projects. The City has no projects programmed for Maintenance.
3. The five year repayment analysis results in an estimated cost of $718,407.
## Ten-Year Scenario

**Santee $3.95M Commercial Paper Capacity Analysis**

<table>
<thead>
<tr>
<th>FY10</th>
<th>FY11</th>
<th>FY12</th>
<th>FY13</th>
<th>FY14</th>
<th>FY15</th>
<th>FY16</th>
<th>FY17</th>
<th>FY18</th>
<th>FY19</th>
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<tr>
<td>Beginning Balance (est)</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
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<td>$ -</td>
<td>$ -</td>
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</tr>
<tr>
<td>Estimated Allocations</td>
<td>1,204,479</td>
<td>1,245,463</td>
<td>1,287,879</td>
<td>1,355,647</td>
<td>1,426,415</td>
<td>1,426,415</td>
<td>1,426,415</td>
<td>1,426,415</td>
<td>1,426,415</td>
<td>1,426,415</td>
</tr>
<tr>
<td>CP Proceeds</td>
<td>3,950,000</td>
<td>-</td>
<td>-</td>
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<td>-</td>
<td>-</td>
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<td>-</td>
<td>-</td>
</tr>
<tr>
<td>CP Principal Repayment</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>(564,286)</td>
<td>(564,286)</td>
<td>(564,286)</td>
<td>(564,286)</td>
<td>(564,286)</td>
<td>(564,286)</td>
<td>(564,284)</td>
</tr>
<tr>
<td>CP Interest/Other Fees</td>
<td>(177,750)</td>
<td>(177,750)</td>
<td>(177,750)</td>
<td>(166,112)</td>
<td>(140,719)</td>
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<td>(89,933)</td>
<td>(64,540)</td>
<td>(39,147)</td>
<td>(13,754)</td>
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<td>RTIP programmed projects</td>
<td>(1,026,729)</td>
<td>(1,067,713)</td>
<td>(1,110,129)</td>
<td>(625,249)</td>
<td>(721,410)</td>
<td>(746,803)</td>
<td>(772,196)</td>
<td>(797,589)</td>
<td>(822,982)</td>
<td>(848,377)</td>
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<tr>
<td>Ending Balance</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
</tr>
</tbody>
</table>

**Notes:**

1. Assumes other project expenditures from the TransNet Extension program will fully utilize available balance after debt service obligation.
2. Estimated revenues based on January 2009 projections for the next five years, updated on an annual basis. Assumes 100% of estimated revenues are programmed for Congestion Relief projects. The City has no projects programmed for Maintenance.
3. Years six through ten (FY15 through FY19) are included in the five year projection, therefore Estimated Allocations for year five (FY14) are used.
4. The ten year repayment analysis results in an estimated cost of $1,162,781.

The analysis assumed 100% of the estimated TransNet revenues during the repayment periods are Congestion Relief since the City has no future projects programmed in the Maintenance category.

The City for repayment of CP principal to begin 3 years after the initial borrowing, which is an option per Rule #16 of SANDAG Board Policy No. 031.

Interest repayments are calculated at 4.5% for the capacity analysis, but are paid based on actual costs. This includes interest costs and the City’s proportionate share of CP program fees.
### Increased Costs of Pavement Repair Based on Pavement Deterioration

<table>
<thead>
<tr>
<th></th>
<th>FY 10</th>
<th>FY 11</th>
<th>FY 12</th>
<th>FY 13</th>
<th>FY 14</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estimated TransNet revenues available for Pavement Rehab using the ten yr repayment period (RTIP programmed projects)</td>
<td>$1,026,729</td>
<td>$1,067,713</td>
<td>$1,110,129</td>
<td>$625,249</td>
<td>$721,410</td>
<td>$4,551,230</td>
</tr>
<tr>
<td>Estimated TransNet revenues available for Pavement Rehab using the five yr repayment period (RTIP programmed projects)</td>
<td>1,026,729</td>
<td>824,747</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1,851,476</td>
</tr>
<tr>
<td>Increase in estimated TransNet revenues (ten yr vs. five yr)</td>
<td>-</td>
<td>-</td>
<td>242,966</td>
<td>-</td>
<td>-</td>
<td>$1,851,476</td>
</tr>
<tr>
<td>Number of years work is delayed</td>
<td>5</td>
<td>4</td>
<td>3</td>
<td>2</td>
<td>1</td>
<td>21</td>
</tr>
<tr>
<td>Percent increase in pavement repair costs based on time (see Attachment 5)</td>
<td>800%</td>
<td>450%</td>
<td>400%</td>
<td>150%</td>
<td>70%</td>
<td></td>
</tr>
<tr>
<td>Increased cost to complete work in FY 15 due to deterioration (assuming five yr repayment schedule)</td>
<td>-</td>
<td>1,093,347</td>
<td>4,440,516</td>
<td>937,874</td>
<td>504,987</td>
<td>$6,976,724</td>
</tr>
</tbody>
</table>

Notes:
1. See Attachment 4
2. Assuming five year repayment period and based on the loss of revenues in the 'Increase in estimated TransNet revenues (ten yr vs. five yr)'
3. 'Increase in estimated TransNet revenues (ten yr vs. five yr)' x 'Percent increase in pavement repair costs based on time (see Attachment 5)'

### Increased Costs of Pavement Repair Based on Cost Escalation

<table>
<thead>
<tr>
<th></th>
<th>FY 10</th>
<th>FY 11</th>
<th>FY 12</th>
<th>FY 13</th>
<th>FY 14</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estimated TransNet revenues available for Pavement Rehab using the ten yr repayment period (RTIP programmed projects)</td>
<td>-</td>
<td>-</td>
<td>242,966</td>
<td>$1,110,129</td>
<td>$625,249</td>
<td>$721,410</td>
</tr>
<tr>
<td>Number of years work is delayed</td>
<td>5</td>
<td>4</td>
<td>3</td>
<td>2</td>
<td>1</td>
<td>21</td>
</tr>
<tr>
<td>Construction cost escalation (3% per yr)</td>
<td>15%</td>
<td>12%</td>
<td>9%</td>
<td>6%</td>
<td>3%</td>
<td></td>
</tr>
<tr>
<td>Increase in cost to complete work in FY 15 due to escalation</td>
<td>-</td>
<td>-</td>
<td>29,156</td>
<td>$99,912</td>
<td>37,515</td>
<td>$21,642</td>
</tr>
</tbody>
</table>

Notes:
1. See Attachment 4
2. Assuming five year repayment period and based on the loss of revenues in the 'Increase in estimated TransNet revenues (ten yr vs. five yr)'
3. 'Number of years work is delayed' x 3%
4. 'Estimated TransNet revenues available for Pavement Rehab using the ten year repayment period (RTIP programmed projects)' x 'Construction cost escalation (3% per yr)'
TransNet ENVIRONMENTAL MITIGATION PROGRAM: STATUS REPORT  File Number 1200201

Introduction

The TransNet Extension Ordinance and Expenditure Plan, approved countywide by voters in November 2004, includes an Environmental Mitigation Program (EMP), which is a funding allocation category for the cost to “create a reliable approach for funding required mitigation for future transportation improvements thereby reducing costs and accelerating project delivery (TransNet Extension Ordinance Section D).” The EMP established two funds: (1) the Transportation Mitigation Fund for direct mitigation, management, and monitoring for transportation related impacts; and (2) the Regional Habitat Conservation Fund for efforts related to regional land acquisition, management and monitoring for implementation of the regional habitat conservation plans.

On February 22, 2008, the Board of Directors authorized a Memorandum of Agreement (MOA) with Caltrans, the California Department of Fish and Game, and the United States Fish and Wildlife Service to establish the process to implement the goals of the TransNet EMP. The MOA, executed on March 19, 2008, memorialized a Plan of Finance (POF) strategy of $440 million dollars over the ten years for the Transportation Mitigation Fund and $40 million dollars for the Regional Habitat Conservation Fund.

The MOA states, “Starting in 2010, and then once every two years thereafter, SANDAG will develop a report card to analyze the status and progress of the MOA implementing the goals of the TransNet EMP for presentation to the SANDAG Board as part of the update to the Regional Transportation Improvement Program (RTIP).” The intent of this report is to provide a brief update on the progress of the EMP since inception as an interim yardstick to measure progress until the 2010 report.

Discussion

Attachment 1 summarizes the progress of the Transportation Mitigation Fund. Since January 2008, nine properties have been acquired focused on the mitigation for State Route 76, Interstate 5, and advanced mitigation for other Regional Transportation Plan (RTP) projects and local streets and roads. A total of 676 acres have been acquired and corresponding letters that these lands can be used as mitigation for project-related impacts have been obtained. Two of the properties acquired under the EMP already have received subsequent federal permits showing that the process of advance acquisition of mitigation is working as envisioned. The focus for acquisitions has been to satisfy the biological mitigation needs of the SANDAG Early Action Projects as identified by the Board of Directors in the Regional Transportation Plan. SANDAG, through its acquisition agent,
Caltrans, is underway with a dozen additional appraisals for future acquisitions of key parcels approved by the wildlife agencies across western San Diego County. It is expected that within one year staff will have identified all of the biological mitigation for the TransNet Early Action Projects, and will be in the process of securing the opportunities accordingly.

Attachment 2 summarizes the progress of the Regional Habitat Conservation Fund. Since FY 2006, 30 land management grants have been awarded throughout the western San Diego region to help implement the San Diego County land manager’s efforts under regional habitat conservation plans to preserve and enhance habitat and endangered species. The grants have been awarded through a competitive program, which has resulted in a wide range of applicants, from large agencies to small nonprofit organizations, across a large geographic area. In addition, 12 multi-year contracts for regional biological monitoring have been executed to establish the existing conditions of species and habitat within the regional preserve system. These contracts includes the succession of plants and animals resulting from the 2003 and 2007 wildfires, the status and distribution of the California gnatcatcher, the conditions and monitoring of the habitat within the preserve, and the establishment of monitoring protocols and the status of rare plants.

A final effort under the Regional Habitat Conservation Fund is the development of a regional entity to coordinate among land managers and biological monitoring efforts to maximize efficiency and reduce the cost of maintaining and monitoring these preserve systems. This includes using a scientific framework to review the data on land management and biological monitoring, combined with an assessment of the cost and effectiveness of actions to produce a strategic approach on how to best utilize limited funding.

Challenges

The TransNet EMP is a unique approach that is being discussed as framework for other parts of California and the United States. While staff has overcome many hurdles in its implementation, several challenges still exist.

Securing opportunities for wetlands remains a challenge. As shown on Attachment 2, there remains a large need for securing opportunities for coastal and freshwater wetlands. Wetland mitigation is significantly more challenging to secure due to the federal and state regulations to create new wetlands to achieve a “no-net-loss” of wetland acreage. These stringent requirements, combined with the desire of the regulatory agencies to have the mitigation occur with the same watershed as the impact, limit opportunities. SANDAG and Caltrans staff have employed a three-pronged approach to identifying and securing more lands for wetland mitigation. This includes focused efforts to target properties by staff, use of a consultant to model and validate opportunities unknown to staff, and a request for proposals to private and public land owners. These efforts are showing results and it is expected over the next year the amount of lands identified and secured for wetland mitigation significantly will increase towards the estimated need of the transportation projects.

Both the public and SANDAG leadership have requested a transparent, up-to-date system to depict the status of the EMP and to be able to track expenditures. Building off of the existing TransNet Dashboard concept, staff has been working with a consultant to create an EMP Dashboard that will enable online access to the status of efforts under both the Transportation Mitigation Fund and the Regional Habitat Conservation Fund. The EMP Dashboard is expected to be completed in four to six months at which time staff will return to the ITOC for a demonstration on its use.
Finally, the question of how much saving has accrued under the EMP since the start of its implementation has been raised. Cost saving is measured by determining the ability for the early acquisition of mitigation land to be completed within the estimated budget. Land acquisition under the EMP has occurred only since January 2008. Many properties need to have restoration and management cost determined, as well as to obtain various permits. The TransNet EMP MOA provides for a 10-year evaluation period with reporting every two years to establish opportunities for review. For the nine properties acquired to date, the total acquisition cost was $7.3 million (17.2% lower than the $2002 acquisition budget). This reflects the downturn in the real estate market. A complete picture of cost-saving can not be determined with such limited data; however, SANDAG will continue to monitor the budgets.

**Next Steps**

This report is intended to be a status update of the program. In June 2010, a more detailed report will be provided to the ITOC for its consideration. Also, within approximately six months staff will present the TransNet EMP Dashboard for review by the ITOC. This report will be presented to the Regional Planning Committee, the Transportation Committee, and the Board of Directors at future meetings this summer.

Attachments:  1. CIP Project Number: 1200200 Biological Mitigation Fund  
               2. CIP Project Number: 1200300 Regional Habitat Conservation Fund

Key Staff Contact: Keith Greer, (619) 699-7390, kgr@sandag.org
**CIP Project Number: 1200200 Biological Mitigation Fund**

**Purpose:** Environmental Mitigation Program (EMP), Biological Mitigation Fund. To secure mitigation for projects in the Regional Transportation Plan and local streets and roads pursuant to the TransNet Extension Ordinance and the subsequent TransNet Implementation Memorandum of Agreement.

---

**TransNet Environmental Mitigation Program**

**Mitigation Costs as of June 2009**

- **Total Costs:** $34,929,633
- **Acquisition:** $870,000
- **Restoration:** $770,000
- **Management:**

---

**Estimated Remaining Mitigation Acreage as of June 2009**

- **Coastal Wetlands:** 220.9 acres (4.1 ac)
- **Freshwater Wetlands:** 411.6 acres (83.4 ac)
- **Uplands:** 988.0 acres (610 ac)

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**Status:** As of June 2009, 676 acres of land have been acquired for mitigation under the TransNet EMP. The focus has been on properties for the TransNet Early Action projects, including State Route 76 expansion and the Interstate 5 corridor. Several properties will require the future restoration of habitat. The identification and acquisition of wetland mitigation opportunities is a significant challenge which staff actively is working to resolve.
**Purpose:** Environmental Mitigation Program, Regional Habitat Conservation Fund. In March 2008, the SANDAG Board of Directors authorized funding pursuant to the TransNet Extension Ordinance to maintain and enhance the habitat values of the regional conservation preserve system pursuant to a five-year funding strategy.

**Conservation Fund Encumberances by Category as of June 2009**

- **Coordination:** $3,769,369
- **Management:** $7,318,941
- **Monitoring:** $1,050,000

**Encumberances by Fiscal Year**

- **2006:** $1,000,000
- **2007:** $2,000,000
- **2008:** $3,000,000
- **2009:** $4,000,000

**Status:** Currently SANDAG has granted 30 projects for land management activities, and has contracts for nine monitoring projects ranging from post wildfire recovery to status monitoring of endangered species. In 2009, an effort to coordinate all the land management and monitoring activities started to achieve better efficiency and effectiveness of efforts across the region.
FY 2009 TransNet COMPLIANCE AUDIT APPROACH

Introduction

The independent auditors will begin performing their annual compliance audit on the FY 2009 TransNet sales tax revenue recipient agencies in a few months. Beginning with the FY 2009 audit, the Independent Taxpayer Oversight Committee (ITOC) assumes the responsibility for conducting the annual TransNet Compliance Audits (annual audits). The proposed agreed-upon procedures (AUP) audit approach has been updated to include additional requirements specific to the TransNet Extension Ordinance.

Recommendation

The ITOC is asked to approve the proposed AUP for the FY 2009 annual compliance audits.

Discussion

Per the ITOC Responsibilities section of the attachment to Commission Ordinance CO-04-01 entitled ‘STATEMENT OF UNDERSTANDING REGARDING THE IMPLEMENTATION OF THE INDEPENDENT TAXPAYER OVERSIGHT COMMITTEE FOR THE TRANSNET PROGRAM’; the ITOC shall have the following responsibilities:

Conduct an annual fiscal and compliance audit of all TransNet-funded activities using the services of an independent fiscal auditor to assure compliance with the voter-approved Ordinance and Expenditure Plan. This annual audit will cover all recipients of TransNet funds during the fiscal year and will evaluate compliance with the maintenance of effort requirement and any other applicable requirements. The audits will identify expenditures made for each project in the prior fiscal year and will include the accumulated expenses and revenues for ongoing, multi-year projects.

Additionally, there are several sections of the TransNet Extension Ordinance that include a requirement for an annual audit, including Section 8: Maintenance of Effort, Section 9: Regional Transportation Congestion Improvement Program (RTCIP), Section 12: Administrative Expenses, and Item #2 of the ITOC Funding and Administration section in the attachment to Commission Ordinance CO-04-01 entitled “STATEMENT OF UNDERSTANDING REGARDING THE IMPLEMENTATION OF THE INDEPENDENT TAXPAYER OVERSIGHT COMMITTEE FOR THE TransNet PROGRAM”.

AGENDA ITEM NO.: 5

Action Requested: APPROVE
With the current FY 2009 annual audits, an AUP audit approach similar to the prior year’s audits, with additional requirements per the TransNet Extension Ordinance, is proposed to be used. Advantages of AUP include specific audit procedures to ensure requirements regarding the maintenance of effort, the Regional Transportation Congestion Improvement Program (RTCIP), transit operator eligibility, ITOC expenditures, SANDAG administrative expenditures, and other compliance requirements per the TransNet and TransNet Extension Ordinances and SANDAG Board Policy No. 031: TransNet Ordinance and Expenditure Plan Rules are directly audited. The AUP audit approach also ensures results related to those requirements are specifically reported in the audit reports. Additionally, the AUP will improve consistency in audit procedures performed and reported among recipient agencies.

The attachment to Commission Ordinance CO-04-01, ITOC responsibilities section as stated above, also requires a cumulative schedule of expenditures and revenues. Cumulative expenditures and revenues for TransNet Extension projects will begin to accumulate starting with the FY 2009 audit report. Because this is the first year that the TransNet Extension Ordinance is applicable, the data will be the same as the Annual Schedule of Status of Funds by Project (Schedule A), so there is no need for the additional Cumulative Schedule of Status of Funds by Project (Schedule B) to be reported in the FY 2009 audits. Schedule B will be included in subsequent years’ audit reports.

One of the significant changes to the proposed AUP is the inclusion of the audit requirement pertaining to Section 9: RTCIP, which includes the following language in Section 9(B):

Any local agency that does not provide its full monetary contribution required by Section 9(A) in a given fiscal year will not be eligible to receive funding for local streets and roads under section 4(D)(1) of the TransNet Ordinance for the immediately following fiscal year. Any funding not allocated under 4(D)(1) as a result of this requirement shall be reallocated to the remaining local agencies that are in compliance with this Section.

Pending approval of the second reading of the Ordinance amendment by the Board of Directors at its July 10, 2009, meeting, according to Section G(2) of the attachment to Commission Ordinance No. CO-09-01 entitled “TransNet EXTENSION REGIONAL TRANSPORTATION CONGESTION IMPROVEMENT PROGRAM”, the expenditure plan and financial records pertaining to the RTCIP Funding Program are due to the ITOC for a review and audit no later than December 1 (currently July 1); however the final determination of eligibility will be at the time of the ITOC adoption of the audit report, which is scheduled for the May ITOC meeting.

As in prior years’ audits, Section 8: Maintenance of Effort (MOE) eligibility remains a key component of the report. Section 8 of the TransNet Extension Ordinance states that:

Any local agency which does not meet its MOE requirement in any given year shall have its funding under Section 4(D)(1) reduced in the following year by the amount by which the agency did not meet its required MOE level. Any local street and road revenues not allocated pursuant to the MOE requirement shall be redistributed to the remaining eligible agencies according to the formula described in Section 4(D)(1).

Although there are no specific maintenance of effort requirements for the other sub-programs, the verification of fund usage is essential. Per SANDAG Board Policy No. 031, Rule #17, Section I. Fiscal and Compliance Audit Procedures, “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 draft is completed.”
Therefore, the withholding of TransNet fund payments applies to all agencies that do not have a completed audit.

As agreed by the ITOC, the firm of Caporicci & Larson will be conducting the annual audit for the fiscal year ending June 30, 2009, and will be reporting directly to the ITOC. The following proposed audit process schedule is included in SANDAG Board Policy No. 031, Rule #17, Fiscal and Compliance Audit Procedures, which is being presented today as Item #8:

A. July/August: ITOC designee and appropriate SANDAG staff coordinate 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 and perform 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 preliminary draft reports to both SANDAG and the recipient agencies no later than December 31. Recipient 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 of preliminary draft report issuance.

D. March: Auditors issue a report of compliance audit results and present to ITOC at its March meeting. ITOC presents initial finding(s) of the audit and its recommendations to the Transportation Committee.

E. May: ITOC issues all compliance reports and adopts the annual report.

F. June: The ITOC annual report, which includes results of the annual audit and its process, is presented to the SANDAG Board of Directors.

Attachment: 1. Proposed FY 2009 TransNet Agreed-Upon Procedures

Key Staff Contact: Lisa Kondrat-Dauphin; (619) 699-1942; lko@sandag.org
Proposed FY 2009 TransNet Agreed-Upon Procedures:

1. Review the 1987 Proposition A: San Diego Transportation Improvement Plan (TransNet Ordinance and Expenditure Plan), the 2004 Proposition A (TransNet Extension Ordinance and Expenditure Plan), and SANDAG Board Policy No. 031: TransNet Ordinance and Expenditure Plan Rules compliance requirements. Although the 2004 TransNet Extension became effective July 1, 2008, there were TransNet funds from the 1987 Ordinance spent after this date.

2. Obtain from SANDAG the approved Regional Transportation Improvement Programs (RTIP) for the fiscal year.

3. Inquire of the recipient agency’s management and review that each agency maintains a separate fund (fund accounting) for TransNet revenues and the RTCIP. If a separate fund is not possible due to accounting methodology used by the recipient agency, an alternative approach to maintaining separate accountability must be developed. Obtain approval from SANDAG staff if the alternative approach is used by any of the recipient agencies. (Rule #6 and #23 of SANDAG Board Policy No. 031).

4. For the TransNet Fund, obtain from the recipient agency a detailed general ledger.

5. Obtain from the recipient agency the Annual Schedule of Status of Funds by Project (Schedule A). Schedule A will include a beginning balance, TransNet funds received, expenditures, interest income, adjustments, and an ending balance listed alpha-numeric by MPO ID.

   a. Review Schedule A and review that the projects are properly classified and reported by TransNet program (i.e., original TransNet program vs. TransNet Extension; local streets and roads; local street improvements, including congestion relief vs. maintenance; highway; major corridor; environmental mitigation program; etc.). Agree the beginning balance from the prior year or footnote any restatements.

   b. Identify the total TransNet revenues received through June 30 of the fiscal year.

      i. Review that the total funds received per Schedule A agrees to the TransNet general ledger.

      ii. Obtain from SANDAG a listing of TransNet payments from the Commission to the recipient agency by TransNet program and compare to Schedule A. Provide a reconciliation on Schedule A, if necessary.

   c. Identify the interest income for the fiscal year.

      i. Review that the interest income amount per Schedule A agrees to the TransNet general ledger.

      ii. Review that interest is applied to each active project that carries a positive beginning balance.

      iii. Review the interest distribution methodology.

   d. Identify the total TransNet expenditures for the fiscal year.

      i. Review that the total project expenditures per Schedule A agrees to the TransNet general ledger.
ii. Select individual expenditures of at least 25 percent of the total dollar amount of expenditures from the general ledger and obtain supporting documentation (i.e., invoice and copy of check or EFT wire).

iii. For the expenditures selected, identify the MPO ID that the expenditures were charged against and verify the MPO ID is included in the RTIP and the expenditures are an eligible cost per the TransNet and TransNet Extension Ordinance and Expenditure Plan requirements.

e. Ensure that any amounts reflected in the “adjustments” column are explained in the form of a footnote and that the adjustments are consistent with SANDAG Board Policy No. 031, Rule #17, Section III.

f. Obtain a list of completed projects reported by TransNet program from the recipient agency. Ensure the remaining TransNet funds for completed projects are transferred to another TransNet-eligible project. Completed projects from the previous year should no longer show in the current year Schedule A.

g. If a project ending balance is negative, an explanation in the form of a footnote to Schedule A should be provided indicating the subsequent year’s intended action.

h. Ensure inactive projects which have had no activity over a period of two audits other than interest earnings are closed out or provide a footnote of the status of the project and when the project will be completed.

i. Obtain a signed staff report or resolution from the recipient agency’s governing body consenting to the transfer of TransNet funds from one project to another. Ensure transfers that require an amendment to the RTIP follow the amendment process outlined in Rule #7 of SANDAG Board Policy No. 031.

j. Report all non-TransNet activity separate from TransNet activity in Schedule A.

6. Obtain from the recipient agency the Cumulative Schedule of Status of Funds by Project (Schedule B). Schedule B will include cumulative information for all multi-year TransNet projects to include TransNet funds received, expenditures, interest income, adjustments, and an ending balance listed alpha-numeric by MPO ID.

   a. Review Schedule B and review that the projects are properly classified and reported by TransNet program (i.e. local street improvements, including congestion relief vs. maintenance; major corridor; environmental mitigation program; etc.). Ensure that the ending balances at June 30 agrees for those projects reported in both Schedule A and Schedule B.

7. Review and state in the report that the ending balance per Schedule A for those projects that are derived from the agency’s annual TransNet apportionment is not more than 30 percent of the agency’s current year annual apportionment (net of debt service payments). Include a schedule showing the annual apportionment, debt service deduction (if applicable), net annual apportionment, 30% balance threshold, applicable project status balance, and excess balance over the threshold.

8. If applicable, obtain a roll forward schedule (by commercial paper and bonds) showing the beginning balance of debt, additions, repayments, and the ending balance. Agree to long-term debt information for each recipient agency provided by SANDAG.
9. Review the maintenance of effort (MOE) requirement for the cities and the County of San Diego:
   a. Obtain the current MOE requirements for each recipient agency from SANDAG.
   b. Obtain Schedule 3 of the Annual Street Report from the recipient agency.
   c. Report the excess (deficit) of discretionary expenditures over the MOE base which is equal to the amount of discretionary funds expended for local streets and road less the MOE base amount.
   d. Should there be an outstanding unmet requirement from a prior year, report the amount of time the agency has remaining to meet its MOE requirement and report a roll forward schedule.

10. Review transit operator eligibility for receipt of funds.
   a. Calculate and report the total operating cost per revenue vehicle hour for bus services and total operating cost per revenue vehicle mile for rail services for the current year and the prior year.
   b. Obtain from SANDAG the increase in the Consumer Price Index for San Diego County (CPI) over the same period.
   c. Review and report that the increase in the total operating cost per revenue vehicle hour for bus services and total operating cost per revenue vehicle mile for rail services (calculate in [a]) does not exceed the increase in the CPI (obtained in [b]).

11. For cities and the County of San Diego, obtain from SANDAG the approved RTCIP Funding Program for the current fiscal year.
   a. For the RTCIP fund, obtain from the recipient agency a detailed general ledger.
   b. Obtain from the recipient agency the RTCIP approved schedule for collecting and/or contributing private sector exactions to its Funding Program.
   c. Obtain from the recipient agency the RTCIP schedule, including beginning balance, exactions collected, interest earned, expenditures, and ending balance. Agree the beginning balance from the prior year or footnote any restatements.
      i. Review that the recipient agency is using the most current approved fee amount.
      ii. Review that the revenues are expended within seven years of collection per Section 9(C) of the TransNet Extension Ordinance and Expenditure Plan and Section G(4) of the attachment entitled “TransNet EXTENSION REGIONAL TRANSPORTATION CONGESTION IMPROVEMENT PROGRAM.”
      iii. Obtain from SANDAG the list of RTCIP approved Regional Arterial System projects and review that any expenditures were for projects in the approved Regional Arterial System project list.
      iv. Review and report that the recipient agency provided its full monetary contribution required by Section 9(A) of the TransNet Extension Ordinance.
Inquire of management the procedures to ensure all qualified properties were included in the program. Test for completeness.

v. Identify the interest income for the fiscal year and review that the interest income amount per the RTCIP Schedule agrees to the RTCIP general ledger. Review the interest distribution methodology.

12. For the ITOC audit only, review that the ITOC expenditures are necessary and reasonable in carrying out ITOC responsibilities under the TransNet Extension Ordinance in the ITOC Responsibilities Section of the attachment to Commission Ordinance CO-04-01 entitled “STATEMENT OF UNDERSTANDING REGARDING THE IMPLEMENTATION OF THE INDEPENDENT TAXPAYER OVERSIGHT COMMITTEE FOR THE TRANSNET PROGRAM”.

13. For the SANDAG audit only, per Section 12 of the TransNet Extension Ordinance and Expenditure Plan, perform the additional procedures.

   a. Review that the total administrative expenditures do not exceed one percent of the annual TransNet apportioned revenues plus any funds not utilized in prior years.

   b. Review that the administrative expenditures may be expended by SANDAG for staff salaries, wages, benefits, and overhead and for those services, including contractual services, necessary to administer the Act.

14. Review prior year audit findings and recommendations and determine if they were adequately addressed.

15. Propose current year audit findings as a result of performing the above agreed-upon procedures. Include the recipient agency’s response to address the finding.

16. Prepare an Independent Accountants’ Report on Agreed-Upon Procedures for each recipient agency, including the scope of procedures performed. If applicable, report the Schedules of Status of Funds by Project (both Annual [Schedule A] and Cumulative [Schedule B]), a Schedule of MOE Requirement, a Schedule of Transit Operator Eligibility, a Schedule of Long-Term Debt, a Schedule for RTCIP, a Schedule of Prior Year Findings and Resolutions, and a Schedule of Current Year Findings and Recommendations.
INDEPENDENT TAXPAYERS OVERSIGHT COMMITTEE

June 10, 2009

AGENDA ITEM NO.: 6

Action Requested: DISCUSSION/POSSIBLE ACTION

TRANSPORTATION DEVELOPMENT ACT/TransNet BICYCLE AND PEDESTRIAN PROGRAM: FY 2010 FUNDING CYCLE PROJECTS

Introduction

Each year, the Board of Directors allocates funds under the Transportation Development Act (TDA) and the TransNet local sales tax program to support bicycle and pedestrian transportation projects in the San Diego region. For FY 2010, approximately $7.7 million is available for allocation.

The TransNet Extension Ordinance sets aside 2 percent of the annual revenues to fund bicycle and pedestrian planning and infrastructure projects by cities and the county. It defines the eligible projects as:

“...bikeway facilities and connectivity improvements, pedestrian and walkable community projects, bicycle and pedestrian safety projects and programs, and traffic calming projects.”

The role of the ITOC is to ensure that the projects funded under the program meet the broad eligibility definition provided by the TransNet Extension Ordinance. The TDA/TransNet Bicycle and Pedestrian Program eligibility and selection criteria were presented to the ITOC at its March 11, 2009, meeting.

SANDAG issued the first call for projects under this program in April 2009. Thirty-eight project applications were submitted, and those projects have been screened, evaluated, and ranked using the project selection criteria approved by the Board of Directors. This report provides the ITOC with the information it needs to make its eligibility determination on the projects.

Recommendation

The ITOC is asked to determine that the projects recommended for funding in the FY 2010 TDA/TransNet Bicycle and Pedestrian Program call for projects are consistent with eligibility requirements of the TransNet Extension Ordinance.

Discussion

Project Evaluation Process

SANDAG has estimated that the total funding available for the FY 2010 TDA/TransNet Bicycle and Pedestrian Program call for projects will be $7.7 million. The applications submitted included 26 capital projects requesting $8.5 million and 11 planning/education/safety/parking projects.
requesting $1.3 million, for a total request of $9.8 million. All applicants presented their applications to the Bicycle-Pedestrian Working Group on May 20. A Review Panel comprised of a subset of Bicycle-Pedestrian Working Group members met on May 21 to verify accuracy of scoring and eligibility. Participation on the Review Panel was open to any Bicycle-Pedestrian Working Group member. Additionally, the applications were posted on the SANDAG Web site for review and comment by any member of the public.

**Project Evaluation and Eligibility**

Attachments 1 through 5 include Bicycle and Pedestrian Claim Guidelines and Application Materials, which outline TDA and TransNet project eligibility. The Review Panel analysis indicates that all the recommended capital projects, plans, support programs, and studies shown in Attachment 6 will assist local agencies in better integrating transportation and land use by providing infrastructure that supports transportation mode choices.

**Bicycle Plans, Pedestrian Plans, Bicycle Parking, and Support Programs**

The Bicycle, Pedestrian, and Neighborhood Safety/Traffic Calming Program encourages and funds bicycle plans, pedestrian plans, bicycle parking, and support programs. These projects do not compete with capital projects and are funded up to the amounts set in the program guidelines. The projects that are proposed for funding total $1,154,378 and are shown in Attachment 6. The recommended projects include eight bicycle or pedestrian master plans, three bicycle parking projects, a bicycle and pedestrian safety program for elementary and middle-school students, and support for printing and distribution of the regional bicycle map produced by SANDAG. The City of Escondido Bike Lockers and Racks application amount was adjusted from $42,034 down to $14,378 because all bicycle parking facilities funded through this program must be available to the public and the locations proposed for the bike lockers in this application would not meet this criteria. The Review Panel recommends that the City of San Diego application for Environmental Documentation and Feasibility Study to supplement the City of San Diego Bicycle Master Plan funded in FY 2007 be adjusted from $350,000 to $150,000 as that is the maximum amount allowed for planning efforts within the program guidelines.

**Capital Projects**

There were 26 applications for capital projects. The project applications were evaluated according to the program guidelines and criteria adopted by the Transportation Committee in March 2009. After funding for the plans, bicycle parking, and support programs is deducted from the overall FY 2010 funding allocation, there is approximately $6.5 million in funding available for capital projects. Funding is recommended for the top 18 scoring projects a shown in Attachment 6. It is recommended that the top 17 projects receive the full amount applied for. It is not possible to fully fund the last project on the recommended funding list—the West Bernardo Bike Path that is an extension of the recently completed Lake Hodges Bridge project. It is recommended that this project be funded in the amount of $1.2 million in order to leave a modest reserve of $178,799. The total amount of recommended funding for capital projects is $6,362,430.

During the review and evaluation process the Review Panel determined that five of the original 26 capital project applications were ineligible. One project was for routine maintenance which is not an eligible expense under the program guidelines. Four projects applications were deemed incomplete as not all of the required information was included which made it unfeasible to score and evaluate the proposed projects. The five ineligible projects are listed on the bottom of Attachment 6.
Program Administration

Once the Transportation Committee has recommended the projects to the Board for programming of the funds, staff will develop grant agreements with each grant recipient. These agreements will specify the scope of the project and expected outcomes. They will establish SANDAG responsibility for project oversight and the grant recipients’ reporting and project delivery requirements. An agencywide use-it-or-lose-it policy currently is being developed for this and other competitive grant programs, and will be incorporated into the grant agreement to ensure timely use of the funds.

Next Steps

The initial project recommendations for the FY2010 funding cycle of the TDA/TransNet Bicycle and Pedestrian Program were made at a special meeting of the Bicycle-Pedestrian Working Group on May 27. These recommendations will be brought to the Transportation Committee at its June 19, 2009, meeting, for recommendation to the Board of Directors. Once the Transportation Committee approves a list of projects, the Board will be asked to program the funds, and that action, scheduled for June 26, will allow SANDAG to enter into grant agreements with the agencies receiving awards, and begin funding projects.

Attachments: 1. TDA/TransNet Bicycle and Pedestrian Program Claim Guidelines
   2. FY 2010 Annual Grant Application
   3. FY 2010 TDA/TransNet Bicycle and Pedestrian Application Checklist
   4. FY 2010 Bicycle Project Evaluation Criteria Matrix
   5. FY 2010 Pedestrian Project Evaluation Criteria Matrix
   6. FY 2010 ITOC Project List

Key Staff Contact: Chris Kluth, (619) 699-1952; ckl@sandag.org
Introduction

The following describes the claim process for Transportation Development Act (TDA) Bicycle and Pedestrian Projects and TransNet Bicycle, Pedestrian, and Neighborhood Safety Projects.

TDA Project Eligibility

The law specifies that funds should be allocated according to the regulations adopted by SANDAG as the regional transportation planning agency. It also identifies certain categories of eligible projects. These specific project types represent neither an exhaustive list nor are they listed as priorities (Public Utilities Code [PUC] Sections 99233.3 and 99234). They are summarized below for reference. Project evaluation criteria, established by SANDAG Board policy, are discussed later.

- Construction, including related engineering expenses, of bicycle and pedestrian facilities.
- Maintenance of bicycle trails provided they are closed to motorized traffic.
- Projects serving the needs of commuting bicyclists, including but not limited to, new paths serving major transportation corridors, secure bicycle parking at employment centers, park-and-ride lots, and transit centers where other funds are not available.
- A comprehensive bicycle and pedestrian facilities plan (no more than once every five years), with an emphasis on bicycle projects intended to primarily accommodate non-recreational bicycle trips.
- Up to 20 percent of the cost to restripe Class II bicycle lanes.
- Up to 5 percent of the amount available to a city or the county may be expended in conjunction with other funds to support bicycle safety education programs, so long as the funds are not used to fully fund the salary of any one person.

TransNet Project Eligibility

TransNet bicycle, pedestrian, and neighborhood safety funds may be expended for all purposes necessary and convenient to the design, right-of-way acquisition, and construction of facilities intended for use by bicyclists, pedestrians, and neighborhood safety/traffic calming projects. These funds also may be used for programs that help to encourage bicycling and walking, such as secure parking facilities, bicycle/pedestrian promotion programs, and safety programs.

Certain costs at times associated with bicycle and pedestrian projects are not eligible when the benefit provided is not the exclusive use of bicyclists or pedestrians. These instances are listed below.
• Curb and gutter are part of the roadway drainage system. As such, newly installed curb and gutter cannot be considered an improvement exclusively for the benefit of the sidewalk or bike lane and are not an eligible expense.

• Driveway ramps installed across sidewalks are not for the benefit of pedestrians, and in fact, degrade the pedestrian environment. Claimants may not include the cost of driveway ramps in applications for sidewalk projects. However, the distance across the driveway may be included when computing the per-square-foot cost of the sidewalk.

• Where roadway design standards require a roadway shoulder width at least as wide as would be required for a standard bike lane, the cost of the shoulder construction will not be eligible. Appropriate bikeway signage is eligible.

Under some circumstances, it may be necessary to remove and replace curb and gutter, driveway ramps, drainage facilities, and other existing improvements in order to construct a bikeway or sidewalk. In such cases the cost of this work is most likely eligible, but claimants should carefully document why this is so in the claim submittal.

**SANDAG Claim Requirements**

SANDAG has the authority to establish criteria applicable to analyzing and evaluating claims for non-motorized transportation facilities (PUC Section 99401). To be considered for funding, a claim must be consistent with the SANDAG-adopted non-motorized plans and meet the requirements for community support and geometric design standards, as described in Categories 1 and 2 of the Project Evaluation Criteria. In addition, the following requirements must be met, if applicable:

• If the project abuts other jurisdictions, it must be shown on the adopted plans of the adjacent jurisdictions, or a letter must be submitted from the abutting jurisdiction showing that cooperative efforts are underway.

• Other sources of funding for cooperative projects must be identified. Please attach supporting documentation that shows matching funds have been secured. Matching funds that have not been secured will not be considered in the matching funds section of the project scoring matrix.

• Projects which are a required element of a larger capital improvement project are not eligible for funding.

• No single agency may submit an application, or applications, that are greater than the total available allocation for that fiscal year.

**Application Process**

Applications for TDA and TransNet non-motorized claims must be received by SANDAG by May 6, 2009. To be considered for funding, the Annual Grant Application must be fully completed. In addition, please consider the following, if applicable:

• All claims, including those supporting educational or promotional programs and claims for planning projects, must include a project budget, work program, and project schedule.
• No later than May 20, 2009, include a certified copy of a resolution or minute order in which the planning group, planning commission, or governing body of the claimant authorizes the claim.

• Review Panel. A review panel of six to eight working group members will conduct a full preliminary review of the project applications to identify significant issues and request clarification from the project applicants, if necessary. Participation on the review panel is open to any active working group member. Applicants must submit multiple hard copies of their applications for distribution to the review panel.

• Completed applications will be made available online. Applicants must submit their application in PDF format as well as hard copy. Electronic version of the applications will be posted to the internet to give any working group member the opportunity to review the applications.

**Evaluation Process**

The evaluation process for TDA bicycle and pedestrian projects and TransNet bicycle, pedestrian, and neighborhood safety projects is consistent with the way SANDAG evaluates and prioritizes other components of the transportation system, such as arterial, highway, and transit projects. Transportation project priorities are established in planning documents like the Regional Transportation Plan (RTP). Priorities also are used for funding decisions that are programmed in the Regional Transportation Improvement Program (RTIP). In addition, the evaluation criteria supports the overall goals and objectives SANDAG has for improving the regional transportation system and promoting smart growth in the region by giving priority to projects that enhance the existing transportation network as a whole. The criteria to be used in the evaluation process are specified in the Project Evaluation Criteria matrix.

Claimants for TDA bicycle and pedestrian projects and TransNet bicycle, pedestrian, and neighborhood safety projects will be responsible for accurately filling out the Annual Grant Application and the accompanying Project Evaluation Criteria Matrix. SANDAG will be responsible for performing the Geographic Information System (GIS) Analysis in Category 6 and the Cost Benefit Analysis in Category 11 of the Project Evaluation Criteria based on the process outlined below. SANDAG will compile the results from the Grant Applications and produce a prioritized list of projects that will be reviewed by the Bicycle-Pedestrian Working Group (BPWG). The committee then will recommend a final priority list of projects to the Transportation Committee, which will then be approved by the Board of Directors.

- Regional Housing Needs Incentive. To qualify for funding from this program the applicant must meet the eligibility criteria prescribed in Section 4 of “Implementation Guidelines for SANDAG Regional Housing Needs Assessment Memorandum” from Board Policy No. 033. Points will be awarded based on the “Description of How to Calculate the Board Policy No. 033 Incentive Points” detailed in Attachment 5 of the Policy.

- The GIS Analysis will be based on the following five factors: total population, total employment, population density, employment density, and number of activity centers. Using the project limits provided by the claimant, SANDAG will perform the GIS Analysis using data for population and employment forecasts for 2015. A buffer will be created around each
project area. Pedestrian projects will be given a half-mile buffer and bicycle projects will be given a one-mile buffer. The buffered areas will be used along with the population and employment data to generate population and employment densities. The number of Activity Centers, as identified by the SANDAG data warehouse, will be identified and tallied. Each factor will be scored from one to four points, for a possible total of 20 points for the GIS Analysis category. Projects will be scored in each category relative to each other by taking the raw scores and distributing them from highest to lowest. The highest 25 percent will receive four points, the second highest quartile will receive three points, the third highest quartile will receive two points, and the lowest quartile will receive one point.

- The Cost Benefit Analysis will be computed by taking the subtotal score from Categories 1 through 8 on the Project Evaluation Criteria matrix and dividing that subtotal by the grant application amount. Projects will be scored relative to each other by taking the raw scores and distributing them from highest to lowest, with the project with the highest cost benefit ratio receiving 15 points and the project with the lowest cost benefit ratio receiving one point.
**FY 2010 Annual Grant Application**  
**Transportation Development Act/TransNet Bicycle and Pedestrian Projects**

Applicant (Agency): ____________________________________________

Project Name: ________________________________________________

Application Amount: __________________________________________

Project Type: _________________________________________________

Project Limits: ________________________________________________

Project Description: __________________________________________

Summary of Cost Estimates:

<table>
<thead>
<tr>
<th>Category</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Feasibility Study</td>
<td></td>
</tr>
<tr>
<td>Engineering</td>
<td></td>
</tr>
<tr>
<td>Project Management</td>
<td></td>
</tr>
<tr>
<td>Contract Engineering</td>
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<tr>
<td>Environmental Documentation</td>
<td></td>
</tr>
<tr>
<td>Design</td>
<td></td>
</tr>
<tr>
<td>Construction</td>
<td></td>
</tr>
<tr>
<td>Construction Management</td>
<td></td>
</tr>
<tr>
<td>Construction Contract</td>
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</tr>
</tbody>
</table>

  **Total Cost** $               

Funding Sources:

<table>
<thead>
<tr>
<th>Revenue Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>TDA/TransNet Claim Amount</td>
<td></td>
</tr>
</tbody>
</table>

  **Total** $               

Project Location Map:

Contact Person: 
Title: 
Address: 
  
Phone:  Fax:  
E-mail: 

Person Authorized to Submit Application:
I certify that I have reviewed the Bicycle and Pedestrian Claims Guidelines and the information submitted in this application is accurate and in accordance with these guidelines.

Name  Title

Signature  Date
Project Funding:

**Total Estimated Project Cost** (Please attach a detailed project estimate based on best available engineering) $______________

Project Cost Estimates – On a separate sheet provide an itemized cost estimate for all eligible expenses. Be as accurate as possible to avoid future cost overruns. Projects with cost overruns have three options for moving the project forward depending on what percentage over the original grant amount the revised project cost will be. Applicants may ask for a recommendation from the BPWG to amend original allocation for up to five percent of the original cost estimate (up to the amount available in the reserve). Projects that require more than five percent additional funding can resubmit the project in a subsequent funding cycle with the adjusted project amount. Lastly, the applicant can choose to complete the project with their own funding.

Matching Funds (Category 9 of Project Evaluation Criteria)

<table>
<thead>
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<th>Revenue Source</th>
<th>Amount</th>
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<tbody>
<tr>
<td></td>
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<td></td>
<td></td>
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<tr>
<td><strong>Total</strong></td>
<td>$__________</td>
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</tbody>
</table>

_TDA/TransNet_ (Application Amount as shown in Category 10 of Project Evaluation Criteria) $__________

**Total Revenues** $__________

Scope of Work

In the section below, state the project deliverables (including specific quantities and locations of improvements) and anticipated completion dates. Please note that if this project is funded, this scope of work will be added to the grant agreement and the grantee will be held to this scope of work for the purpose of project oversight.

*Example:*

<table>
<thead>
<tr>
<th>Deliverables</th>
<th>Completion Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Design for intersection reconfiguration to better accommodate bicycle and pedestrian travel</td>
<td>December 2009</td>
</tr>
<tr>
<td>Issue construction contract</td>
<td>March 2010</td>
</tr>
<tr>
<td>Complete construction of intersection improvements</td>
<td>July 2010</td>
</tr>
</tbody>
</table>
Supporting Materials

A. **Community Support/Consistency with Community Plan (Category 1)** - The council or governing board of the applicant must authorize this grant application. Please attach a copy of the resolution or minute order documenting that action. Or, if the project is part of an approved Bicycle Plan, please attach a copy of the section that includes the project.

B. **Minimum Design Standards (Category 2)** - Projects applying for construction funds must provide actual drawings or cross-sections from the project itself, not generic standard drawings. If the applicant is seeking funding for the design and construction of a project, proposed cross-sections may be used in lieu of the actual plan drawings. If any part of a project is substandard, clearly illustrate that (provide photographs, if applicable) and provide an explanation as to why the minimum design standard is not being met.

C. **Connect to Regional Transportation Corridor or Transit Linkage or Regional Bikeway Map (Category 3)** - Provide a map which clearly illustrates the projects relationship to existing facilities. Show the project’s direct linkages to any regional bikeway (for bicycle projects) or direct continuous link to a local bus stop or direct link to an LRT/regional transit station. A direct link for a bicycle project is defined as connecting immediately to a regional bikeway with no gaps. A direct link between a pedestrian project and a transit facility is defined as one in which some part of the facility comes within 600 feet of a local bus stop or LRT/regional transit station.

D. **Completes Connection/Linkage in Existing Bicycle/Pedestrian Network (Category 4)** - List and briefly describe the linkages or connections to existing bicycle or pedestrian network. Provide a map which clearly illustrates the projects relationship to existing facilities.

E. **Project Readiness (Category 5)**

<table>
<thead>
<tr>
<th>Phase</th>
<th>Begin</th>
<th>Complete</th>
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</thead>
<tbody>
<tr>
<td>Feasibility Study</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Preliminary Engineering</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Environmental Document/Certification</td>
<td></td>
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<tr>
<td>Final Design</td>
<td></td>
<td></td>
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<tr>
<td>Advertise for Construction</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Begin Construction</td>
<td></td>
<td></td>
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<tr>
<td>Project Completion</td>
<td></td>
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</tr>
</tbody>
</table>

F. **Geographic Factors/GIS Analysis (Category 6)** - SANDAG will perform a GIS analysis as described in the Bicycle and Pedestrian Claims Guidelines based upon a project map provided by the applicant. Briefly describe project limits and provide a location map clearly showing the project alignment. In addition, clearly show and label the following elements:
a. major traffic generators within the project area (within ½-mile for pedestrian projects and within 1-mile for bicycle projects)
b. linkage or connections to existing bicycle or pedestrian facilities
c. linkage to any regional bikeway or public transit stop

G. Geographic Factors/GIS Analysis (Category 6) – List and briefly describe major traffic generators served by the project.

H. Safety Improvements (Category 7) – Describe the safety issues addressed by the project. Please attach support documentation for safety and accident history. If collision data is provided, it must be specific in pointing out which collisions are applicable to the project and why it is relevant.

I. Innovation and Design (Category 8) – Describe any design innovations for bicycle/pedestrian priority measures that are included within the project limits.

Is this project in your agency’s adopted capital improvement program (Y/N) ____

If the project is part of a larger capital improvement project, briefly discuss how the bicycle or pedestrian project costs were identified and a description of the other sources of funds for the overall project.

Briefly describe any other aspects of the project that is relevant to its evaluation.
Bicycle Master Plans, Pedestrian Master Plans, Education/Safety Programs and Bicycle Parking

Bicycle Master Plans, Education/Safety Programs and Bicycle Parking projects will each be considered in a separate category. These types of projects are encouraged and will be evaluated by SANDAG staff.

Basic Guidelines

Bicycle Master Plans – Cities with population up to 75,000 will be eligible for a maximum of $75,000. Cities with population greater than 75,000 will be eligible for a maximum of $150,000. Beginning with the 2010 project application cycle, all cities will need to have a SANDAG-approved Bicycle Plan to be eligible for TDA/TransNet funds for individual projects.

Pedestrian Master Plans – An agency may submit an application for a pedestrian master plan no more frequently than once every five years. Jurisdictions with a population over 150,000 may submit applications for up to $150,000, and jurisdictions with a population under 150,000 may submit applications up to $100,000. In either case, the amount of the application must be substantiated by providing a scope of work and project budget to SANDAG.

Education/Safety Programs – An agency must submit a scope of work and a proposed schedule to be evaluated by SANDAG staff.

Bicycle Parking – Projects that conform to SANDAG’s Bicycle Parking Guidelines and have a projected cost up to $50,000 will be eligible.

All claims, including those supporting educational or promotional programs and claims for planning projects, must include a project budget, work program, and project schedule.
FY 2010 TDA/TransNet Bicycle and Pedestrian Application Checklist

Eligibility

☐ Community Support Documentation

☐ Meets Minimum Design Standards

☐ Regional Housing Needs Incentives
  ☐ Adopted Housing Element
  ☐ Submitted housing production information

Project Summary Sheet

☐ Project name

☐ Project type

☐ Project description

☐ Project location

☐ Summary of cost estimate and funding

☐ Project location map

☐ Contact information

☐ Approval signatures

☐ Detailed Funding Sheet

☐ Matching Fund Documentation

☐ Community Support Documentation
Capital Projects

☐ Routine Accommodation - Project is not part of a larger project which requires this type of bicycle or pedestrian facility improvement

☐ Meets Minimum Design Standards

☐ Project Readiness (Schedule)

☐ Scope of Work with deliverables

☐ GIS/Traffic Generators

☐ Map - Network Linkages/Connections

☐ Safety Improvements/Crash Data

☐ Innovation in Design

☐ Map - Regional Transit Linkage or Regional Bike Network Linkage

Plans, Studies, and Safety and Education Programs

☐ Scope of Work with deliverables

☐ Budget

☐ Schedule
<table>
<thead>
<tr>
<th>Category</th>
<th>Criteria</th>
<th>Potential Points</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Community Support/Consistency with Community Plan</td>
<td>Must have at least one of the following to qualify. Please attach supporting documentation. 1. Resolution or minutes from City Council, County Board of Supervisors, local planning group, or Planning Commission. Or 2. Project is part of a Bicycle Plan that has been approved within the last five years.</td>
<td>Pass/Fail</td>
<td></td>
</tr>
<tr>
<td>2. Minimum Design Standards</td>
<td>Must meet the minimum geometric standards set forth in the Caltrans Highway Design Manual. Design exceptions may be presented for consideration by the Bicycle-Pedestrian Working Group with the understanding that initial project proposals also must include a design that meets minimum standards.</td>
<td>Pass/Fail</td>
<td></td>
</tr>
<tr>
<td>3. Connect to Regional Transportation Corridor or Transit Linkage or Regional Bikeway Map - 20 Points Maximum</td>
<td>Project is a part of, or connects to, a regional bikeway corridor as identified in the Regional Transportation Plan (RTP). Project provides a direct connection to local transit stop. Project provides a direct connection to regional transit station (light rail transit, transit center)</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>4. Completes Connection/Linkage in Existing Bicycle Network - 20 Points Maximum</td>
<td>Provides segment of an identified and approved bicycle facility. Completes connection in existing network or upgrades existing facility.</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>5. Project Readiness * - 20 Points Maximum</td>
<td>Projects are eligible for points following completion of each phase. Feasibility Study Preliminary Engineering ** Environmental Clearance Right-of-way Acquisition Final Design **</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>6. Geographic Factors/GIS Analysis - 20 Points Maximum</td>
<td>Factors contributing to score are proximity to population and employment, population and employment densities, and activity centers.</td>
<td>0 to 20</td>
<td></td>
</tr>
<tr>
<td>7. Safety Improvements - 20 Points Maximum</td>
<td>Completes connection in existing network at location with documented safety or accident history. A. One to two correctable crashes involving non-motorized users within the last three years 10 B. Three to four correctable crashes involving non-motorized users within the last three years 15 C. Five or more correctable crashes involving non-motorized users within the last three years 20</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Innovation and Design - 10 Points Maximum</td>
<td>Bicycle priority measures. Dedicated bicycle signal heads, queue jumpers, bike box, colored lanes, cul-de-sac connector, bike boulevard, and bike station.</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>9. Regional Housing Needs Incentive - 50 Points Maximum</td>
<td>Score is based on the formula provided in the currently adopted Policy No. 033.</td>
<td>0 to 50</td>
<td></td>
</tr>
<tr>
<td>10. Matching Funds - 25 Points Maximum</td>
<td>Matching funds can be from any of the following sources: 1. Identified and approved capital funding from identified source. Please provide proof in the form of a resolution or letter of approval. 2. Approved match grant. 3. In-kind services. Please provide adequate support documentation.</td>
<td>(Matching Funds) / (Project Cost) x 25</td>
<td></td>
</tr>
<tr>
<td>11. Cost Benefit - 15 Points Maximum</td>
<td>Subtotal Score / Grant Application Amount</td>
<td>0 to 15</td>
<td></td>
</tr>
</tbody>
</table>

* Previous project milestones must be met before qualifying for subsequent funding.  
** Preliminary Engineering and Final Designs will be subject to design review by SANDAG.
<table>
<thead>
<tr>
<th>Category</th>
<th>Criteria</th>
<th>Potential Points</th>
<th>Score</th>
</tr>
</thead>
</table>
| 1. Community Support/Consistency with Community Plan | Must have at least one of the following to qualify. Please attach supporting documentation.  
1. Resolution or minutes from City Council, County Board of Supervisors, local planning group, or Planning Commission. Or  
2. Project is part of a Non-Motorized Plan that has been approved within the last five years. | Pass/Fail | |
| 2. Minimum Design Standards | Must meet the minimum geometric standards set forth in the SANDAG Planning and Designing for Pedestrians manual and the Americans with Disabilities Act. Design exceptions may be presented for consideration by the Bicycle-Pedestrian Working Group with the understanding that initial project proposals also must include a design that meets minimum standards. | Pass/Fail | |
| 3. Connect to Regional Transportation Corridor/Transit Linkage - 20 Points Maximum | Project is within 1/4 mile of a local transit stop or regional transit station. | 10 | |
| | Project is within 600 feet of, and provides a direct continuous connection to local transit stop. | 14 | |
| | Project is within 600 feet of, and provides a direct continuous connection to regional transit station. | 20 | |
| 4. Completes Connection/Linkage in Existing Pedestrian Network - 20 Points Maximum | Completes or improves connection in existing pedestrian network. | 20 | |
| 5. Project Readiness * 20 Points Maximum | Projects are eligible for points following completion of each phase.  
Feasibility Study | 4 | |
| | Preliminary Engineering ** | 4 | |
| | Environmental Clearance | 4 | |
| | Right-of-way Acquisition | 4 | |
| | Final Design ** | 4 | |
| | Geographic Factors/GIS Analysis - 20 Points Maximum | Factors contributing to score are proximity to population and employment, population and employment densities, and activity centers. | 0 to 20 | |
| 7. Safety Improvements - 20 Points Maximum | Completes connection in existing network at location with documented safety or accident history.  
A. One to two correctable crashes involving non-motorized users within the last three years. | 10 | |
| | B. Three to four correctable crashes involving non-motorized users within the last three years. | 15 | |
| | C. Five to six correctable crashes involving non-motorized users within the last three years. | 20 | |
| 8. Innovation and Design - 10 Points Maximum | Pedestrian priority measures such as pedestrian-controlled signals, bulb-outs, raised crosswalks, signal lead time, etc.  
A. Animated eye indicators, countdown pedestrian signal, accessible push-button signal, flashing crosswalk | 4 | |
| | B. Early pedestrian release interval, passive pedestrian detection, audible pedestrian signal | 6 | |
| | C. Raised crosswalk, speed table, raised intersection, pedestrian refuge island | 8 | |
| | D. Pedestrian bulb-out, cul-de-sac connector | 10 | |
| 9. Regional Housing Needs Incentive - 50 Points Maximum | Score is based on the formula provided in the currently adopted Board Policy No. 033. | 0 to 50 | |
| 10. Matching Funds 25 Points Maximum | Matching funds can be from any of the following sources:  
1. Identified and approved capital funding from identified source. Please provide proof in the form of a resolution or letter of approval.  
2. Approved match grant.  
3. In-kind services. Please provide adequate support documentation. | (Matching Funds) / (Project Cost) x 25 | |
| 11. Cost Benefit 15 Points Maximum | Subtotal Score / Grant Application Amount | 0 to 15 | |

* Previous project milestones must be met before qualifying for subsequent funding.  
** Preliminary Engineering and Final Designs will be subject to design review by SANDAG.
<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Project</th>
<th>Project Limits</th>
<th>Application Amount</th>
<th>Total Allocation</th>
<th>Total Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>La Mesa</td>
<td>Spring Street Trolley Station Pedestrian Access Improvements</td>
<td>Intersection of Spring Street and High Street across from trolley station</td>
<td>$88,000</td>
<td>$88,000</td>
<td>131.8</td>
</tr>
<tr>
<td>Escondido</td>
<td>Escondido Creek Bike Path</td>
<td>Escondido Transit Center Bridge over Creek Channel to Center City Parkway</td>
<td>$524,100</td>
<td>$612,100</td>
<td>134.7</td>
</tr>
<tr>
<td>Escondido</td>
<td>Ash Street Undercrossing</td>
<td>Ash Street (State Route [SR] 78)</td>
<td>$457,357</td>
<td>$1,065,457</td>
<td>130.5</td>
</tr>
<tr>
<td>Escondido</td>
<td>Escondido Creek Bike Path Lighting and Restriping</td>
<td>Escondido Creek Bike Path from Broadway to Ash Street</td>
<td>$575,500</td>
<td>$1,226,957</td>
<td>130.7</td>
</tr>
<tr>
<td>La Mesa</td>
<td>La Mesa Boulevard/El Cajon Boulevard Intersection Improvements and Pedestrian Infrastructure</td>
<td>La Mesa Boulevard and El Cajon Boulevard intersection</td>
<td>$361,000</td>
<td>$1,587,957</td>
<td>125.3</td>
</tr>
<tr>
<td>Vista</td>
<td>Inland Rail Trail Phase III B - Right-of-Way Engineering</td>
<td>Buena Creek SPRINTER Station to Melrose Avenue Station</td>
<td>$500,000</td>
<td>$2,087,957</td>
<td>124.8</td>
</tr>
<tr>
<td>City of San Diego</td>
<td>Bicycle Detection at Signalized Intersections</td>
<td>20 locations in the City of San Diego</td>
<td>$73,500</td>
<td>$2,161,457</td>
<td>123.8</td>
</tr>
<tr>
<td>Vista</td>
<td>Safe Pedestrian Crossing at Longhorn Drive</td>
<td>Longhorn Drive at Promontory Ridge Way</td>
<td>$20,569</td>
<td>$2,212,106</td>
<td>120.3</td>
</tr>
<tr>
<td>San Marcos</td>
<td>Barham Drive Urban Trail Improvement Project</td>
<td>Twin Oaks Valley Road to California State University San Marcos (CSUSM)</td>
<td>$700,000</td>
<td>$2,912,106</td>
<td>113.6</td>
</tr>
<tr>
<td>Chula Vista</td>
<td>Sidewalk Safety Program - I Street Sidewalk Improvements</td>
<td>North side of I Street from Hilltop Drive to First Avenue</td>
<td>$116,220</td>
<td>$3,028,326</td>
<td>111.5</td>
</tr>
<tr>
<td>National City</td>
<td>Sweetwater River Bike Path Gap Closure - Plaza Bonita Road</td>
<td>Plaza Bonita Road NW from Bonita Mesa Road</td>
<td>$130,000</td>
<td>$3,158,326</td>
<td>111.2</td>
</tr>
<tr>
<td>San Diego</td>
<td>Escondido Creek Bike Path Lighting and Restriping</td>
<td>Escondido Creek Bike Path from Broadway to Ash Street</td>
<td>$575,500</td>
<td>$1,226,957</td>
<td>130.7</td>
</tr>
<tr>
<td>City of San Diego</td>
<td>SR 15 Bike Path Final Design and Environmental Document</td>
<td>Last side of SR 15 between Camino del Rio South and Adams Avenue</td>
<td>$350,000</td>
<td>$3,538,526</td>
<td>108.2</td>
</tr>
<tr>
<td>Carlsbad</td>
<td>Installation of audible pedestrian signals and count-down pedestrian signals</td>
<td>21 intersections in Carlsbad</td>
<td>$150,660</td>
<td>$3,689,186</td>
<td>108.0</td>
</tr>
<tr>
<td>City of San Diego</td>
<td>Kelton Road Multiblock Pedestrian Improvements</td>
<td>Kelton Road between Zircon Street and Luber Street</td>
<td>$248,400</td>
<td>$3,937,586</td>
<td>107.7</td>
</tr>
<tr>
<td>Vista</td>
<td>Boys and Girls Club Sidewalk Improvements</td>
<td>W. California Avenue from Avenida de Bonita Juarez to 100 ft west of Calle Chapultepec</td>
<td>$146,844</td>
<td>$4,084,430</td>
<td>104.8</td>
</tr>
<tr>
<td>SANDAG</td>
<td>Bayshore Bikeway Segments 7 and 8</td>
<td>Stella Street to H Street in Chula Vista</td>
<td>$1,078,000</td>
<td>$5,162,430</td>
<td>101.5</td>
</tr>
<tr>
<td>Escondido/San Diego</td>
<td>West Bernardo Bike Path and Cantilever (1)</td>
<td>Rancho Bernardo Community Park Drive to Lake Hodges Pedestrian Bridge</td>
<td>$1,200,000</td>
<td>$6,362,430</td>
<td>101.1</td>
</tr>
</tbody>
</table>

**Non-Recommended Capital Projects**

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Project</th>
<th>Project Limits</th>
<th>Application Amount</th>
<th>Total Allocation</th>
<th>Total Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ocean City</td>
<td>San Luis Rey River Trail</td>
<td>San Luis Rey River Trail from Tyler Street to N. Santa Fe Drive and SR 76</td>
<td>$600,000</td>
<td></td>
<td>91.7</td>
</tr>
<tr>
<td>County of San Diego</td>
<td>Inland Rail Trail Phase III A</td>
<td>Buena Creek Road/SPRINTER tracks to Phillips Street/SPRINTER tracks</td>
<td>$123,020</td>
<td></td>
<td>85.8</td>
</tr>
<tr>
<td>Santee</td>
<td>Prospect Avenue Sidewalks</td>
<td>Prospect Avenue between S. Slope Drive to 500 ft west of Fanita Drive</td>
<td>$491,752</td>
<td></td>
<td>61.8</td>
</tr>
</tbody>
</table>

(1) Original application amount was for $1,425,000. Proposed funding is in the amount of $1,200,000 to allow for allocation of Program Reserves.

**Recommended Plans, Bicycle Parking, and Support Programs**

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Project</th>
<th>Application Amount</th>
<th>Total Allocation</th>
<th>Total Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chula Vista</td>
<td>Bikeway Master Plan Update</td>
<td>$150,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Coronado</td>
<td>Bicycle Master Plan</td>
<td>$75,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Escondido</td>
<td>Bike Lockers and Racks</td>
<td>$14,378</td>
<td></td>
<td></td>
</tr>
<tr>
<td>La Mesa</td>
<td>Bicycle Facilities Master Plan</td>
<td>City of La Mesa</td>
<td>$75,000</td>
<td></td>
</tr>
<tr>
<td>National City</td>
<td>Bicycle Master Plan</td>
<td>City of National City</td>
<td>$50,000</td>
<td></td>
</tr>
<tr>
<td>City of San Diego</td>
<td>Environmental Documentation and Feasibility Study for Bike Master Plan Update</td>
<td>City of San Diego</td>
<td>$150,000</td>
<td></td>
</tr>
<tr>
<td>City of San Diego</td>
<td>Pedestrian and Bicycle Safety Education Program</td>
<td>City of San Diego schools</td>
<td>$290,000</td>
<td></td>
</tr>
<tr>
<td>City of San Diego</td>
<td>Pedestrian Master Plan Phase 4</td>
<td>San Ysidro, Midway, Old Town, Ocean Beach, College, Pacific Beach, and Kensington</td>
<td>$150,000</td>
<td></td>
</tr>
<tr>
<td>City of San Diego/University of California San Diego (UCSD)</td>
<td>UCSD Bicycle/Pedestrian Master Plan</td>
<td>UCSD campus, SIO, and Hillcrest Medical Center</td>
<td>$75,000</td>
<td></td>
</tr>
<tr>
<td>SANDAG</td>
<td>Bicycle Locker Wireless Communication</td>
<td>Regional</td>
<td>$50,000</td>
<td></td>
</tr>
<tr>
<td>SANDAG</td>
<td>Bicycle Locker Retrofits and Upgrades</td>
<td>Regional</td>
<td>$50,000</td>
<td></td>
</tr>
<tr>
<td>SANDAG</td>
<td>Bicycle Map Printing and Distribution</td>
<td>Regional</td>
<td>$25,000</td>
<td>$1,154,378</td>
</tr>
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</table>

**Ineligible Projects**

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Project</th>
<th>Application Amount</th>
<th>Total Allocation</th>
<th>Total Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of San Diego</td>
<td>Kearny Villa Road Bicycle Lane Improvements</td>
<td>$337,500</td>
<td></td>
<td></td>
</tr>
<tr>
<td>City of San Diego</td>
<td>Balboa Avenue West Pedestrian and Bicycle Improvements Study</td>
<td>Incomplete Application</td>
<td>$135,000</td>
<td></td>
</tr>
<tr>
<td>City of San Diego</td>
<td>Balboa Avenue East Pedestrian and Bicycle Improvements Study</td>
<td>Incomplete Application</td>
<td>$135,000</td>
<td></td>
</tr>
<tr>
<td>City of San Diego</td>
<td>SR 56 Bicycle/Pedestrian Bridge Feasibility Study</td>
<td>Incomplete Application</td>
<td>$50,000</td>
<td></td>
</tr>
<tr>
<td>City of San Diego</td>
<td>San Diego River Bike Path Study</td>
<td>Incomplete Application</td>
<td>$45,000</td>
<td>$702,500</td>
</tr>
</tbody>
</table>
San Diego Association of Governments - TransNet Program

INDEPENDENT TAXPAYER
OVERSIGHT COMMITTEE

June 10, 2009

AGENDA ITEM NO.: 8

Action Requested: RECOMMEND

PROPOSED AMENDMENT TO SANDAG BOARD POLICY NO. 031:
TransNet ORDINANCE AND EXPENDITURE PLAN RULES

File Number 1110200

Introduction

SANDAG Board Policy No. 031 provides administrative requirements for implementing the TransNet Ordinance, including requirements for conducting the annual fiscal audits for TransNet recipients. Pursuant to the TransNet Extension Ordinance, the Independent Taxpayer Oversight Committee (ITOC) has the overall responsibility to conduct annual fiscal audits beginning with FY 2009. The proposed amendments to Policy No. 031 would revise sections of this policy to reflect the change of responsibility as well as provide additional clarification for various audit and Regional Transportation Congestion Improvement Program (RTCIP) practices.

Recommendation

The ITOC is asked to review and recommend to the Executive Committee and to the Board of Directors approval of the proposed changes to excerpts of SANDAG Board Policy No. 031, as shown in Attachment 1.

Discussion

The Ordinance states that:

ITOC shall prepare an annual report to the SANDAG Board of Directors presenting the results of the annual audit process. The report should include an assessment of the consistency of the expenditures of TransNet funds with the Ordinance and Expenditure Plan and any recommendations for improving the financial operation and integrity of the program for consideration by the SANDAG Board of Directors. This consistency evaluation will include a review of expenditures by project type for each local jurisdiction. The ITOC shall share the initial findings of the independent fiscal audits and its recommendations with the SANDAG Transportation Committee 60 days prior to their release to resolve inconsistencies and technical issues related to the ITOC’s draft report and recommendations. Once this review has taken place, the ITOC shall make any final amendments it deems appropriate to its report and recommendations, and adopt its report for submission directly to the SANDAG Board of Directors and the public. The ITOC shall strive to be as objective and accurate as possible in whatever final report it adopts. Upon completion by the ITOC, the report shall be presented to the SANDAG Board of Directors at its next regular meeting and shall be made available to the public.
While the TransNet Extension Ordinance provides requirements for conducting the annual TransNet compliance audits, additional clarification is needed to assist the ITOC, independent auditors, SANDAG staff, and the recipient agencies during the audit process. The proposed amendments to Policy No. 031, Rule #17: Fiscal and Compliance Audits (Rule #17), Rule #18: Local Street and Road Program (Rule #18), and Rule #23: TransNet Extension Ordinance Regional Transportation Congestion Improvement Program (RTCIP) requirements (Rule #23) include proposed changes and additional language that will add and clarify requirements specific to the TransNet Extension Ordinance, beginning with the FY 2009 compliance audits. The proposed amendments are shown in Attachment 1 and are summarized below.

Rule #17 proposed amendments: The ITOC is required to share the initial findings of the fiscal audits and its recommendations with the SANDAG Transportation committee 60 days prior to their release. Once this review has taken place, the ITOC shall make any final amendments to its annual report and make it available to the SANDAG Board of Directors and the public in June of each year (pending approval of the Ordinance amendment by the Board of Directors at its July 10, 2009, meeting, which changes this date from November to June). This required time schedule shortens the audit process period and therefore no longer allows for granting of audit issuance extensions to the recipient agencies. The proposed amendments to Rule #17 reflect this revised timeframe.

A comparison of the current audit schedule to the proposed schedule in Rule #17, Section I: Fiscal and Compliance Audit Procedures, is as follows:

<table>
<thead>
<tr>
<th>Procedure</th>
<th>Current Schedule</th>
<th>Proposed Schedule</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>ITOC/SANDAG coordinate with auditors</td>
<td>July/August</td>
<td>July/August</td>
<td></td>
</tr>
<tr>
<td>Auditor site visits</td>
<td>September - November</td>
<td>September - November</td>
<td></td>
</tr>
<tr>
<td>RTCIP audit documents deadline</td>
<td>N/A</td>
<td>December 1</td>
<td>No later than December 1 per amended TransNet Extension Ordinance pending Board approval at July 10, 2009, meeting</td>
</tr>
<tr>
<td>Preliminary draft audit reports issued to SANDAG and recipient agencies</td>
<td>November/December</td>
<td>November/December</td>
<td>Recipient agencies have four weeks to resolve all outstanding issues</td>
</tr>
<tr>
<td>Auditors prepare draft audit reports</td>
<td>N/A</td>
<td>February</td>
<td>Time allowance for auditors to format draft audit reports &amp; for the auditors and ITOC to prepare the annual report to the Board</td>
</tr>
<tr>
<td>Auditors issue a report of compliance audit results to ITOC</td>
<td>February</td>
<td>March</td>
<td></td>
</tr>
<tr>
<td>Auditor’s report of compliance audit results to ITOC</td>
<td>N/A</td>
<td>March</td>
<td>Auditors present to ITOC</td>
</tr>
<tr>
<td>ITOC presents draft audit report findings and recommendations to Transportation Committee (TC)</td>
<td>N/A</td>
<td>March</td>
<td>Must have 60 days prior to ITOC final audit report issuance per the TransNet Extension Ordinance</td>
</tr>
<tr>
<td>Final audit report issuance (no extension)</td>
<td>March 31</td>
<td>May</td>
<td>ITOC May meeting for June 1 deadline per the TransNet Extension Ordinance</td>
</tr>
<tr>
<td>Extension final audit report issuance</td>
<td>April 30</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>RTCIP &amp; ITOC annual report to Board</td>
<td>N/A</td>
<td>June</td>
<td>June Board meeting</td>
</tr>
</tbody>
</table>
Other changes to Rule #17 of Board Policy No. 031 are the further clarifications to Section III: Audit Adjustments and additional requirements to Section IV: Local Agency Balance Limitations requiring recipient agencies to certify that they are in compliance with the 30 percent threshold requirement and will remain in compliance until the next audit is completed. This will allow them to cure the audit deficiency and receive their TransNet funds.

Rule #18 proposed amendments: Rule #18 provides further clarification regarding maintenance-related projects so that over the life of the TransNet program, local agencies do not cumulatively use more than 30 percent of their TransNet local street and road revenue for maintenance-related projects.

Rule #23 addition: Rule #23 is being added to Board Policy No. 031 to include the TransNet Extension Ordinance requirements related to the RTCIP. The proposed Rule #23 includes timing of recording exactions, a requirement that the exaction must be spent within seven years, permitted exceptions for certain situations such as litigation, bankruptcy, etc., procedures for writing off uncollectible amounts in certain situations, such as the developer never completes a project or goes bankrupt, and if a local agency is deemed non-compliant, procedures for reallocating the funding to the remaining local agencies in compliance.

Upon approval by the Board of Directors, the amended policy will be used to conduct the FY 2009 fiscal audits.

Attachment: 1. Excerpts of the proposed amendments to SANDAG Board Policy No. 031

Key Staff Contact: Lisa Kondrat-Dauphin, (619)699-1942, lko@sandag.org
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 #17: Fiscal and Compliance Audits

Adoption Date: November 18, 2005

Amendment: Amended at September 26, 2008, Board Meeting.

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 Plans (87-01 and 04-01).

Pursuant to the TransNet Extension Ordinance (04-01), the Independent Taxpayer Oversight Committee (ITOC) is responsible for the conduct of an annual fiscal audit and compliance audit of all TransNet-funded activities beginning with the FY 2009 audit. In order to complete the audits in a timely manner, the following estimated audit schedule is set forth:

A. July/August: ITOC designee and appropriate SANDAG staff meet and coordinate 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 and perform 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 preliminary draft reports to both SANDAG and the recipient agencies no later than December 31. The Recipient 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 of preliminary draft report issuance.

D. February: Auditors issue the draft audits to ITOC.

D. March: Auditors issue a report of compliance audit results, final draft reports, and present the annual report to ITOC at its March meeting.
E. April: ITOC presents initial finding(s) of the audit and its recommendations to the Transportation Committee.

E. May: ITOC issues all compliance reports and adopts the annual report.

F. June: The ITOC presents an annual report, which includes results of the annual audit and its process, to the SANDAG Board of Directors. Board with the results of the annual audit and its process.

ITOC Responsibility: In accordance with the ITOC Responsibilities Section of the attachment to Commission Ordinance CO-04-01 entitled “STATEMENT OF UNDERSTANDING REGARDING THE IMPLEMENTATION OF THE INDEPENDENT TAXPAYER OVERSIGHT COMMITTEE FOR THE TRANSNET PROGRAM”, ITOC will conduct an annual fiscal and compliance audit of all TransNet-funded activities using the services of an independent fiscal auditor to assure compliance with the voter-approved Ordinance and Expenditure Plan, and will prepare an annual report for presentation to the SANDAG Board of Directors that includes the results of the annual audit process.

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 draft is completed.

II. Ordinance Requirements

Section 4(C)(5) of the TransNet Extension Ordinance contains the fiscal and compliance audit requirements applicable beginning in FY 2009.

Section 8 of the Ordinance contains the Maintenance of Effort requirements for the local agencies.

Section 9 of the Ordinance and the attachment “TransNet EXTENSION REGIONAL TRANSPORTATION CONGESTION IMPROVEMENT PROGRAM” contain the Regional Transportation Congestion Improvement Program (RTCIP) requirements for the local agencies.

Section 11 of the Ordinance and the attachment to Commission Ordinance CO-04-01 entitled “STATEMENT OF UNDERSTANDING REGARDING THE IMPLEMENTATION OF THE INDEPENDENT TAXPAYER OVERSIGHT COMMITTEE FOR THE TRANSNET PROGRAM” contains the ITOC spending requirements.

Section 12 of the Ordinance contains the Administrative Expenses requirements for SANDAG.
III. 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 written request for an extension to be reviewed by ITOC and considered by the SANDAG Transportation Committee, including an explanation of the situation and specific timelines for completion of the audit.

IV. Audit Adjustments

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:

A. 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).

1. Completed projects: After the projects are completed and there are funds remaining, the agency is required to return the money back 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, including interest earned, to the Commission. 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.

2. Projects with negative balances: if a project ending balance is negative, then a footnote should be provided detailing the subsequent year’s intended action.

3. 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.

B. This section applies to funding allocated for the specified projects under the 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:
1. 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.

2. Projects with negative balances: if a project ending balance is negative, then a footnote should be provided detailing the subsequent year’s intended action.

3. 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.

4. Transfer of funds: any transfer of TransNet funds from one project to another requires the local agency to provide documentation that its governing body consents to the transfer proposed prior to or concurrent with the final issuance of the fiscal year audit. Such documentation shall consist of a signed staff report or resolution. Transfers that require an amendment to the RTIP must follow the amendment process outlined in Rule #7.

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. The recipient agency’s Director of Finance, or equivalent, submits to SANDAG a certification that the unused balance has fallen below the 30 percent threshold, and will remain below the threshold until such time that a new threshold is determined.

V. Annual Fiscal Audit Report to the Board

Pursuant to the TransNet Extension Ordinance, beginning with the FY 2009 audits, ITOC is responsible for the annual fiscal and compliance audit of all TransNet-funded activities.

Rule #18: Local Street Improvement and Road Program

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.
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 TransNet carry-over balances) beginning with July 1, 2008 (Fiscal Year 2008-09).

It is the intent of this Section that over the life of Ordinance 04-01, local agencies do not cumulatively use more than 30 percent of the revenues for maintenance-related projects.

Rule #23: Application of TransNet Extension Ordinance Regional Transportation Congestion Improvement Program (RTCIP) Requirements

Adoption Date: July 10, 2009

A. Section 9 of Ordinance 04-01 provides that starting on July 1, 2008, each local agency in the San Diego region shall contribute $2,000 in exactions from the private sector, for each newly constructed residential housing unit in that jurisdiction to the RTCIP. Each agency is required to establish its own collection program, known as its RTCIP Funding Program. Each jurisdiction is required to either establish a new Fund for the RTCIP or to set up accounts specific to the RTCIP for tracking purposes.

B. Local agencies, SANDAG staff, hired auditors, and the Independent Taxpayers Oversight Committee (ITOC) are subject to the timelines set forth in Rule #17, Section I (Fiscal and Compliance Audit Procedures) in this Board Policy, Ordinance 04-01, and the attachment to Ordinance 04-01 entitled “REGIONAL TRANSPORTATION CONGESTION IMPROVEMENT PROGRAM” (RTCIP Attachment). Section 9 of Ordinance 04-01 states that any local agency that does not provide its “full” RTCIP contribution in a given fiscal year will not be eligible to receive funding for local streets and roads for the immediately following fiscal year. It further provides that any funding not allocated under 4(D)(1) as a result of this requirement shall be reallocated to the remaining local agencies that are in compliance with Section 9. This Rule #23 is intended to provide clarification regarding how this language will be implemented.

1. By June 30 of each year, which is the last day of SANDAG’s fiscal year, each local agency must record as revenue, the full amount of each RTCIP exaction due for any new residential unit subject to the RTCIP within its jurisdiction. This means that if the RTCIP exaction is not yet collected, the local agency should invoice, but does not need to collect all of the RTCIP exactions due in a given fiscal year by June 30. Each local agency may choose when the exaction is due, but in no event can the local agency allow a residential unit subject to the RTCIP to be occupied by a resident prior to receipt of the RTCIP exaction. The local agency must record the revenue in the fiscal year the exaction is due according to its Funding Program or when the revenue is received, whichever occurs first.

2. Section G(4) of the RTCIP Attachment states that each local agency shall have up to, but no more than seven years after receipt of the revenue to expend the revenues on Regional Arterial System or regional transportation infrastructure projects. To ensure consistency in implementation, this provision shall mean that the seven year term shall begin on the July 1 following the date on which the local agency recorded the
exaction as revenue or received the revenue, whichever occurred first. If it is not spent within seven years it will be subject to the reallocation process in Section G(4) of the RTCIP Attachment.

3. Pursuant to Ordinance 09-01, which amended Ordinance 04-01, the audit reports for all RTCIP Funding Programs are to be completed by June of the fiscal year immediately following the end of the fiscal year being audited. If during the audit process it is determined that a local agency failed to collect the full amount of exactions due under its Funding Program, the local agency may cure the defect by recording the amount due as an account receivable for the fiscal year being audited and avoid losing its TransNet funding. If the local agency has already closed out its books for the fiscal year being audited by the time the RTCIP audit discloses the defect, the local agency may record the revenue and cure the defect in the current fiscal year in order to avoid losing its TransNet funding. The seven year period discussed in Section B(2) of this Rule will commence from the fiscal year in which the revenue is recorded if this latter situation occurs.

4. The following exceptions will be permitted to the requirement that each local agency record as revenue, the full amount of each RTCIP exaction due for any new residential unit subject to the RTCIP within its jurisdiction by the June 30 deadline. These exceptions are permissible because the purpose of the RTCIP exactions is to mitigate residential traffic impacts on the regional transportation infrastructure. If a new unit subject to the RTCIP is not occupied this impact does not occur.

   a. If litigation, bankruptcy, or other similar situation occurs that delays occupation of a new residential unit pending resolution by the courts or another body assigned to resolve the dispute, and the local agency has invoiced, but been unable to collect amounts due under its Funding Program, the local agency may delay recording the account receivable until the outcome is known or the unit is occupied, whichever occurs first. The local agency shall provide documentation to the auditor establishing litigation, bankruptcy, etc. has occurred that has precluded the local agency from collecting the exaction.

   b. If a local agency records an RTCIP exaction as revenue and subsequently determines that the amount is uncollectible (i.e., the developer never completes the project or goes bankrupt), the local agency may write-off the RTCIP exaction until such time, if ever, the unit is occupied and subject to the RTCIP. The local agency shall provide documentation to the auditor establishing that the write-off was justified.

5. Due to the timeline for completion of RTCIP audits, it may be up to one year after the fiscal year being audited has ended before ITOC adopts a final report that includes a finding that a local agency failed to provide the full amount of RTCIP exactions due under its Funding Program. During this interim audit period, SANDAG will make the payments due to local agencies for local streets and roads pursuant to Section 4(D)(1) of Ordinance 04-01 in good faith by presuming that the audit will establish each local agency is in compliance. If, however, the audit establishes a local agency did not provide its full monetary contribution under the RTCIP and the local agency does not cure defects of which it was notified by the time the audit is finalized and adopted by the ITOC, then the local agency will have forfeited its Section 4(D)(1) contribution.
Any amount paid to the local agency in the fiscal year following the year that was the subject of the audit will be retroactively owed to the Commission. SANDAG will deduct any such amount, with interest at the monthly Local Agency Investment Fund (LAIF) rate. This amount will be deducted from the local agency annual allocation during the next fiscal year in which the local agency is eligible for Section 4(D)(1) funding.
PROPOSED AMENDMENT TO THE TransNet EXTENSION ORDINANCE REGARDING AUDIT REPORTING FOR THE REGIONAL TRANSPORTATION CONGESTION IMPROVEMENT PROGRAM

Introduction

The TransNet Extension Ordinance (Commission Ordinance 04-01) includes language requiring that all local jurisdictions have their Regional Transportation Congestion Improvement Program (RTCIP) financial records available for audit by July 1 of each calendar year. The timing of this deadline creates complications and inefficiencies because it is not aligned with the fiscal audit process. Therefore, it is proposed that the audit requirements for the RTCIP be aligned with the annual fiscal and compliance audit requirements for the TransNet program. This proposal was presented to the Transportation Committee at its June 5, 2009, meeting (Attachment 1) and staff will present the results of that presentation to the ITOC.

Recommendation

The ITOC is asked to recommend that the Board of Directors approve Commission Ordinance 09-01 as an amendment to Commission Ordinance 04-01 (“Amendment”) in substantially the same form as contained in Attachment 1. The ITOC is further asked to recommend that the Board of Directors approve a one-time extension of time to September 1, 2009, for jurisdictions to submit financial records pertaining to their RTCIP Funding Programs for review and audit in order to allow sufficient time for the proposed Amendment to be reviewed and potentially approved.

Attachment:  1. Agenda Item No. 4 of June 5, 2009, Transportation Committee Meeting

Key Staff Contact: Charles “Muggs” Stoll, (619) 699-6945, mst@sandag.org
PROPOSED AMENDMENT TO THE TransNet EXTENSION ORDINANCE
REGARDING AUDIT REPORTING FOR THE REGIONAL TRANSPORTATION
CONGESTION IMPROVEMENT PROGRAM

Introduction

The TransNet Extension Ordinance (Commission Ordinance 04-01) includes language requiring that all local jurisdictions have their Regional Transportation Congestion Improvement Program (RTCIP) financial records available for audit by July 1 of each calendar year. The timing of this deadline creates complications and inefficiencies because it is not aligned with the fiscal audit process. Therefore, it is proposed that the audit requirements for the RTCIP be aligned with the annual fiscal and compliance audit requirements for the TransNet program.

Discussion

The existing TransNet Extension Ordinance (CO-04-01) includes the following language in Sections G(2) and G(5) of its attachment entitled “TransNet Extension Regional Transportation Congestion Improvement Program:"

Section G(2): Each jurisdiction shall determine its own schedule for collecting and/or contributing private sector exactions to its Funding Program. This schedule shall be kept up-to-date and provided to SANDAG and the Independent Taxpayers Oversight Committee each year at the time of the annual review and audit. Each jurisdiction must submit its Funding Program documents, including an expenditure plan and financial records pertaining to its Funding Program, to the Independent Taxpayer Oversight Committee for a review and audit by July 1 of each year beginning July 1, 2009. The Taxpayer Independent Oversight Committee shall review each jurisdiction’s Funding Program consistent with its auditing role as described in Section 11 of the Ordinance and the Statement of Understanding referenced in that Section.

Section G(5): The Independent Taxpayers Oversight Committee identified in Section 11 of the Ordinance shall be responsible for issuing an annual audit statement on each jurisdiction’s compliance with requirements of Section 9 of the TransNet Ordinance by October 1 of each year beginning October 1, 2009.

Recommendation

The Transportation Committee is asked to recommend that the Board of Directors approve Commission Ordinance 09-01 as an amendment to Commission Ordinance 04-01 ("Amendment") in substantially the same form as Attachment 1. The Transportation Committee is further asked to recommend that the Board of Directors approve a one-time extension of time to September 1, 2009, for jurisdictions to submit financial records pertaining to their RTCIP Funding Programs for review and audit in order to allow sufficient time for the proposed Amendment to be reviewed and potentially approved.
will report to the Board on the RTCIP and the annual audit statement in November of each year beginning in November 2009.

Should jurisdictions be required to meet the reporting dates of July 1 for submittal of their Funding Program documents and financial records for review and audit by the Independent Taxpayer Oversight Committee (ITOC), it would not be coordinated with the fiscal audit process that also is required for all jurisdictions. That process calls for financial records to be ready for review and audit between September 1 and December 1 of each year and that a report to the Board of Directors on the final fiscal audit be made in June of each year. Furthermore, the requirement to provide financial records for audit for a fiscal year ending on June 30 by July 1 does not provide sufficient time for the jurisdictions to comply.

The TransNet Extension Ordinance also includes the following language regarding the intent of the ITOC as a functional partner to SANDAG:

“Cost-efficient—it is the intent that the ITOC will not add cost burden to SANDAG’s implementation of the TransNet program and projects. Rather, through a cooperative and productive working relationship between ITOC and the SANDAG implementation team, it is the objective that costs will be saved.”

By linking the RTCIP and fiscal audit processes, there are clear efficiencies that can be gained in overall audit costs. The auditors can visit and report on jurisdictions only one time, rather than multiple times throughout the year. The financial staff at all of the jurisdictions would gain efficiencies as well by only having to prepare for the audit process one time per year.

The proposed Amendment would accomplish two changes to deadlines. The first, in Section G(2) of the TransNet Extension Regional Transportation Congestion Improvement Program, would change the deadline for jurisdictions to provide documentation regarding their Funding Programs to the ITOC from July 1 to December 1 of each year. Amendments to Board Policy No. 031 are also proposed that would include additional preliminary deadlines for the jurisdictions to provide RTCIP information to SANDAG. A draft of the proposed changes to Sections I and II of Rule #17 of Board Policy No. 031 regarding audit timing and the RTCIP is provided as Attachment 2 to this report as additional information.

The second deadline change proposed in the Amendment is in Section G(5). This change would result in the ITOC’s deadline for issuing an annual audit statement on each jurisdiction’s compliance with requirements of the RTCIP moving from October 1 of each year beginning October 1, 2009, to June 1 of each year beginning June 1, 2010. These new dates would give sufficient time for the ITOC to review and process the audit of the RTCIP Funding Programs at the same time the fiscal audit process occurs. Additionally, the current deadline for staff to report to the Board of Directors on the RTCIP would be shifted from every year in November, starting in November 2009, to every year in June, starting in June 2010.

The proposed Amendment will be presented to the ITOC at its June 10, 2009, meeting for recommendation to the Board of Directors. It is anticipated that the Board of Directors will hold a First Reading of the Amendment and consider the one-time extension of the July 1 deadline currently in the Ordinance at its June 26, 2009, business meeting. The proposed changes to Board Policy No. 031 also will be taken to the Executive Committee on June 12, 2009, and then to the
Board at its June 26, 2009, business meeting. The Board could then hold a Second Reading and consider approval of the Amendment and changes to Board Policy No. 031 at its July 10, 2009, policy meeting.

A one-time extension of the deadline for the RTCIP financial records to September 1, 2009, will be requested from the Board of Directors on June 26, 2009, in order to align the audit process for the current year and allow sufficient time for the Board of Directors to consider the amendments discussed in this report. The one-time deadline extension and the Amendment are consistent with the intent of the Ordinance to promote efficiency and will not interfere with RTCIP funding or substantive compliance with the terms of the Ordinance concerning the RTCIP.

CHARLES “MUGGS” STOLL
TransNet Program Manager

Attachments: 1. Draft of Commission Ordinance No. CO-09-01
               2. Draft of Proposed Amendments to Sections I and II of Rule #17 of Board Policy No. 031

Key Staff Contact: Charles “Muggs” Stoll, (619) 699-6945, mst@sandag.org
COMMISSION ORDINANCE NO. CO-09-01

AN ORDINANCE OF THE SAN DIEGO COUNTY REGIONAL TRANSPORTATION COMMISSION AMENDING COMMISSION ORDINANCE CO-04-01 TO REVISE THE FINANCIAL REPORTING PROCEDURES FOR THE REGIONAL TRANSPORTATION CONGESTION IMPROVEMENT PROGRAM (RTCIP)

The SAN DIEGO COUNTY REGIONAL TRANSPORTATION COMMISSION ordains as follows:

Section 1. That Section G(2) and G(5) of the attachment to Commission Ordinance CO-04-01 entitled “TransNet EXTENSION REGIONAL TRANSPORTATION CONGESTION IMPROVEMENT PROGRAM” is hereby amended to read as follows:

Section G(2): Each jurisdiction shall determine its own schedule for collecting and/or contributing private sector exactions to its Funding Program. This schedule shall be kept up-to-date and provided to SANDAG and the Independent Taxpayers Oversight Committee each year at the time of the annual review and audit. Each jurisdiction must submit its Funding Program documents, including an expenditure plan and financial records pertaining to its Funding Program, to the Independent Taxpayer Oversight Committee for a review and audit by December 1 of each year beginning December 1, 2009. The Taxpayer Independent Oversight Committee shall review each jurisdiction’s Funding Program consistent with its auditing role as described in Section 11 of the Ordinance and the Statement of Understanding referenced in that Section. (Change underlined)

Section G(5): The Independent Taxpayers Oversight Committee identified in Section 11 of the Ordinance shall be responsible for issuing an annual audit statement on each jurisdiction’s compliance with requirements of Section 9 of the TransNet Ordinance by June 1 of each year beginning June 1, 2010. SANDAG will report to the Board on the RTCIP with the annual fiscal audit statement in June of each year beginning in June 2010. (Change underlined)
PASSED AND ADOPTED by the San Diego County Regional Transportation Commission, State of California, on July 10, 2009, by the following vote:

AYES:

NAYS:

ABSENT:

_________________________________________
Chairperson
San Diego County Regional Transportation Commission

Attest:

__________________________________________
(Signature)

__________________________________________
Executive Director
TRANSEN FUND 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 #17: Fiscal and Compliance Audits

Adoption Date: November 18, 2005

Amendment: Amended at September 26, 2008, July 10, 2009 Board Meeting.

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 Plans (87-01 and 04-01).

Pursuant to the TransNet Extension Ordinance (04-01), the Independent Taxpayer Oversight Committee (ITOC) is responsible for the conduct of an annual fiscal audit and compliance audit of all TransNet-funded activities beginning with the FY 2009 audit. In order to complete the audits in a timely manner, the following estimated audit schedule is set forth:

A. July/August: ITOC designee and appropriate SANDAG staff meet and coordinate 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 and perform 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 preliminary draft reports to both SANDAG and the recipient agencies no later than December 31. The Recipient 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. February: Auditors issue the draft audits to ITOC.

E. March: Auditors issue final draft reports and present the annual report to ITOC at its March meeting.
E. April: ITOC presents initial finding(s) of the audit and its recommendations to the Transportation Committee at its first meeting in April.

F. June: ITOC issues all compliance reports and adopts the annual report. The presents an ITOC annual report, which includes results of the annual audit and its process, is presented to the SANDAG Board of Directors. Board with the results of the annual audit and its process.

ITOC Responsibility: In accordance with Section 11 of the TransNet Extension Ordinance, ITOC will conduct an annual fiscal and compliance audit of all TransNet-funded activities using the services of an independent fiscal auditor to assure compliance with the voter-approved Ordinance and Expenditure Plan, and will prepare an annual report for presentation to the SANDAG Board of Directors that includes the results of the annual audit process.

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

Recipient Agency Responsibility: All recipient 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.

II. Ordinance Requirements to Which Audit Procedures in Section I of This Rule Apply

Section 4(C)(5) of the TransNet Extension Ordinance contains the fiscal and compliance audit requirements applicable beginning in FY 2009.

Section 8 of the Ordinance contains the Maintenance of Effort requirements for the local agencies.

Section 9 of the Ordinance contains the Regional Transportation Congestion Improvement Program (RTCIP) requirements for the local agencies.

Section 11 of the Ordinance contains the ITOC spending requirements.

Section 12 of the Ordinance contains the Administrative Expenses requirements for SANDAG.
Five Key Points from the May 13, 2009 ITOC meeting
SANDAG and the City of Santee Responses

1. Include in the agenda report the fiscal advantage of this action
- **General advantages of the CP program:**
  - Accelerating the delivery of *TransNet*-funded S&R/LSI projects
  - Historically significantly lower cost of capital than fixed rate bonds
  - Flexibility to refinance
  - Advantage of the current low construction bid environment by advancing the construction of the *TransNet*-funded projects

- **Repayment of ten years vs. five years**
  - Additional funding capacity for street rehabilitation projects
  - Cost of approximately $7.2 million for five year repayment period
  - Forester Creek Improvement Project not as planned
    - 5,248 foot bridge would have been required to span the floodplain
    - Cost of $67 million

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2. **Establish reasonable criterion for repayment, such as limiting the extension for repayment to 10 years**
- Currently up to five years
- Keep the CP program flexible and advantageous
- Special circumstances will be reviewed and may warrant a request for an exception to Rule #16 for a longer repayment period

3. Include the criterion that if a jurisdiction loses eligibility for *TransNet* in any year, repayment of the borrowed funds would occur in full in that year
Attachment 1 includes the following language:

“In the event City becomes ineligible for TransNet funding in any year in which repayment is due to SANDAG under this Agreement, City shall pay the full amount owed SANDAG for borrowed funds for that year within thirty days of receiving written notice from SANDAG “

4. Include an analysis of all other potential funding sources or lack thereof
- General Fund - Fiscal year operating deficit in excess of $1.2 million and the deficit is expected to increase next year
- Redevelopment Fund - Below $2 million with declining property tax revenues
- Drainage Development Impact Fees - Mission Gorge Road Drainage Improvement project and Corrugated Metal Pipe Replacement project shortfall
- Traffic Mitigation Development Impact Fees - Olive Lane Widening project shortfall
- Numerous federal and state grants pursued since late 2005 with no success.

5. Clearly state that the capacity calculation is from the congestion relief portion of TransNet Local Street and Road funds
Attachment 4 footnote:

The analysis assumes 100% of the estimated TransNet revenues during the repayment periods are Congestion Relief.
Debt Program Update

June 2009

SANDAG Debt Structure

- $100 million commercial paper program; Citigroup
  - Dexia Liquidity

- $600 million swaps:
  - Goldman Sachs
  - Merrill Lynch
  - Bank of America

- $600 million of variable rate debt:
  - Goldman Sachs and Barclays (replacing Lehman)
    - JP Morgan Liquidity
  - DeLaRosa (replacing UBS) and JP Morgan
    - Dexia Liquidity
Existing LIBOR/SIFMA Swaps

SANDAG

Series 2008 Bonds

Goldman Sachs (50%) and Merrill Lynch (50%) 3.8165%

65% of LIBOR
Converts to SIFMA Municipal Swap Index in 2018

SANDAG Variable Rate, Net of LIBOR Receipt Compared to Swap Payment and 30 Year Fixed Rate Bond Index
Debt Program Update

June 2009
Independent Taxpayer Oversight Committee

Item No. 8

Proposed Amendment to the TransNet Extension Ordinance Audit Reporting for the Regional Transportation Congestion Improvement Program (RTCIP)

TransNet Extension Ordinance Fiscal Audit – RTCIP Coordination Schedule

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<th>Existing RTCIP Deadlines</th>
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<td>July-August</td>
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<td>2. Auditor Site Visits</td>
<td>September-November</td>
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<td>3. Financial Records Deadline</td>
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<td>4. Draft Audit Reports to SANDAG and Jurisdictions</td>
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<td>5. Finalize Audit Issues with Recipient Agencies</td>
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<td>6. Annual Report Preparation</td>
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<td>7. Draft Audit Reports and Annual Report to ITOC and TC (60-day review)</td>
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<td>9. Final Audit and Annual Reports Presented to BOD</td>
<td>June</td>
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TransNet Extension Ordinance - Existing

“Each jurisdiction shall determine its own schedule for collecting and/or contributing private sector exactions to its Funding Program. This schedule shall be kept up-to-date and provided to SANDAG and the Independent Taxpayers Oversight Committee each year at the time of the annual review and audit. Each jurisdiction must submit its Funding Program documents, including an expenditure plan and financial records pertaining to its Funding Program, to the Independent Taxpayer Oversight Committee for a review and audit by July 1 of each year beginning July 1, 2009. The Taxpayer Independent Oversight Committee shall review each jurisdiction’s Funding Program consistent with its auditing role as described in Section 11 of the Ordinance and the Statement of Understanding referenced in that Section.”

Section G(2) of RTCIP Attachment

TransNet Extension Ordinance - Proposed

“Each jurisdiction shall determine its own schedule for collecting and/or contributing private sector exactions to its Funding Program. This schedule shall be kept up-to-date and provided to SANDAG and the Independent Taxpayers Oversight Committee each year at the time of the annual review and audit. Each jurisdiction must submit its Funding Program documents, including an expenditure plan and financial records pertaining to its Funding Program, to the Independent Taxpayer Oversight Committee for a review and audit by July December 1 of each year beginning July December 1, 2009. The Taxpayer Independent Oversight Committee shall review each jurisdiction’s Funding Program consistent with its auditing role as described in Section 11 of the Ordinance and the Statement of Understanding referenced in that Section.”

Section G(2) of RTCIP Attachment
"The Independent Taxpayers Oversight Committee identified in Section 11 of the Ordinance shall be responsible for issuing an annual audit statement on each jurisdiction’s compliance with requirements of Section 9 of the TransNet Ordinance by October 1 of each year beginning October 1, 2009. SANDAG will report to the Board on the RTCIP and the annual audit statement in November of each year beginning in November 2009."

Section G(5) of RTCIP Attachment

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"The Independent Taxpayers Oversight Committee identified in Section 11 of the Ordinance shall be responsible for issuing an annual audit statement on each jurisdiction’s compliance with requirements of Section 9 of the TransNet Ordinance by October June 1 of each year beginning October 1, 2009 June 1, 2010. SANDAG will report to the Board on the RTCIP and with the annual fiscal audit statement in November June of each year beginning in November 2009 June 2010."

Section G(5) of RTCIP Attachment
Next Steps

• First Reading by Board of Directors at June 26 meeting
• Second Reading and Approval by Board of Directors at July 10 meeting
• Give direction to auditors in July-August 2009

Recommendation

The Transportation Committee is asked to recommend that the Board of Directors approve Commission Ordinance 09-01 as an amendment to Commission Ordinance 04-01 ("Amendment") in substantially the same form as Attachment 1.

The Transportation Committee is further asked to recommend that the Board of Directors approve a one-time extension of time to September 1, 2009, for jurisdictions to submit financial records pertaining to their RTCIP Funding Programs for review and audit in order to allow sufficient time for the proposed Amendment to be reviewed and potentially approved.
Independent Taxpayer Oversight Committee

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June 10, 2009