EXECUTIVE COMMITTEE AGENDA

Friday, November 5, 2010
9 to 10 a.m.
SANDAG, 7th Floor Conference Room
401 B Street
San Diego

AGENDA HIGHLIGHTS

- ANNUAL REVIEW AND PROPOSED AMENDMENTS TO BOARD POLICIES AND BYLAWS
- DRAFT 2011 LEGISLATIVE PROGRAM
- FEDERAL AND STATE LEGISLATIVE STATUS REPORTS

PLEASE TURN OFF CELL PHONES DURING THE MEETING

MISSION STATEMENT
The 18 cities and county government are SANDAG serving as the forum for regional decision-making. SANDAG builds consensus, makes strategic plans, obtains and allocates resources, plans, engineers, and builds public transit, and provides information on a broad range of topics pertinent to the region’s quality of life.
Welcome to SANDAG. Members of the public may speak to the Executive Committee on any item at the time the Committee is considering the item. Please complete a Speaker’s Slip, which is located in the rear of the room, and then present the slip to Committee staff. Also, members of the public are invited to address the Committee on any issue under the agenda item entitled Public Comments/Communications/Member Comments. Speakers are limited to three minutes. The Executive Committee may take action on any item appearing on the agenda.

This agenda and related staff reports can be accessed at www.sandag.org under meetings on SANDAG’s Web site. Public comments regarding the agenda can be forwarded to SANDAG via the e-mail comment form also available on the Web site. E-mail comments should be received no later than noon, two working days prior to the Executive Committee meeting. Any handouts, presentations, or other materials from the public intended for distribution at the Executive Committee meeting should be received by the Clerk of the Board no later than 12 noon, two working days prior to the meeting.

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

SANDAG offices are accessible by public transit. Phone 511 or see 511sd.com for route information.
## EXECUTIVE COMMITTEE
Friday, November 5, 2010

<table>
<thead>
<tr>
<th>ITEM #</th>
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<td>2.</td>
<td>APPROVAL OF OCTOBER 8, 2010, MEETING MINUTES</td>
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2. PUBLIC COMMENTS/COMMUNICATIONS/MEMBER COMMENTS

Members of the public shall have the opportunity to address the Executive Committee on any issue within the jurisdiction of the Committee that is not on this agenda. Anyone desiring to speak shall reserve time by completing a “Request to Speak” form and giving it to the Clerk prior to speaking. Public speakers should notify the Clerk if they have a handout for distribution to Committee members. Speakers are limited to three minutes. Committee members also may provide information and announcements under this agenda item.

### REPORTS (3 through 6)

<table>
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<tr>
<th>ITEM #</th>
<th>RECOMMENDATION</th>
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3. ANNUAL REVIEW AND PROPOSED AMENDMENTS TO BOARD POLICIES AND BYLAWS (Julie Wiley)

The General Counsel has attached a draft of amendments to current Board Policies proposed by staff over the past year or that are appropriate for updating purposes. The Executive Committee is asked to discuss the proposed amendments to the Board Policies (as shown in Attachments 1 to 8 of the report), and to either recommend that the Board of Directors approve the proposed amendments, or direct staff to return to the Executive Committee for further discussion or review. Additionally, an annual review of Board Policy Nos. 003: Investment Policy, and 032: San Diego County Regional Transportation Commission Interest Rate Swap Policy was conducted as required by the Board.

4. DRAFT 2011 LEGISLATIVE PROGRAM (Genevieve Morelos)

Each year, the Executive Committee recommends a legislative program in a priority order to the Board of Directors for the next calendar year. Consistent with past programs, the draft Legislative Program includes policies and proposals for possible federal and state legislation, and local activities. The Executive Committee is asked to review and discuss the draft 2011 Legislative Program.
5. **LEGISLATIVE STATUS REPORTS** (Victoria Stackwick and Genevieve Morelos)  
**INFORMATION**

+A. FEDERAL LEGISLATIVE STATUS

This report summarizes the status of the FY 2011 federal budget, recent federal grant activity, and the National Environmental Policy Act Delegation Pilot Program.

+B. STATE LEGISLATIVE STATUS

This report summarizes the FY 2010-2011 state budget. Staff also will provide an oral update on the status of the November 2, 2010, ballot initiatives.

+6. **REVIEW OF NOVEMBER 19, 2010, DRAFT BOARD AGENDA**  
(Renée Wasmund)  
**APPROVE**

7. **UPCOMING MEETINGS**  
**INFORMATION**

The next meeting of the Executive Committee is scheduled for Friday, December 3, 2010, at 9 a.m. *(first Friday of the month due to the Christmas holiday).*

8. **ADJOURNMENT**

+ next to an agenda item indicates an attachment
* next to an agenda item indicates a San Diego County Regional Transportation Commission item
Chair Lori Holt Pfeiler (North County Inland) called the Executive Committee meeting to order at 9:05 a.m. The attendance sheet for the meeting is attached.

1. APPROVAL OF MINUTES

Upon a motion by First Vice Chair Jerome Stocks (North County Coastal) and a second by Major Jim Janney (South County), the minutes of the September 10, 2010, Executive Committee meeting were unanimously approved.

2. PUBLIC COMMENTS/COMMUNICATIONS/MEMBERS COMMENTS

David Krogh, a member of the public, commented that the South Bay Expressway is a vital public policy issue in the South Bay, and that the infrastructure is being underutilized. Current toll pricing is a significant disincentive for use of this roadway. He urged the consideration of making transponders free and pricing tolls at a low enough level so the public will use the facility.

REPORTS (3 through 5)

3. NOVEMBER 2, 2010, BALLOT INITIATIVES (DISCUSSION/POSSIBLE ACTION)

Genevieve Morelos, Senior Legislative Analyst, provided a summary of various statewide and countywide propositions on the November 2, 2010, general election ballot. The Executive Committee was asked to discuss whether to take a position on Proposition 22, the Local Taxpayer, Public Safety, and Transportation Protection Act of 2010.

Committee discussion ensued on Proposition 22.

Action: Upon a motion by Supervisor Pam Slater-Price (County of San Diego), and a second by First Vice Chair Stocks, the Executive Committee voted to take a support position on Proposition 22, the Local Taxpayer, Public Safety, and Transportation Protection Act of 2010.

Ms. Morelos also provided information on Propositions 23, 25, and 26.

Council President Ben Hueso (City of San Diego) stated that Proposition 21 is under the purview of SANDAG, and provided an argument in favor of a support position for the measure; he moved that action. Committee members discussed the pros and cons of the ballot measure; however, due to the lack of a second for the motion, no action was taken.
4. SERVICE BUREAU FY 2010 YEAR-END REPORT (INFORMATION)

SANDAG Board Policy requires that the Executive Committee, which governs the SANDAG Service Bureau, receive periodic progress reports on the project activities and financial status of the Service Bureau. Cheryl Mason, Senior Regional Economic Analyst, summarized Service Bureau activities during FY 2010 and planned Service Bureau activities for FY 2011.

Action: This report was presented for information only.

5. REVIEW OF OCTOBER 22, 2010, DRAFT BOARD AGENDA (APPROVE)

Renée Wasmund, Chief Deputy Executive Director, reviewed the draft agenda for the Board of Directors meeting on Friday, October 22, 2010, and noted any changes since the mail-out.

Action: Upon a motion by Supervisor Slater-Price, and a second by First Vice Chair Stocks, the Executive Committee approved the agenda for the Board of Directors meeting on Friday, October 22, 2010, as revised.

6. UPCOMING MEETINGS

The next meeting of the Executive Committee is scheduled for Friday, November 5, 2010, at 9 a.m. (first Friday due to Thanksgiving holiday).

7. ADJOURNMENT

Chair Pfeiler adjourned the meeting at 9:42 a.m.

Attachment: Attendance Sheet
<table>
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<tr>
<th>GEOGRAPHICAL AREA</th>
<th>JURISDICTION</th>
<th>NAME</th>
<th>MEMBER/ ALTERNATE</th>
<th>ATTENDING</th>
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<tr>
<td>North County Inland</td>
<td>City of Escondido</td>
<td>Lori Holt Pfeiler, Chair</td>
<td>Member</td>
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<td>City of Poway</td>
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<td>Don Higginson</td>
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<td>North County Coastal</td>
<td>City of Encinitas</td>
<td>Jerome Stocks, 1st Vice Chair</td>
<td>Member</td>
<td>Yes</td>
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<td>City of Carlsbad</td>
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<td>Matt Hall</td>
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<td>South County</td>
<td>City of National City</td>
<td>Ron Morrison</td>
<td>Member</td>
<td>Yes</td>
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<td>City of Imperial Beach</td>
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<td>Jim Janney</td>
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<td>East County</td>
<td>City of Santee</td>
<td>Jack Dale, 2nd Vice Chair</td>
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<td>City of Lemon Grove</td>
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<td>Mary Sessom</td>
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<td>Jerry Sanders</td>
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<td></td>
<td></td>
<td>Ben Hueso</td>
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<td></td>
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<td>Tony Young</td>
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</tr>
<tr>
<td>County of San Diego</td>
<td></td>
<td>Pam Slater-Price</td>
<td>Member</td>
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<td></td>
<td></td>
<td>Bill Horn</td>
<td>1st Alternate</td>
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</tr>
<tr>
<td></td>
<td></td>
<td>Greg Cox</td>
<td>2nd Alternate</td>
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San Diego Association of Governments

EXECUTIVE COMMITTEE

November 5, 2010

AGENDA ITEM NO.: 3

Action Requested: DISCUSSION/POSSIBLE ACTION

ANNUAL REVIEW AND PROPOSED AMENDMENTS
TO BOARD POLICIES AND BYLAWS

File Number 8000100

Introduction

Each year the Office of General Counsel solicits requests from staff for any suggested changes to Board Policies and Bylaws and reviews these documents to determine if updates or changes should be recommended to the Board of Directors. These proposed amendments are attached and are brought to the Executive Committee for discussion and possible recommendation to the Board of Directors.

Recommendation

The Executive Committee is asked to discuss the proposed amendments to the Board Policies (Attachments 1 to 8), and to either recommend that the Board of Directors approve the proposed amendments, or direct staff to return to the Executive Committee for further discussion or review.

Discussion

The significant changes for each of the Board Policies proposed for amendment are discussed below. The actual language changes are tracked in the attached draft versions of the Board Policies. Staff is not recommending any changes to the Bylaws this year.

Board Policy No. 002 – Policies and Procedures for Policy Advisory Committees (Attachment 1)

The proposed change to this policy is a correction to Section 1.5 to accurately reflect that one of the nonvoting Advisory Member seats is held by a person from San Diego County Public Safety instead of the Probation Department.

Board Policy No. 003 – Investment Policy (Attachment 2)

The first proposed change in this policy is in Section 5.1, which concerns delegation by the Board of Directors to the Executive Director to invest or to reinvest funds, or to sell or exchange securities. Currently, the language calls for the Board of Directors to renew its delegation on an annual basis. This renewal requirement has caused confusion with entities in which SANDAG invests, and therefore staff recommends that the renewal requirement be removed.

In Section 8.6.4, staff recommends stating criteria for use of rating agencies instead of naming particular rating agencies in order to allow other nationally recognized rating agencies such as Fitch to be used. This same change is recommended for Section 8.7 and 8.10.1.

The Finance Department also recommends modifying Section 8.11 such that the State of California’s Local Agency Investment Fund (LAIF) and the San Diego County Treasurer’s Pooled Investment Fund may be invested in for the benefit of local agencies up to the current limit set by LAIF. The LAIF maximum was increased to $50 million from $40 million for regular accounts, and this policy carried the set ceiling of $40 million.
Finally, Section 12.2 is proposed to be amended in order to avoid any potential ambiguity and explicitly state what investments are exempted from the policy’s custody requirements due to the nature of the investment.

Board Policy No. 007 – Equal Employment Opportunity (EEO) Programs (Attachment 3)

An addition to Section 1.2 is proposed to establish that SANDAG employment practices prohibit discrimination based on genetic information as required by the federal Genetic Information Nondiscrimination Act.

Board Policy No. 016 – Procurement of Services (Attachment 4)

Changes to Section 7, concerning conflicts of interest, are proposed for addition to this policy. In the process of creating new procurement and contracting templates for use of the design-build project delivery method at SANDAG, legal counsel reviewed this policy and recommended that the changes to this section be made in order to reduce risk to SANDAG and clarify for consultants the types of scenarios that would pose a conflict of interest for SANDAG.

Board Policy No. 024 – Procurement and Contracting - Construction (Attachment 5)

Last year language was removed from Board Policy No. 016 to remove an exception from the conflict of interest provisions for service contracts. That same provision also occurs in Section 6.1.3 of Board Policy No. 024 and should have been removed last year. To correct for this oversight, staff recommends removing Section 6.1.3 from Board Policy No. 024 so that it is consistent with Board Policy No. 016. Because the design-build project delivery method combines engineering, design and construction elements, provisions relating to design-build are included in both Board Policy No. 016 concerning procurement of services as well as this policy. In order to make this connection clearer, changes are proposed to Sections 6.1 and 8 of this policy so that the provisions are consistent with or cross-reference the related provisions in Board Policy No. 016.

Board Policy No. 027 – Transportation Development Act (Attachment 6)

Changes are proposed to Sections 6.2.2 and 7 as recommended by the auditors that conducted the last Triennial Transportation Development Act (TDA) Audit at SANDAG. Both of the changes are minor updates to ensure consistency between the policy and TDA regulations.

Board Policy No. 028 – Asset Ownership and Disposition (Attachment 7)

This policy was first adopted in 2004 just after consolidation pursuant to Senate Bill 1703 and has not been updated since that time. In 2004, staff only anticipated transfers of property between SANDAG and the transit operators. In the last year there have been situations when transfers of property to other entities such as SANDAG member agencies have been appropriate. Proposed amendments to this policy would clarify that transfers to other property owners would be acceptable. In addition, this policy has provisions in it that are redundant in some respects with language in the Master Memorandum of Understanding (MOU) between SANDAG, Metropolitan Transit System (MTS), and North County Transit District (NCTD). Staff proposes removing these redundancies and clarifying that an addendum to the MOU is not required for every project with MTS or NCTD since there are times when a blanket agreement covering multiple projects can be accomplished with a single addendum.

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

Staff proposes modifying Rule 17 (Fiscal and Compliance Audits) in this policy in order to assist the staff of the member agencies in their compliance efforts with certain TransNet audit requirements.
Specifically, an addition to the audit schedule is proposed in Section I to remind member agencies that the Regional Transportation Congestion Improvement Program (RTCIP) expenditure plan and financial records must be submitted for a review and audit by December 1 each year (this change also is reflected in Rule 23 in this policy). Changes to Section III A (1) and (3) are proposed in order to clarify audit requirements for the timing of the return of funds to the Commission for completed and inactive TransNet projects in accordance with the TransNet Ordinances. Section III B also contains changes that are intended to clarify audit requirements regarding interest earnings for completed and inactive TransNet projects in accordance with the TransNet Ordinances. This section further clarifies that transfers between TransNet projects must be in accordance with the 30 percent maintenance limitation for the Local Street and Road Program per the TransNet Extension Ordinance. Substantive additions also are proposed for Rule #23 (Application of TransNet Extension Ordinance RTCIP Requirements). These changes would make the same clarifications regarding the audit schedule and requirements described above for Rule #17. Proposed amendments to this policy will be taken to the Independent Taxpayer Oversight Committee for review on November 10, 2010, due to its ties to the TransNet Extension Ordinance.

Annual Policy Reviews

All Board Policies are typically reviewed on an annual basis for potential changes, but two policies have specific requirements for annual review. These are Board Policy Nos. 003 and 032. Proposed amendments to Board Policy No. 003 are discussed above. Board Policy No. 032, entitled “San Diego County Regional Transportation Commission Interest Rate Swap Policy,” was reviewed by staff and the SANDAG Financial Advisor, Public Financial Management, and no changes are recommended at this time.

JULIE D. WILEY
General Counsel

2. Board Policy No. 003 – Investment Policy
4. Board Policy No. 016 – Procurement of Services
5. Board Policy No. 024 – Procurement and Contracting – Construction
6. Board Policy No. 027 – Transportation Development Act
7. Board Policy No. 028 – Asset Ownership and Disposition
8. Board Policy No. 031 – TransNet Ordinance and Expenditure Plan Rules

Key Staff Contact: Julie D. Wiley, (619) 699-6966, jwi@sandag.org
POLICIES AND PROCEDURES FOR POLICY ADVISORY COMMITTEES

1. Membership

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

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

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

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

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

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

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

3. Ex Officio Members

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

4. Appointments

4.1 Public Agencies

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

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

4.2 Associate Members

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

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

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

4.3.1 County Criminal Justice Association – 1 advisory member

4.3.2 Federal Justice Agency Association – 2 advisory

4.3.3 Courts – 1 advisory member

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

5. **Vacancies**

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

6. **Chair/Vice Chair**

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

7. **Attendance**

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

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

8. Quorum

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

9. Voting

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

10. Compensation

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

11. Meetings

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

12. Working Groups & Subcommittees

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

Adopted January 2003
Amended December 2003
Amended November 2004
Amended December 2005
Amended December 2006
Amended December 2010
INVESTMENT POLICY

1. Introduction

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

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

2. Scope

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

3. Prudence

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

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

4. Objectives

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

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

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

5. Delegation of Authority

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

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

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

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

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

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

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

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

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

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

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

8. **Permitted Investment Instruments**

8.1 The portfolio shall be diversified by security type and institution to avoid incurring unreasonable and avoidable risks regarding specific security types or individual financial institutions. Government Code §53601 states that when there is a percentage limitation for a particular category of investment, that percentage is applicable only at the date of purchase. Credit requirements listed in the investment policy apply at the time of purchase. In the event a security held by SANDAG is subject to a credit rating change that brings it below the minimum credit ratings specified for purchase, the Director of Finance shall review the security. The course of action to be followed will then be decided by the Director of Finance and either the Executive Director or the Chief Deputy Executive Director on a case-by-case basis, considering such factors as the reason for the change, prognosis for recovery or further rate drops, and the market price of the security. Any credit rating changes below the minimum credit ratings specified for purchase will be reported to the Board of Directors with the next Quarterly Investment Report, along with the findings and any actions taken.

8.2 **Treasury Obligations:** Government obligations for which the full faith and credit of the United States are pledged for the payment of principal and interest.
8.3 **Federal Agencies and U.S. Government Sponsored Enterprises:** Federal agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises.

8.4 **State of California Obligations:** Registered treasury notes or bonds of any of the 50 United States, including bonds payable solely out of revenues from a revenue-producing property owned, controlled, or operated by a state or by a department, board, agency or authority of any of the states. Such obligations must be rated A-1/P-1, or equivalent or better short-term; or Aa/AA or better long-term by at least one of the nationally recognized statistical-rating organizations.

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

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

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

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

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

8.6.4 SANDAG may enter into Repurchase Agreements with (1) primary dealers in U.S. Government securities who are eligible to transact business with, and who report to, the Federal Reserve Bank of New York, and (2) California and non-California banking institutions having assets in excess of $1 billion and in the highest short-term rating category, as provided by one of the nationally recognized statistical-rating organizations, Moody’s Investors Service, Inc. or Standard & Poor’s Corporation.
8.6.5 SANDAG will have properly executed a Securities Industry and Financial Markets Association (SIFMA) agreement with each firm with which it enters into Repurchase Agreements.

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

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

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

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

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

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

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

Purchase of medium-term corporate notes may not exceed 30 percent of the agency's surplus money. No more than 10 percent of SANDAG surplus funds may be invested in the Medium-Term Notes of any one corporation.
8.10 **Certificates of Deposit:** The maximum term for certificates of deposit shall be one-year. The combined amount invested in negotiable certificates of deposit and certificates of deposit shall not exceed 30 percent of SANDAG surplus money.

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

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

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

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

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

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

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

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

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

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

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

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

(a) Reverse repurchase agreements.

(b) “Complex” derivative securities such as range notes, dual index notes, inverse floating-rate notes, leveraged or deleveraged floating-rate notes, or any other complex variable-rate or structured note.
(c) Interest-only strips that are derived from a pool of mortgages, or any security that could result in zero interest accrual if held to maturity.

(d) Securities lending.

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

9. Maximum Maturity

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

9.2 Where the investment policy does not specify a maximum remaining maturity at the time of the investment, no investment shall be made in any security, other than a security underlying a repurchase agreement, that at the time of the investment has a term remaining to maturity in excess of five years, unless the Board has granted express authority to make that investment either specifically or as a part of an investment program approved by the Board no less than three months prior to the investment. The Board authorizes the investment of endowment funds in securities exceeding five (5) years, as long as the investment has been approved by the Director of Finance and either the Executive Director or the Chief Deputy Executive Director, and the maturity of such investments does not exceed the expected use of funds.

10. Performance Standards

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

11. Reporting Requirements

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

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

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

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

12.2 The only exception to the foregoing shall be securities purchased with: (i) LAIF, (ii) San Diego County Treasurer’s Investment Pool, (iii) CAMP pool, (iv) Nonnegotiable Certificates of Deposit, (v) bank deposits and local government investment pools, and (vi) money market mutual funds, since the purchased securities are not deliverable. The Director of Finance shall keep a record of any funds in any of these investments.

Adopted January 2003
Amended November 2004
Amended September 2005
Amended December 2007
Amended July 2008
Amended July 2009
Amended December 2010
EQUAL EMPLOYMENT OPPORTUNITY (EEO) PROGRAM

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

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

Procedures

1. EEO Program

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

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

   1.3 It is SANDAG policy to require the contractors and consultants that it contracts with to have EEO policies in place that forbid discrimination in violation of Title VII.

   1.4 SANDAG maintains a Disadvantaged Business Enterprises (DBE) Program that is approved annually by the California Department of Transportation. The DBE Program sets forth annual goals for participation by DBE businesses.
1.5 Responsibility for implementation of the EEO Program is assigned to the Director of Administration. All management personnel within SANDAG are expected to support and implement this EEO Program in performance of their job duties and responsibilities. Any employee or applicant who feels they have been discriminated against, has a right to file a complaint under SANDAG policies.

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

2. **Procedures**

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

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

2.3 The Director of Administration will maintain current contact lists of community resource organizations, community leaders, media sources, and colleges/vocational schools for the use of SANDAG staff in recruiting for employees, consultants, and contractors.

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

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

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

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

2.8 The Director of Administration will maintain records on recruitment efforts, new employees, promotional opportunities, and employee separations which document whether the affected individuals are in a class protected by Title VII.

2.9 In January of each year, the Board of Directors will review an EEO report prepared by the Director of Administration. The report will include employment results, DBE Program results, and a review of EEO Program goals for the upcoming year.

2.10 This EEO Program will be posted in the employee lounge and will be incorporated into the SANDAG employee Web site.
2.11 All employment ads and job postings will contain a reference that SANDAG is an equal employment opportunity employer.

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

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

Adopted June 2003
Amended November 2004
Amended December 2005
Amended December 2006
Amended December 2008
Amended December 2010
PROCUREMENT OF SERVICES

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

Procedures

1. Micro Purchase Agreements ($3,000 or less). These procedures apply to the procurement of all services.
   1.1 For purchases below $3,000 a micro purchase procurement method may be used. A micro purchase is a noncompetitive purchase technique; however, the price of the item must still be fair and reasonable.
   1.2 There should be equitable distribution among qualified service providers in the local area and no splitting of procurements to avoid competition.
   1.3 A bid is only required from the vendor of choice and a purchase order, invoice, or simple letter agreement may be used instead of the standard services agreements.

2. Small Purchase Agreements ($3,001 - $100,000). These procedures apply to the procurement of all services excluding Section 4525 Services.
   2.1 If the estimated value of the contract is $100,000 or less, staff may select a qualified proposer whose proposal is most advantageous to the Board, price and all other factors considered, with the approval of their division director or department director.
   2.2 The Executive Director shall determine the selection procedure for contracts valued between $3,001 and $100,000 to distribute work in a fair and equitable manner.
Prior approval of the selection procedure shall be obtained from the applicable level of management. An informal competitive process shall be followed with price, rate quotations or best value obtained from an adequate number of qualified sources to ensure that SANDAG is obtaining a fair and reasonable price. The informal competitive process must be documented by staff. In obtaining price or rate quotations, a scope of work shall be developed and supplied to all bidders.

3. Major Service Agreements ($100,001 and greater). These procedures apply to the procurement of all services, except Section 4525 Services, of $100,001 or more and procurement of Section 4525 Services in excess of $3,001.

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

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

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

3.1.1.2 All evaluation factors and their relative importance.

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

3.1.2 Notice of the professional services required shall be published at least once in a newspaper of general circulation in San Diego County and in one or more Disadvantaged Business Enterprises (DBE)/Small business directed newspapers and in such other minority or community newspapers as appropriate in San Diego County, at least three weeks before the proposal due date. The notice shall state that SANDAG is interested in receiving responses from qualified firms, and indicate how additional information can be obtained, and the time and place for receiving responses.

3.1.3 Notice shall also be sent to firms or individuals previously known to be interested in providing the required services, including small and emerging businesses on SANDAG various interested party lists, and to appropriate DBE firms or individuals listed in the SANDAG vendor database and the California Unified Certification Program (CUCP) Database.

3.1.4 Responses to an RFP/RFQ shall list all proposed subconsultants and subcontractors, their area of the work, and identify which of them are certified DBEs.
3.1.5 Responses to an RFP/RFQ shall include a detailed cost estimate.

3.1.5.1 For Section 4525 Services, separately bound or sealed cost proposals shall be submitted as part of the process and shall not be opened until after the evaluation committee has ranked the proposers. Cost proposals shall be excluded as an evaluation factor and will only be used by the Executive Director, when negotiating within the prescribed budget, except as provided in 3.1.5.2 below.

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

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

3.2 The top-ranked firm(s) shall then be interviewed, if deemed necessary. The final list of qualified firms shall be based on the response to the RFP/RFQ, references, the interview, and other relevant factors. Selection may be based on a best value determination. “Best value” means a value determined by objective criteria and may include, but is not limited to, price, features, functions, life-cycle costs, and other criteria deemed appropriate by SANDAG. The project manager will summarize the findings of the evaluation committee in a recommendation memo to the Executive Director. The memo shall include the evaluation committee’s recommendation for negotiations with one or more firms in the competitive range.

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

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

3.2.2.1 For contracts for Section 4525 Services, the separately submitted cost proposal shall be used as a basis for negotiation. Negotiations will be conducted by the Executive Director, and can include factors other than cost, such as staffing levels, project schedule, etc. Should negotiations fail, the Executive Director, will enter into negotiations with the next ranked firm. Once negotiations are complete, a contract incorporating the negotiated terms and conditions will be prepared for the approval of the Executive Director. Only the cost proposal of the firm in negotiations shall be opened. At the end of the process, all unopened cost proposals shall be disposed of or
returned unopened to the respective companies via certified mail. Alternatively, companies may, at their option, arrange to pick up their sealed cost proposals in person by contacting the SANDAG Contract Administrator.

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

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

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

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

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

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

“Pass/fail” criteria will be established by staff and clearly stated in the LOI/SOQ to be used as a screening of responses. Such criteria shall include, but not be limited to: adherence to project budget, insurance requirements, and DBE participation.
3.4.4 An evaluation committee will be formed, which should consist of SANDAG staff and at least one person from outside the agency.

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

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

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

5. Other Than Full and Open Competition

Normally, SANDAG will utilize a full and open competition when soliciting bids or proposals for procurements in excess of $100,000. Under certain circumstances, however, a procurement may be justified that does not utilize full and open competition. These procurements are known as limited competition procurements. When less than full and open competition is used, SANDAG shall solicit offers from as many potential sources as is practicable under the circumstances. Noncompetitive procurement is known as sole source procurement. Noncompetitive and limited competition procurements shall only be permitted when the conditions below are met.

5.1 When the project will be paid for in whole or in part by federal funds one of the conditions set forth below must be met:

5.1.1. Unique Capability or Availability. The services are only available from one source. Services are only available from one source if one of the conditions described below is present:

5.1.1.1. Unique or Innovative Concept. Staff can demonstrate that the service consists of a unique or innovative concept or capability not available from another source. Unique or innovative concept means either a new, novel, or changed concept, approach, or method that is the product of original thinking, the details of which are kept confidential or are patented or copyrighted, and is available to SANDAG only from one source and has not in the past been available to the recipient from another source; or

5.1.1.2. Patents or Restricted Data Rights. Patent or data rights restrictions preclude competition.
5.1.2 Substantial Duplication Costs. In the case of a follow-on contract for the continued development or production of highly specialized equipment and major components thereof, when it is likely that award to another contractor would result in substantial duplication of costs that are not expected to be recovered through competition.

5.1.3 Unacceptable Delay. In the case of a follow-on contract for the continued development or production of highly specialized equipment and major components thereof, when it is likely that award to another contractor would result in unacceptable delays in fulfilling SANDAG’s needs.

5.1.4 Single Bid or Proposal. Upon receiving a single bid or proposal in response to a solicitation, if staff determines that competition was adequate based on a review of the specifications for undue restrictiveness and/or a survey of potential sources that chose not to submit a bid or proposal.

5.1.5 Unusual and Compelling Urgency. SANDAG may limit the number of sources from which it solicits bids or proposals if staff documents that such an unusual and urgent need for the services exists that SANDAG would be seriously injured unless it were permitted to limit the solicitation. SANDAG also may limit the solicitation when the public exigency or emergency will not permit a delay resulting from competitive solicitation for the services.

5.1.6 Contractual Agreement. With some exceptions, when an agency awards a grant agreement or enters into a cooperative agreement with SANDAG for a project in which the funding agency has approved the participation of a particular firm or combination of firms in the project work, the grant agreement or cooperative agreement constitutes approval of those arrangements.

5.1.7 Circumstances authorized by Federal Acquisition Regulation Part 6.3 or the federal Common Grant Rules. Examples include a statutory authorization or requirement, compliance with Department of Transportation (DOT) appropriations laws that include specific statutory requirements, with the result that only a single contractor can perform certain project work.

5.1.8 National Emergency. To maintain a facility, producer, manufacturer, or other supplier available to provide supplies or services in the event of a national emergency or to achieve industrial mobilization.

5.1.9 Research. To establish or maintain an educational or other nonprofit institution or a federally funded research and development center that has or will have an essential engineering, research, or development capability.

5.1.10 Protests, Disputes, Claims, Litigation. To acquire the services of an expert or neutral person for any current or anticipated protest, dispute, claim, or litigation.
5.1.11 International Arrangements. When precluded by the terms of an international agreement or a treaty between the United States and a foreign government or international organization, or when prohibited by the written directions of a foreign government reimbursing the recipient for the cost of the acquisition of the supplies or services for that government.

5.1.12 National Security. When the disclosure of SANDAG’s needs would compromise the national security.

5.1.13 Public Interest. When SANDAG staff documents that full and open competition in connection with a particular acquisition is not in the public interest.

5.1.14 When Prohibited. Less than full and open competition is not justified under any circumstance based on:

5.1.14.1 Failure to Plan. Lack of advance planning.

5.1.14.2 Limited Availability of Federal Assistance. Concerns about the amount of federal assistance available to support the procurement (for example, expiration of federal assistance previously available for award).

5.2 When there are no federal funds involved one of the following additional factors may be utilized to justify a limited competition or sole source procurement:

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

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

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

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

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

6. General Conditions

6.1 In the event that circumstances dictate other than the processes indicated above for procurements that will exceed $100,000, prior Board concurrence shall be obtained following submittal of a written statement by staff setting forth the reasons for not pursuing all or part of any of the processes.
6.2 Where proposals received are deemed inadequate by the Executive Director, the Board may authorize a negotiated contract with a recommended firm based on a newly approved scope of services, performance schedule, and/or instructions and conditions.

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

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

6.5 For purchases in excess of $3,000 involving federal funds, all applicable federal requirements and certifications must be attached to the purchase order or contract. For purchases that exceed $50,000, a contract may be used in order to ensure provisions are included to protect the interests of SANDAG.

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

7. Conflicts of Interest

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

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

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

7.1.4 Any firm that assists SANDAG or any of its member or affiliated agencies in the preparation of a design-build RFP or RFQ document will not be allowed to participate as an offeror or join a team submitting a proposal in response to the design-build RFP or RFQ. SANDAG may in its sole discretion, however, determine there is not an organizational conflict of interest for a prospective design-build firm where:

7.1.4.1 The role of the firm was limited to provision of preliminary design, reports, or similar “low-level” documents that will be incorporated into the design-build RFP or RFQ, and did not include assistance in development of instructions to offerors or evaluation criteria; or

7.1.4.2 Where all relevant documents and reports delivered to the agency by the firm are made available to all offerors; or

7.1.4.3 The role of the firm was limited to preparation of a California Environmental Quality Act (CEQA) or National Environmental Policy Act (NEPA) document related to the design-build project where the CEQA and NEPA processes have been completed prior to issuance of the RFP and RFQ.

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

7.1.5.1 Persons employed by SANDAG;

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

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

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

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

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

7.4 A “firm” shall be defined as any company or family of companies where there is a single parent board of directors or staff of officers who can influence the policies and actions of the design company, construction management company, and the construction company. A “firm” also shall include any partnership, corporation, association, or other legal entity or any member of a joint venture that meets the above-stated definition.

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

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

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

7.8 SANDAG staff and third parties with whom SANDAG does business shall comply with SANDAG administrative policies concerning Standard of Conduct and all relevant Board Policies.
8. **Protests to Solicitation, Bid, or Award**

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

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

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

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

8.1.4 Requirements for submittal of protest reconsideration.

8.1.5 A statement regarding review of the initial protest by a protest review committee and review of protest reconsiderations by the Executive Director, as appropriate.

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

9.1 On all SANDAG services contracts estimated to cost more than $50,000, a section shall be included in the contract provisions that specifies how a consultant should file a "Notice of Potential Claim" and the procedures for review and disposition thereof.

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

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

9.4 If a consultant files an appropriate "Notice of Potential Claim," the administrative procedure shall be as follows:
9.4.1 SANDAG staff shall respond in writing within 25 calendar days with an appropriate decision. It is expected that SANDAG staff shall investigate the area of claim thoroughly and shall issue a decision that is fair to all parties. It is further expected that every effort will be made to resolve the claim at the job level.

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

9.4.3 The Executive Director shall direct the appropriate department director to obtain all pertinent information, including any oral or written presentation, concerning the claim the consultant might wish to present. The department director shall provide all information to the Executive Director, including any recommendations.

9.4.4 The Executive Director shall report a final decision in writing to the consultant. The written decision shall notify the consultant that this action completes the consultant's administrative remedies and any further dispute would have to be resolved by either a nonbinding Dispute Resolution Board or binding arbitration if provided for in the provisions of the contract and agreed to by both parties, or litigation.

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

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

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

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

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

10. Debarment Procedures for Service Contracts

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

10.1.1 unjustified failure or refusal to timely provide or properly execute contract documents;
10.1.2 unsatisfactory performance of contract;

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

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

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

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

10.1.7 conviction under a state or federal statute or municipal ordinance for fraud, bribery, theft, falsification or destruction of records, receiving stolen property or of any other similar crime;

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

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

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

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

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

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

10.5 Debarment constitutes debarment of all divisions or other organizational elements of the consultant, unless the development decision is limited by its terms to specific divisions, organizational elements, or commodities. The debarment decision may be extended to include any affiliate of the consultant if the affiliate is (1) specifically named, and (2) given written notice of the proposed debarment and an opportunity to respond.
10.6 Notwithstanding the debarment of the consultant, the Board may continue contracts in existence at the time the consultant is debarred, unless the Board directs otherwise, after receiving advice from the Executive Director as to the effects of termination of an existing agreement.

11. Contract Administration and Consultant Assurances

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

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

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

11.4 Consultants must provide the minimum scope of insurance as stipulated in the contract.

11.5 Consultants shall be required to provide Workers' Compensation Insurance to their employees in accordance with the provisions of Section 3700 of the Labor Code. Prior to commencement of work, the consultant shall be required to provide a certificate of compliance to SANDAG.

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

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

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

12. Amendments to Service Contracts

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

12.2 The Executive Committee or Transportation Committee or, if not practical, the Chairperson of the Board or either Vice Chairperson in the absence of the Chairperson, are hereby authorized to approve amendments that will cause the project budget to be changed in an amount exceeding $100,000 when waiting for Board approval could potentially delay a project or increase the cost of the change. Approval of such items by the Chairperson or a Vice Chairperson is not the preferred
practice and should only be used if a regular or special meeting of an authorized legislative body is infeasible or impractical. In such an instance, the Executive Director shall notify the Board of the Committee's action or Chairperson/Vice Chairperson's action at the next regular Board meeting.

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

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

Purpose

To establish a method for administering SANDAG construction contracts.

Background

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

Policy

1. Bidding Process

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

1.1. Bid Procedure for Small Contracts

1.1.1 For construction contracts estimated to cost $3,000 or less, the work may be awarded without competition so long as the price is determined to be fair and reasonable. Otherwise, staff shall seek a minimum of three bids which may be either written or oral to permit prices and other terms to be compared.

1.1.2 For construction contracts estimated to cost more than $3,000 but not more than $50,000, the following procedures shall be followed:

1.1.2.1 Written Notices Inviting Bids (NIBs) will be sent to a minimum of three qualified bidders by mail or facsimile on the same date. The bid period will be a minimum of three calendar days. When possible, NIBs should be sent to at least two certified Disadvantaged Business Enterprise (DBE) firms. The NIB will contain the time and location for receiving and opening bids.

1.1.2.2 The contract will be awarded to the lowest responsive and responsible bidder after a Notice of Intent to Award has been
issued to all bidders and a protest period of five working days has expired.

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

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

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

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

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

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

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

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

1.3. Contractor's Qualifications

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

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

1.4.1 SANDAG shall furnish each bidder with a standard proposal form, to be filled out, executed, and submitted as its bid.

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

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

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

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

1.5. Review of Bids

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

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

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

1.5.4 The lowest monetary bidder's bid will be evaluated by the Director in order to determine whether or not that bid is responsive. The term "responsive" is not defined by California law, but generally means that the bid has been prepared and submitted in accordance with the requirements of the
solicitation and bid documents. These requirements shall generally include, but will not be limited to, the following:

1.5.4.1 Proposal and Cost Proposal - with bid amounts filled in.
1.5.4.2 Designation of Subcontractors - including dollar amounts.
1.5.4.2 Designation of Suppliers and Subcontractors - including dollar amounts.
1.5.4.3 Acknowledgment of Addenda.
1.5.4.4 Contractor's License Requirements.
1.5.4.5 Ability to Meet Minimum Insurance Requirements.
1.5.4.6 Public Contract Code 10162 Questionnaire.
1.5.4.7 Bidder's Bond.
1.5.4.8 Noncollusion Affidavit.
1.5.4.9 Certification of Restrictions on Lobbying.
1.5.4.10 Disclosure of Lobbying Activities.
1.5.4.11 Certification Regarding Debarment

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

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

1.5.6.1 Financial Requirements:

1.5.6.1.1 Contractors shall have evidence of the availability of sufficient working capital;

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

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

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

1.5.6.2 Experience Requirements:

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

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

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

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

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

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

1.5.6.2.7 The contractor shall state whether they have been formally found to be a nonresponsible bidder, for reason other than being nonresponsive, by a public agency within the last two years;
1.5.6.2.8 The contractor shall list how many construction projects the bidder will be working on concurrently with the SANDAG project;

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

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

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

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

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

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

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

1.5.7 SANDAG will make its determination of responsibility based upon information submitted by bidders, and, if necessary, interviews with previous owners, clients, design professionals, or subcontractors with whom the bidder has worked. If a bidder is initially determined to be nonresponsible, it may submit additional evidence relating to its responsibility not later than five working days after receipt of notice of the initial finding of nonresponsibility. No additional evidence bearing on the bidder’s responsibility may be submitted after that point. Any additional evidence submitted in accordance with this policy shall be considered by
the Director in making the recommendation to the Executive Director regarding determination of the lowest responsive and responsible bidder and award of the contract.

1.6 Award or Rejection of Bids

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

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

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

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

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

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

1.6.7 For all contract awards in excess of $25,000, the successful bidder must furnish a performance bond equal to at least one-half of the contract price and a payment bond equal to one hundred percent of the contract price. Federally funded contract awards shall require a performance bond equal to one hundred percent of the contract price. Notwithstanding the foregoing, depending upon authorization from the funding source(s), the
performance and payment bond requirements may be modified within the Invitation for Bids with prior approval of the Director.

1.6.8 Failure to furnish the required bonds shall constitute failure to execute the contract.

1.7 Return of Bidder's Security

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

1.8 Protests to Solicitation, Bid, or Award

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

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

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

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

1.8.1.4 Requirements for submittal of a protest reconsideration.

1.8.1.5 A statement regarding review of the initial protest by a protest review committee and review of protest reconsiderations by the Executive Director, as appropriate.

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

1.9 Procedure for Subcontractor Substitution Protest

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

1.10 Procedure for Contractors with Claims Against SANDAG on Construction Contracts

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

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

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

1.11 Debarment Procedures for Procurement and Construction Contracts

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

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

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

1.11.1.3 unsatisfactory performance of contract;

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

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

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

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

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

1.11.1.10 any debarment of the contractor by another governmental agency; and

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

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

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

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

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

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

2. **Contract Administration and Contractor Assurances**

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

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

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

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

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

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

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

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

3. **Construction Contract Change Orders**

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

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

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

3.3.1 For purposes of this section, an emergency is defined as a sudden or unforeseen situation in which, in the Executive Director's opinion, injury to persons, or significant injury to property or interruption of a public service will occur if immediate action is not taken.
3.4 All change orders that conflict or potentially conflict with Board-adopted policies shall be brought before the Board for decision.

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

4. Other Than Full and Open Competition

Normally, SANDAG will utilize a full and open competition when soliciting bids or proposals for procurements in excess of $50,000. Under certain circumstances, however, a procurement may be justified that does not utilize full and open competition. These procurements are known as limited competition procurements. When less than full and open competition is used, SANDAG shall solicit offers from as many potential sources as is practicable under the circumstances. Noncompetitive procurement is known as sole source procurement. Noncompetitive and limited competition procurements shall only be permitted when the conditions below are met.

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

4.1.1 Unique Capability or Availability. The services are only available from one source. Services are only available from one source if one of the conditions described below is present:

4.1.1.1 Unique or Innovative Concept. Staff can demonstrate that the service consists of a unique or innovative concept or capability not available from another source. Unique or innovative concept means either a new, novel, or changed concept, approach, or method that is the product of original thinking, the details of which are kept confidential or are patented or copyrighted, and is available to SANDAG only from one source and has not in the past been available to the recipient from another source; or

4.1.1.2 Patents or Restricted Data Rights. Patent or data rights restrictions preclude competition.

4.1.2 Substantial Duplication Costs. In the case of a follow-on contract for the continued development or production of highly specialized equipment and major components thereof, when it is likely that award to another contractor would result in substantial duplication of costs that are not expected to be recovered through competition.

4.1.3 Unacceptable Delay. In the case of a follow-on contract for the continued development or production of highly specialized equipment and major components thereof, when it is likely that award to another contractor would result in unacceptable delays in fulfilling SANDAG’s needs.
4.1.4. Single Bid or Proposal. Upon receiving a single bid or proposal in response to a solicitation, if staff determines that competition was adequate based on a review of the specifications for undue restrictiveness and/or a survey of potential sources that chose not to submit a bid or proposal.

4.1.5. Unusual and Compelling Urgency. SANDAG may limit the number of sources from which it solicits bids or proposals if staff documents that such an unusual and urgent need for the services exists that SANDAG would be seriously injured unless it were permitted to limit the solicitation. SANDAG may also limit the solicitation when the public exigency or emergency will not permit a delay resulting from competitive solicitation for the services.

4.1.6. Contractual Agreement. With some exceptions, when an agency awards a grant agreement or enters into a cooperative agreement with SANDAG for a project in which the funding agency has approved the participation of a particular firm or combination of firms in the project work, the grant agreement or cooperative agreement constitutes approval of those arrangements.

4.1.7. Circumstances authorized by Federal Acquisition Regulation Part 6.3 or the federal Common Grant Rules. Examples include a statutory authorization or requirement, compliance with Department of Transportation (DOT) appropriations laws that include specific statutory requirements, with the result that only a single contractor can perform certain project work.

4.1.8. National Emergency. To maintain a facility, producer, manufacturer, or other supplier available to provide supplies or services in the event of a national emergency or to achieve industrial mobilization.

4.1.9. Research. To establish or maintain an educational or other nonprofit institution or a federally funded research and development center that has or will have an essential engineering, research, or development capability.

4.1.10. Protests, Disputes, Claims, Litigation. To acquire the services of an expert or neutral person for any current or anticipated protest, dispute, claim, or litigation.

4.1.11. International Arrangements. When precluded by the terms of an international agreement or a treaty between the United States and a foreign government or international organization, or when prohibited by the written directions of a foreign government reimbursing the recipient for the cost of the acquisition of the supplies or services for that government.

4.1.12. National Security. When the disclosure of SANDAG’s needs would compromise the national security.

4.1.13. Public Interest. When SANDAG staff documents that full and open competition in connection with a particular acquisition is not in the public interest.
4.1.14. When Prohibited. Less than full and open competition is not justified under any circumstance based on:


4.1.14.2. Limited Availability of federal Assistance. Concerns about the amount of federal assistance available to support the procurement (for example, expiration of federal assistance previously available for award).

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

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

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

4.2.3. The cost to prepare for a competitive procurement exceeds the cost of the work.

5. Relief from Maintenance and Responsibility and Acceptance of Work

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

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

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

5.2.1.1. The contractor shall request acceptance in writing.

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

6. **Conflict of Interest**

6.1 A contractor is eligible for award of service contracts by SANDAG so long as the contract in question does not create an actual, potential, or apparent conflict of interest. A prohibited conflict of interest exists when, because of other activities, relationships, or contracts, a firm is or may be unable to render impartial, objective assistance or advice to SANDAG; or a firm’s objectivity in performing the contract work is or might be otherwise impaired; or where a firm would receive an unfair competitive advantage. Prohibited conflicts of interest include, but are not limited to, the following situations:

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

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

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

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

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

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

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

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

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

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

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

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

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

7. Job Order Contracting

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

7.1 General Requirements

7.1.1 Job Order Contract (JOCs) shall be awarded under written agreement subject to the following limitations:

7.1.1.1 The specifications were advertised in accordance with Board Policy No. 024, Section 1, “Bidding Process” based on the maximum potential value of the Job Order Contract (JOC).

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

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

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

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

7.2 Issuance of Job Orders

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

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

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

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

7.2.1.4 The entity or entities providing funds for the project have authorized use of the JOC process.
7.2.2 An individual Job Order may not exceed the sum of $2,000,000, except in the case of an emergency as defined in Section 3.3.1 of this Policy, or as specifically authorized by the Executive Director, whose authorization shall not be delegated.

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

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

7.3 Job Order Contract Intergovernmental Agreements

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

8. Design–Build Contracting

“Design–build” is a contract procurement process in which both the design and construction of a project are procured from a single entity. Notwithstanding Section 1 of this Policy, SANDAG is permitted to use the design–build contracting method on transit projects in accordance with Public Contracts Code section 20209.5 et seq. A competitive negotiation process similar to the process described in Board Policy No. 016 for the procurement of services will be used to procure design build services.

Adopted November 2003
Amended December 2006
Amended December 2007
Amended December 2008
Amended January 2010
Amended December 2010
TRANSPORTATION DEVELOPMENT ACT

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

Background

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

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

Procedures

1. Priorities for the Use of TDA Funds

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

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

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

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

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

\(^1\) All sections refer to the Public Utilities Code unless otherwise noted.
e. **Community Transit Services (Section 99233.7):** Within the San Diego region, five percent of the remaining money in the fund shall be available to MTS, NCTD and the Consolidated Transportation Service Agency (CTSA) to provide community transit services. Community transit service means transportation services that link intracommunity origins and destinations including services for those such as the disabled who cannot use conventional transit services.

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

g. **Express Bus Services (Section 99400.6):** Within the San Diego region, MTS and NCTD may file a claim for express bus services subject to specified conditions.

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

2. **County Auditor’s Responsibilities**

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

3. **Apportionment Schedule**

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

4. **Operator Claims**

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

   For Article 3 funds, eligible local agencies submit requests for funds through the Bicycle Pedestrian Working Group (BPWG). This policy discusses the general requirements, while detailed instructions are included in the TDA Manual.

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

4.2 Project Eligibility: Article 3 funds are designated for bicycle and pedestrian projects. Article 4 funds are used to provide general public transit services. Article 4.5 funds are designated for community transit services and, by SANDAG Board policy, are allocated within the San Diego region to support paratransit services required by the ADA. Article 8 provides special provisions to support express bus service, multimodal transit centers, and ferry service. Finally, the STA fund is a state program, administered locally, that provides additional support for public transit.

4.3 Farebox Recovery Ratio: Except for Article 3 projects, the commuter ferry service, and services provided by the Consolidated Transportation Service Agency (CTSA), all transit operators must maintain a certain ratio of fare revenue to operating cost (farebox recovery ratio as set forth in Section 6.2.1 of this policy.)

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

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

5. Article 3 - Bicycle and Pedestrian Claims

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

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

5.2 **Payment of Funds**: Payment of funds for bicycle and pedestrian projects will be made based on payment requests submitted to SANDAG.

5.3 **Project Completion**: Prior to the consideration of projects for the next fiscal year, the BPWG will review the status of each previously approved project that remains uncompleted. If a capital project has not maintained the schedule for project development provided in the claim documents, the BPWG will recommend that the Transportation Committee rescind the allocation for all unexpended funds. Projects for which funding has been rescinded may be resubmitted for future funding in a subsequent year. The BPWG may use its discretion to consider special circumstances that would warrant a recommendation to retain funding for projects that would otherwise be rescinded due to lack of progress. It will be the responsibility of the sponsoring agency to demonstrate that an exception is warranted. Funds from a rescinded allocation will be available for allocation to any eligible project under the normal review and allocation process. If a project has had no activity for the past two years and the sponsoring agency cannot provide sufficient documentation of project continuation, the agency will be requested to return any remaining funds. All returned funds will be re-allocated to other eligible projects.

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

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

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

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

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

6.2.1 **Farebox Recovery Ratio:** In order to qualify for TDA funds, an operator must maintain a certain ratio of fare revenue to operating cost (farebox recovery ratio). Under the provisions of Section 99269, all operators within the MTS service area are considered a single operator for meeting the farebox recovery ratio requirement. To be eligible for Article 4 funds, the farebox recovery ratio must equal or exceed the required ratio (see table below).

If an operator fails to maintain the required ratio, certain penalties apply (Section 99268.9). Should an operator’s service expand by more than 25 percent, the ratio requirement is waived for two years after the end of the fiscal year in which the expansion was implemented (Section 99268.8).

**Farebox Recovery Ratio Requirements**

<table>
<thead>
<tr>
<th>Operator</th>
<th>Required Ratio</th>
<th>PUC Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>MTS Area Operators*</td>
<td>31.9%</td>
<td>99269</td>
</tr>
<tr>
<td>NCTD</td>
<td>18.8%</td>
<td>99270.1</td>
</tr>
<tr>
<td>MTS Express</td>
<td>20.0%</td>
<td>99268.3</td>
</tr>
</tbody>
</table>

*MTS Operators = San Diego Transit, San Diego Trolley, Chula Vista Transit, MTS Contract Services,

6.2.2 **Staffing of Vehicles:** *Transit vehicles routinely staffed by more than two or more persons are prohibited* (Section 99262). *Transit vehicles routinely staffed by two or more persons are prohibited for any vehicle designed to be operated by 1 person* (Section 99264).

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

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

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

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

6.2.7 **Pull Notices:** Each operator must include a certification completed within the last 13 months from the Department of the California Highway Patrol indicating that the operator is in compliance with Section 1808.1 of the Vehicle Code (maintaining current driver records).
7. **Article 4.5 - Community Service Claims**

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

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

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

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

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

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

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

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

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

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

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

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

8. **Article 8 – Special Provisions**

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

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

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

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

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

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

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

1. To offset reductions in federal operating assistance.
2. To offset unanticipated increases in the cost of fuel.

3. To enhance existing public transportation services.

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

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

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

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

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

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

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

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

7. The operator is not precluded by any contract entered into on or after June 28, 1979, from employing part-time drivers or from contracting with common carriers of persons operating under a franchise or license (Section 99314.5(c)). However, no person who was a full-time employee of an operator on June 28, 1979, shall have his or her employment terminated or his or her regular hours of employment, excluding overtime, reduced by the operator as a result of it employing part-time drivers or contracting with those common carriers.
8. The operator has been certified within the last 13 months by the California Highway Patrol to be in compliance with Section 1808.1 of the Vehicle Code.

9. The operator is in compliance with the eligibility requirements of Section 99314.6 (STA Operator Qualifying Criteria).

10. **Transit Productivity Improvement Recommendations**

Pursuant to the provisions of Section 99244, SANDAG is responsible for identifying and recommending potential productivity improvements that can lower the operating costs of transit operators. The recommendations for improvements and productivity shall include, but not be limited to, those recommendations related to productivity made in the triennial performance audit pursuant to Section 99246. Performance improvement is best measured over a multi-year timeframe that focuses on longer term trends. In order to measure multi-year improvements, performance recommendations for fixed-route and demand response operators are divided into two categories: (1) performance improvement recommendations and (2) performance audit recommendations. The TDA Manual describes the requirements and forms to be submitted as part of the annual claim process.

11. **Additional Regulations**

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

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

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

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

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

5. **TDA Payment Schedules**: The SANDAG Executive Director determines the cash flow needs of individual TDA claimants and is directed to issue allocation instructions and payment schedules to the County Auditor that will meet said cash flow needs within the limits of available TDA monies and within the limits of individual claim amounts approved by the Board. Capital claims for fixed facilities shall be treated as reserves and paid on a progress-payment basis.
6. Article 4.5 Claimants - Farebox Recovery Requirements: Claimants of funds under Article 4.5 shall be in compliance with the applicable farebox recovery requirements as contained in Sections 99268.3, 99268.4, 99268.5, and 99268.9. However, for the purpose of meeting the farebox recovery requirement, an operator may include local support, as defined by CCR 6611.3, in the calculation. A CTSA performing coordination activities is exempt from any farebox recovery requirement.

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

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

Adopted February 2004
Amended December 2007
Amended December 2010
ASSET OWNERSHIP AND DISPOSITION

Purpose

This policy establishes guidelines and procedures for the ownership and disposal of SANDAG assets.

1. OWNERSHIP OF ASSETS

1.1 SANDAG, North San Diego County Transit Development Board ("NCTD"), and the Metropolitan Transit Development Board, a California Public Agency operating the Metropolitan Transit System ("MTS"), are parties to a Master Memorandum of Understanding (MOU), which among other things, describes the manner in which acquired real property and personal property will be owned and managed by the three agencies. This policy is consistent with the terms of the Master MOU and its addenda. In addition, from time to time a transfer of property from SANDAG to another entity will be appropriate if that entity will operate, maintain or have liability for the property.

1.2 Real Property

1.2.1 Real property currently owned by NCTD, and MTS, or an owner other than SANDAG ("Third Party Owner") prior to construction of a project by SANDAG shall be referred to as "Pre-Owned Property" will be retained by NCTD and MTS in this Policy.

1.2.2 When SANDAG constructs physical improvements on Pre-Owned Property, the real property, including the improvements constructed by SANDAG, will be owned by the Third Party Owner NCTD and MTS, unless otherwise agreed to in writing by the parties or prohibited by an entity funding the project.

1.2.2.1 To enable SANDAG to construct improvements on MTS or NCTD Pre-Owned Property, the parties will enter into one or more addenda to the Master MOU for each project that will set forth the legal rights and remedies between or among SANDAG and the affected operating agency(ies) ("Affected Parties") to enable SANDAG to construct the project and MTS and/or NCTD the operating agency to continue necessary operations during construction.

1.2.2.2 To convey improvements developed on Pre-Owned Property to NCTD and MTS, the Affected Parties may enter into one or more addenda to the Master MOU for each project that will set forth the legal rights and remedies amongst the parties to make the Affected Party operating agency responsible to operate and maintain the
property and allocate liability for claims involving the property to the operating agency.

1.2.3 When SANDAG constructs physical improvements to property acquired for the purpose of a project (“Subsequently Acquired Property”), the real property, including the improvements constructed by SANDAG, will be owned and operated by NCTD and MTS as may be transferred to the operating agency, another entity, if permitted by the funding source of the procurement, and unless otherwise agreed to by the parties. Notwithstanding the foregoing, the Affected Parties may agree to have one or more other entities other than NCTD or MTS own Subsequently Acquired Property.

1.2.3.1 To convey the real property including improvements developed on Subsequently Acquired Property to NCTD or MTS, the Affected Parties will enter into one or more addendums to the Master MOU for each project that will set forth the legal rights and remedies amongst the parties to make the operating agency responsible to operate and maintain the property, and allocate liability for claims involving the property to the operating agency.

1.2.3.2 In the event the Affected Parties agree that Subsequently Acquired Property may offer the opportunity to be further developed for other public transportation uses, SANDAG will retain the appropriate real property interest to enable it to develop such public transportation projects on the property in the future.

1.2.4 In the event real property is procured by SANDAG utilizing Federal Transit Administration (“FTA”) grants, said real property may be conveyed to NCTD or MTS or a Third Party Owner with FTA approval, and if not unless otherwise agreed to by the Affected Parties, and SANDAG will retain “satisfactory continuing control” within the meaning of the FTA regulations. The transfer mechanism for such property will be permitted by FTA regulations.

1.3 Personal Property

1.3.1 All property other than real property and its associated bundle of rights will be referred to herein as “Personal Property.” Personal property procured by NCTD and MTS will be owned by the procuring agency or owned in accordance with the provisions of a Joint Procurement Agreement.

1.3.2 Personal Property procured by SANDAG for the operating purposes of NCTD or MTS may be owned, operated and maintained by the operating agency if permitted by the funding source of the procurement, and if not unless otherwise agreed to by the Affected Parties.

1.3.3 To the extent the funding source of the procurement of Personal Property requires SANDAG to retain ownership, SANDAG may convey possession of the Personal Property to NCTD or MTS, one or more Third Party Owners.
pursuant to a lease which will obligate the Third Party Owner NCTD or MTS to operate and maintain the Personal Property and account for its use and maintenance. Said lease will require the operating agency to retain full responsibility for the operation, maintenance, and liability associated with the use and possession of the Personal Property.

1.3.4 In the event Personal Property is procured by SANDAG utilizing FTA grants, the Personal Property may be conveyed to a Third Party Owner NCTD or MTS unless otherwise agreed to by the Affected Parties with FTA approval, and SANDAG will retain "satisfactory continuing control" within the meaning of the FTA regulations. The transfer mechanism for such property will be permitted by FTA regulations if agreed to by the parties.

2. DISPOSITION PROCEDURES

2.1 SANDAG has various assets which, over time, will be deemed obsolete due to normal use and wear, or new technology, or no longer needed due to project completion, underutilization, or surplus status. Therefore, these assets become candidates for disposal. Laws governing SANDAG’s purchase of such assets require the use of a competitive procurement process. Likewise, the disposal or sale of property purchased with public funds should be done so in an open competitive process, unless the property will be assigned to government or nonprofit entities and designated for public purposes. It is SANDAG policy to capitalize assets with a unit purchase value of $5,000 or more. This policy is intended to ensure that when SANDAG disposes of personal assets or real property assets, it will be done in a manner which is in the best interests of SANDAG, within the standards and procedures set forth.

2.2 Surplus properties are made available for various public purposes, including negotiated sale to state and local governments and eligible nonprofit institutions, or are sold competitively to the general public. State and local governments, eligible public institutions, and nonprofit organizations may acquire Surplus Property that SANDAG no longer needs on terms that SANDAG’s Transportation Committee deems are in the best interest of SANDAG’s goals and public need.

2.3 Surplus property that is not conveyed to state/local governments or other eligible recipients for public purposes may be sold to private individuals and companies by competitive bid.

2.4 Methods. The method of disposal must be approved by the Transportation Committee for capital assets with an individual or aggregate depreciated value of $100,000 or more. For assets valued under $100,000, the Executive Director may authorize disposal and the method. In either case, such methods may include, but not be limited to, the following:

2.4.1 Trade-in allowance - provided that an independent appraisal is conducted to determine the value, or an analysis is conducted which certifies that the sale price is fair and reasonable.
2.4.2 Use of other government agency-sponsored competitive auctions, such as the County of San Diego.

2.4.3 Competitive sale.

2.4.4 Negotiated sale.

2.5 Competitive Sale. Under a competitive sale, the following procedures must be followed:

2.5.1 Notification to the public. This would include, at a minimum, the placing of an advertisement in a newspaper(s) of general circulation. The ad must specify the item(s) to be sold, the condition and the terms for the sale, and the date/time/place sealed bids are to be received.

2.5.2 All bids must be sealed.

2.5.3 Prospective bidders may be afforded an opportunity to view the item(s) being disposed.

2.5.4 Award. The award will be to the highest responsive, responsible bidder.

2.6 Negotiated Sale. Capital assets with an individual or aggregate value in excess of $100,000 may be disposed of on a negotiated sale basis provided a finding by the Transportation Committee by a two-thirds vote that special circumstances exist that make it in the best interest of SANDAG. Such circumstances may include the following:

2.6.1 Unique item(s) may have a limited resale market.

2.6.2 The financial interest of SANDAG would be best served by negotiation.

2.6.3 In the case of used buses, the Transportation Committee will give specific direction on the method of disposal to be followed on a case-by-case basis considering potential financial return and available alternatives, including the sale for scrap or other nonoperating purposes to avoid use of the vehicles and resultant air pollution in California and the San Diego region. A method of disposal may be approved even though the financial benefit may be less than other methods of disposal.

2.6.4 If approved, the Executive Director may be authorized to negotiate a sale price.

2.7 Ineligible Participants. SANDAG, NCTD, MTDB, SDTC, and SDTI employees, Board members and members of their immediate family may not participate in a competitive or negotiated sale of SANDAG capital assets.

2.8 Federal Grant Funded Assets. Capital assets which have been purchased with federal capital grant funds must be disposed of in a manner consistent with any applicable
laws, including FTA regulations. The proceeds from such disposal will be distributed in the percent of which was provided for the original purchase unless fully depreciated.

2.9 Fully Depreciated Capital Assets. Capital assets with a depreciated asset value of less than $1,000 may be disposed of by the least costly, most efficient method as determined by the Executive Director. For audit purposes, a memorandum must be filed which certifies the depreciated value of the asset and indicates the method of disposal (i.e., trash, destruction).

Adopted April 2004
Amended December 2010
**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) and amendments thereto.

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

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

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

**Rule #2: Loan of Funds for Privately Funded Projects**

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

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

**Text:**

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

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

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

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

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

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

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

**Text:**

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

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

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

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

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

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

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

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

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

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

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

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

4. The basic contribution for a Caltrans project on the SR 78 Corridor Reserve funded list is 100 percent of the estimated right-of-way, engineering, and construction costs.

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

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

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

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

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

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

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

9. Any new source of state highway funds for the San Diego region should be considered for allocation to the TransNet SR 78 Corridor Reserve to offset local funds which were used for projects which are normally the responsibility of the State, such as freeway-freeway interchange improvements and ramp metering systems.

Rule #5: Use of Local Street and Road TransNet Funds for the Development of Transportation Demand Management Programs

Adoption Date: August 25, 1989 (Resolution RC90-23)

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

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

Rule #6: Fund Accounting and Interest Allocation

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

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

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

Rule #7: Program of Projects Approval Process and Amendments

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


Text: Each local agency shall develop a five-year list of projects to be funded with TransNet revenues under Section 2D of Ordinance 87-1 and Section 4D of Ordinance 04-01 in accordance with the Regional Transportation Improvement Program (RTIP) update schedule. All projects a local agency wishes to include in its Program of Projects (POP) must be consistent with the long-range Regional Transportation Plan and approved by the Commission for inclusion in the RTIP. A local agency’s projects shall not receive Commission approval until the Commission receives a resolution from the local agency that documents that the local agency held a noticed public meeting with an agenda item that clearly identified the proposed list of projects prior to approval by the local agency’s legislative body of the projects. The language that must be included in the resolution and the deadlines for submission shall be prescribed by the Commission. The resolution shall contain the provisions set forth in Rule #15.

A POP amendment shall be initiated when a local agency desires to revise the approved POP, which includes but is not limited to, adding a new project, deleting an existing project, revising the project scope, or otherwise changing the TransNet funds programmed. A TransNet POP amendment must be consistent with the requirements outlined in the RTIP. Projects proposed in the amendment must first be approved by the governing body of the local agency within the preceding 12 months. The local agency shall initiate the amendment process by holding a noticed public meeting with an agenda item that clearly identifies the proposed project amendments and submitting a resolution using the language and deadlines prescribed by the Commission as documentation of governing body approval. The amendment must be approved by the Commission prior to the expenditure of funds on the new or amended projects.
Rule #8: Determination of New Transit Services

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

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

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

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

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

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

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

Rule #9: Use of TransNet Revenue for Bus Purchases

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

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

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

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

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

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

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

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

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

**Text:**

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

**Rule #11: Use of TransNet Revenues for Transportation Services for Seniors and the Disabled**

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

**Amendment:** Amended at the November 18, 2005, and December 21, 2007, Board Meetings

**Text:**

The funds made available under Section 4(B)(1) of Ordinance 87-1 or Section 4(c)(1) of Ordinance 04-01 for improved transportation services for seniors and the disabled shall be used to augment the revenues made available under the Transportation Development Act (TDA) Article 4.5 program for the same purposes. These TransNet funds shall be allocated to eligible service providers using the fund distribution formula approved by the SANDAG Board of Directors for use in distributing the TDA Article 4.5 funds. For accounting purposes, following the expenditure of fare revenues and other local and other local operating revenues, the interest earnings on the TransNet and TDA funds shall be considered to be spent first, followed by the TDA funds, then the TransNet funds.
Rule #12:  Use of TransNet Revenues for Accessibility Improvements

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

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

Rule #13:  Investments

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

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

Rule #14:  Capital Equipment Acquisition Loans to SANDAG

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

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

Rule #15:  Local Agency Hold Harmless Agreements

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

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

Rule #16:  Repayment of Commercial Paper Program Proceeds

Adoption Date: September 23, 2005

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

Text: Each agency receiving proceeds from the TransNet Commercial Paper Program shall be responsible for its proportionate share of the ongoing interest and related administrative costs from the date the proceeds are received until the principal amount of the loan is fully repaid. Repayment of the principal amount shall commence within three years of the agency’s receipt of the proceeds and shall be completed within five years of the agency’s receipt of the proceeds. Repayment of the proceeds may be accomplished by rolling the outstanding amount into a long-term bond issue during the five-year repayment period. In such cases, the agency would then be responsible for its proportionate share of the bond issuance costs.
Rule #17: Fiscal and Compliance Audits

Adoption Date: November 18, 2005

Amendment: Amended at July 24, 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 coordinate with the auditors to review the audits required for the year and provide all necessary documentation/information for the auditors to begin work.

A.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. December 1 (required deadline): Regional Transportation Congestion Improvement Program (RTCIP) expenditure plan and financial records must be submitted for a review and audit.

C.D. 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.

C.E. 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.

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

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

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. 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. 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 once a project is identified as completed and there are TransNet funds remaining with that project, 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. Closed projects should no longer show in the following year’s audit, and any funds remaining must be returned to SANDAG (see instructions in Section III(A)(1)).

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).

1. Completed projects: once a project is identified as completed and there are TransNet funds remaining with that project, including interest earnings, the agency is required to transfer the balance to another TransNet-eligible project (projects included in the approved Program of Projects, and in accordance with Section 2(C)(1) of the Ordinance 04-01 for Local Street and Road Formula 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, other than interest earnings, the agency must either close out the project or note when the project will be completed. Any remaining TransNet funds must be transferred to another TransNet-eligible project (projects included in the approved Program of Projects and in accordance with Section 2(C)(1) of the Ordinance 04-01 for Local Street and Road Formula projects).

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 audit and compliance audit. Such documentation shall consist of a signed...
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 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 and Compliance 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 and Road Program

Adoption Date: June 23, 2006

Amended: July 24, 2009

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 original 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, that local agencies do not cumulatively use more than 30 percent of the revenues for maintenance-related projects.

Rule #19: Conflict of Interest for ITOC Representatives

Adoption Date: December 15, 2006

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

**Rule #20: Selection Procedures for ITOC Representatives**

**Adoption Date:** December 21, 2007

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

**Rule #21: Accommodation of Bicyclists and Pedestrians**

**Adoption Date:** February 22, 2008

**Text:** Adequate provisions for bicycle and pedestrian travel is determined within the context of the roadway type, its existing and planned surrounding land uses, existing bicycle and pedestrian plans, and current or planned public transit service. When addressing the access needs dictated by land use, the responsible agency must consider demand created by current and expected land uses (as determined by the local general plan) within the useful life of the TransNet project. The table Appropriate Bicycle and Pedestrian Accommodation Measures provides a guide to appropriate accommodation measures for each transportation facility type and land use context. In the table, “urban” means within the urbanized area as defined by U.S. Census Bureau.

<table>
<thead>
<tr>
<th>Appropriate Bicycle and Pedestrian Accommodation Measures¹</th>
<th>Context/Facility Type</th>
<th>Bicycle Measures</th>
<th>Pedestrian Measures</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Urban Highway</td>
<td>• Required facility type will be based on the recommendations for any regional bikeway corridors in urban highway alignments developed through the 2007 Regional Bicycle Plan. Pending completion of this plan,</td>
<td>• Continuous sidewalks and marked crosswalks through freeway interchanges where sidewalks exist or are planned on the intersecting roadway. • Where new freeway</td>
</tr>
</tbody>
</table>

¹The table provides a guide to appropriate accommodation measures for each transportation facility type and land use context.
<table>
<thead>
<tr>
<th>Context/Facility Type</th>
<th>Bicycle Measures</th>
<th>Pedestrian Measures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appropriate Bicycle and</td>
<td>appropriate bicycle accommodation will be developed on a project by project</td>
<td>construction severs existing pedestrian access, grade separated pedestrian crossings with no more than 0.3 mile between crossings.</td>
</tr>
<tr>
<td>Pedestrian Accommodation</td>
<td>basis by local and regional authorities in consultation with appropriate stakeholders.</td>
<td></td>
</tr>
<tr>
<td>Measures</td>
<td>• Freeways and freeway interchanges may not eliminate existing bikeways or preclude planned bikeways on local streets and roads.</td>
<td></td>
</tr>
<tr>
<td>Transit Project</td>
<td>• Bicycle lockers and racks at stations sufficient to meet normal expected demand</td>
<td>• Direct sidewalk connections between station platforms and adjacent roadway sidewalks</td>
</tr>
<tr>
<td></td>
<td>• Bicycle access to all transit vehicles except those providing exclusive paratransit service to the disabled as required by the Americans with Disabilities Act.</td>
<td>• Pedestrian crossings where a new transit way severs existing pedestrian access with no more than 0.3 miles between crossings.</td>
</tr>
<tr>
<td>Major Urban Street</td>
<td>• Class 2 bike lanes.</td>
<td>• Continuous sidewalks or pathways, both sides of the street with marked crosswalks at traffic controlled intersections.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• ADA compliant bus stop landings for existing and planned transit service</td>
</tr>
<tr>
<td>Urban Collector Street</td>
<td>• Class 2 bike lanes</td>
<td>• Continuous sidewalks or pathways, both sides of the street with marked crosswalks at traffic controlled intersections.</td>
</tr>
<tr>
<td>(design speed &gt;35 mph)</td>
<td></td>
<td>• ADA compliant bus stop landings for existing and planned transit service</td>
</tr>
<tr>
<td>Urban Collector Street</td>
<td>• Shared roadway. Where planned average daily motor vehicle traffic exceeds 6,500, the outside travel lane should be at least 14 feet wide.</td>
<td>• Continuous sidewalks or pathways, both sides of the street</td>
</tr>
<tr>
<td>(design speed ≤ 35 mph)</td>
<td></td>
<td>• ADA compliant bus stop landings for existing and planned transit service</td>
</tr>
<tr>
<td>Context/Facility Type</td>
<td>Bicycle Measures</td>
<td>Pedestrian Measures</td>
</tr>
<tr>
<td>------------------------------</td>
<td>-------------------------------------------------------</td>
<td>--------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Urban Local Street</td>
<td>• Shared roadway</td>
<td>• Continuous sidewalks or pathways both sides of the street</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• ADA compliant bus stop landings for existing and planned transit service</td>
</tr>
<tr>
<td>Rural Highway</td>
<td>• Minimum 8-foot paved shoulder</td>
<td>• ADA compliant bus stop landings for existing bus stops.</td>
</tr>
<tr>
<td>Rural Collector Road</td>
<td>• Minimum 8-foot paved shoulder</td>
<td>• Not required with no fronting uses</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Paved or graded walkway consistent with community character on streets</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• ADA compliant bus stop landings for existing bus stops.</td>
</tr>
<tr>
<td>Rural Local Road</td>
<td>• Minimum 6-foot paved shoulder</td>
<td>• Not required with 85th percentile speeds ≤ 25 mph</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Paved or graded walkway consistent with community character on streets</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• ADA compliant bus stop landings for existing bus stops.</td>
</tr>
</tbody>
</table>

1. Application of these accommodation measures is subject to sound planning and engineering judgment to ensure the facility is reasonable and appropriate within the land use and transportation context of the overall project.

2. Unpaved pathways of decomposed granite or other suitable material that are set back from the roadway where feasible would be considered appropriate only on roads serving areas that are rural in nature.

Where a local jurisdiction has a bicycle or pedestrian master plan adopted by the city council or Board of Supervisors and approved by SANDAG, the local agency may use that plan to determine the appropriate means of accommodating bicyclists and pedestrians in a given project and at a minimum provide the facilities called for in the plan. These plans must be updated and approved no less than every five years to qualify as a means of satisfying this provision.

**Best Available Standards.** All bicycle facilities must be designed to the standards established in the California Highway Design Manual, Chapter 1000. Bicycle parking facilities should conform to the guidelines established in the Regional Bicycle Plan adopted by SANDAG. Shared roadways on collector streets should have a curb lane or curb lane plus shoulder that measures at least 14 feet. Where parallel parking is in place, consideration should be given to installing the shared lane pavement marker. All sidewalks must be designed consistent with the design standards established.

**Bicycle and Pedestrian Accommodation in Reconstruction Projects.** Street and road reconstruction is the time to re-evaluate the function of a road and its context, and to reallocate the right-of-way if appropriate to meet the needs of bicyclists and pedestrians. An agency is not required to acquire additional right of way to improve bicycle and pedestrian access. However, the agency should consider reduced motor vehicle lanes and lane widths, and reduced median widths as a means of providing the appropriate bicycle or pedestrian facility. While such an evaluation is recommended for reconstruction projects of any size, compliance with these guidelines is required for “major” reconstruction projects meeting the definitions established under Rule 18 of SANDAG Board Policy No. 031 regarding the guidelines for implementing the “70/30” requirement.

**When Provisions for Bicyclists and Pedestrians Accommodation May Be Excluded.** Section 4(E)(3) is based on the premise that pedestrians and bicyclists need safe and convenient access to the same destinations as other users of the public right of way. Consequently, those portions of the transportation network where pedestrians and bicyclists need not be accommodated are the exception, and the decision not to provide for them in a construction or major reconstruction project must be made by the responsible agency for good cause such as severe topographic or biological constraints. Any impacts on the roadway’s motor vehicle capacity that result from providing for pedestrian and bicycle access would not, in themselves, justify excluding bicycle and pedestrian facilities. However, these impacts and their mitigation costs should be considered in determining if the cost of providing the facilities is disproportionate to the probable use.

This provision only requires an agency to provide appropriate bicycle or pedestrian facilities that are within the construction or reconstruction area of the project. Consideration of the provision of sidewalks as part of major rehabilitation roadway projects involving only new pavement overlays of 1-inch thickness or greater (see Rule 18 under Board Policy 031) on streets where sidewalks do not currently exist would only be required if curb, gutter, and related drainage facilities were already in place.

The cost of providing for bicycle and pedestrian access can vary significantly relative to the overall project cost. For this reason, specifying a proportional or absolute limit on spending for bicycle or pedestrian improvements relative to probable use would not allow the kind of discretion necessary to make a significant investment in facilities when necessary, or to withhold an investment when the benefits are marginal. Therefore, the decision to exclude accommodations for bicyclist and pedestrians must be a policy-level decision made by the Board or city council based on the body of information about context, cost, and probable use available at the time. Such a decision must be made in the public hearing required by Section 5(A) of the Ordinance.

**Pedestrian Access.** Sidewalks or other walkways may be excluded from a project when it can be demonstrated that there are no uses (including bus stops) that would create demand for pedestrian access. In making this determination, the agency must consider the potential for future demand within the useful life of the project. Access to and from public transit, including crossing improvements, also must be considered and accommodated where there is existing or planned transit service.
Bicycle Access. A new project or major reconstruction project may not include the expected bikeway treatment when a suitable parallel route with the appropriate accommodations exists that would require no more than ¼-mile total out of direction travel.

Procedures for Excluding Accommodations for Pedestrians and Bicyclists from Projects. When an agency determines not to include bicycle or pedestrian accommodations in a project because the cost of doing so would be excessively disproportionate to the need or probable use, the agency must include a notice of that decision in the notice of the public hearing required by Sections 5(A) and Section 6 of the Ordinance. In submitting the project to SANDAG for inclusion in the TransNet Program of Projects as part of the Regional Transportation Improvement Program (RTIP) process, the agency must notify SANDAG that bicycle and/or pedestrian facilities, as described in Table 1 or in its bicycle or pedestrian master plan, will not be included in the project along with written justification for that decision. The decision and justification is subject to review and comment by SANDAG through the Bicycle-Pedestrian Working Group, which would forward its comments to the SANDAG Transportation Committee. The Independent Taxpayer Oversight Committee also would review and comment on such projects as part of its role in the RTIP process. The Transportation Committee in approving the TransNet Program of Projects must make a finding that the local decision not to provide bicycle or pedestrian facilities is consistent with the provisions of this Ordinance prior to approving the project for funding under the TransNet Program. If this consistency finding is not made, the agency would have the opportunity to revise its fund programming request for consideration in a future RTIP amendment.

Effective Implementation. This rule will be effective for projects added to the TransNet Program of Projects subsequent to their adoption by the SANDAG Board of Directors. Within three years of their adoption, the rule will be re-evaluated by SANDAG to ensure they are effectively encouraging provision of a balance transportation network without imposing an excessive cost burden on projects funded under the program.

Rule #22: TransNet Extension Ordinance Maintenance of Effort (MOE) base level implementation guidelines

Adoption Date: March 28, 2008

Text: Section 8 of the Extension Ordinance provides guidelines regarding the MOE base level calculation and implementation.

Section 8 of the Extension Ordinance states the intended purpose of the MOE requirement is to ensure that revenues provided from TransNet be used to augment, not supplant, existing local revenue. Some flexibility in accounting for spikes in expenditures would be consistent with the intent of ensuring that the local agencies do not supplant local funds with TransNet funds. Therefore, one-time expenditures that were a result of “banking” general fund monies and subsequently expending those funds during the base period Fiscal Years 2001 – 2003 may be isolated and removed so that the MOE is representative of a normal annual spending level, subject to review by the ITOC and approval by the Board of Directors.

In addition, the language in Section 8 of the Extension Ordinance states the MOE will be determined on the basis of “discretionary funds expended for street and road purposes...as was reported in the State Controller’s Annual Report of Financial Transactions for Streets and Roads.” The Extension Ordinance also states “the MOE also shall apply to any local agency discretionary funds being used for
the other purposes specified under Section 4.” Based on this language, the MOE levels are to be established separately for each category in Section 4 of the Ordinance: major highway and transit congestion relief projects; transit programs to support seniors and disabled persons; specialized transportation services for seniors; monthly transit passes for seniors, disabled, and youth riders; transit operations; local streets and roads; habitat-related mitigation costs of local transportation projects; and the smart growth incentive program. The annual audits of the MOE expenditure requirement will report the expenditures for each of these separate categories.

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

Adoption Date: July 10, 2009; Amended January 22, 2010

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. Interest earned on RTCIP revenues received by the jurisdiction must be allocated to the RTCIP Fund.

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.

C. The Board has determined that a nursing home, home for the aged, assisted living facility, or similar institutional unit ("institutional unit") is not the type of unit the RTCIP was intended to cover. Local agencies are not required to charge for a new institutional unit for purposes of compliance with the Ordinance's RTCIP Funding Program requirements when the local agency documents that it has made the following findings prior to issuance of a final certificate of occupancy:

1. The individual unit\(^1\) will not have both a bathroom and permanent built-in kitchen facilities equipped with a cooking range, refrigerator, and sink; and

2. The principal reason a person will live in the unit is because the person needs medical and/or nursing care; and

3. The local agency has required that the developer agree that the unit in substance will be used as health care facility rather than as a residence.

D. Section G(2) of the TransNet EXTENSION REGIONAL TRANSPORTATION CONGESTION IMPROVEMENT PROGRAM, as amended on July 24, 2009, states that 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.

\(^1\) All references to "unit" in these criteria are intended to apply to an individual living unit, not the institutional facility as a whole.

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

Amended: June and December 1990; February 1991; November 2005; December 2006; December 2007; February 2008; March 2008; September 2008; July 2009; January 2010
### FY 1988 Base Year Statistics

**for use in TransNet Ordinance Rule #8**

**Metropolitan Transit Development Board (MTS) Area**

<table>
<thead>
<tr>
<th>Fund Source</th>
<th>Operator/Service</th>
<th>Vehicle Service Miles</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Article 4.0</strong></td>
<td>Chula Vista Transit</td>
<td>559,734</td>
</tr>
<tr>
<td></td>
<td>National City Transit</td>
<td>276,303</td>
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<tr>
<td>County Transit System:</td>
<td>Suburban Service</td>
<td>646,904</td>
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<tr>
<td></td>
<td>Rural Bus</td>
<td>170,953</td>
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<tr>
<td></td>
<td>Poway Fixed Route</td>
<td>313,425</td>
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<tr>
<td></td>
<td>San Diego Transit</td>
<td>10,473,323</td>
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<tr>
<td></td>
<td>San Diego Trolley</td>
<td>1,033,084</td>
</tr>
<tr>
<td></td>
<td>Strand Express Agency</td>
<td>400,738</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>13,874,464</strong></td>
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<tr>
<td><strong>Article 8</strong></td>
<td>County Transit System:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Express Bus</td>
<td>189,276</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>189,276</strong></td>
</tr>
<tr>
<td><strong>Article 4.0 Dial-A-Ride</strong></td>
<td>El Cajon Express</td>
<td>308,331</td>
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<tr>
<td></td>
<td>La Mesa Dial-A-Ride</td>
<td>251,516</td>
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<tr>
<td></td>
<td>Lemon Grove Dial-A-Ride</td>
<td>62,090</td>
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<tr>
<td>County Transit System:</td>
<td>Poway Dial-A-Ride</td>
<td>23,030</td>
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<td></td>
<td>Poway Airporter</td>
<td>103,925</td>
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<td>Spring Valley Dial-A-Ride</td>
<td>73,298</td>
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<td></td>
<td>San Diego Transit DART</td>
<td>309,370</td>
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<td></td>
<td><strong>Total</strong></td>
<td><strong>1,131,560</strong></td>
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<tr>
<td><strong>Article 4.5</strong></td>
<td>Chula Vista Handytrans</td>
<td>128,807</td>
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<td>County Transit System – WHEELS</td>
<td></td>
<td>219,906</td>
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<td>National City Wheels</td>
<td>15,159</td>
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<td></td>
<td>Poway Call-A-Ride</td>
<td>60,156</td>
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<td></td>
<td>San Diego Dial-A-Ride</td>
<td><strong>1,149,541</strong></td>
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<td></td>
<td><strong>Total</strong></td>
<td><strong>1,573,623</strong></td>
</tr>
<tr>
<td><strong>MTDB (MTS) Area Total</strong></td>
<td></td>
<td><strong>16,768,923</strong></td>
</tr>
</tbody>
</table>
## North County Transit District

<table>
<thead>
<tr>
<th>Fund Source</th>
<th>Operator/Service</th>
<th>Vehicle Service Miles</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 4.0</td>
<td>NCTD Fixed Route</td>
<td>7,651,408</td>
</tr>
<tr>
<td></td>
<td>NCTD FAST</td>
<td>126,744</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>7,778,152</td>
</tr>
<tr>
<td>Article 4.5</td>
<td>NCTD Lifeline</td>
<td>386,680</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>386,680</td>
</tr>
<tr>
<td></td>
<td><strong>NSDCTDB (NCTD) Area Total</strong></td>
<td><strong>8,164,832</strong></td>
</tr>
<tr>
<td></td>
<td><strong>REGIONAL TOTAL</strong></td>
<td><strong>24,933,755</strong></td>
</tr>
</tbody>
</table>
The TransNet Ordinance requires that at least 70 percent of the revenues provided for local street and road purposes should be used to fund direct expenditures for facilities contributing to congestion relief. No more than 30 percent of these funds should be used for local street and road maintenance purposes. The required multi-year Regional Transportation Improvement Program (RTIP) project lists submitted by local agencies that are found to be out of compliance with this requirement will not be approved. Local agencies may request an exception to this requirement and must provide justification for such a request as part of its project list submittal.

The following table categorizes and lists the more typical types of facilities that are considered to contribute to congestion relief. For other facilities not listed, it must be demonstrated that congestion relief can be obtained before the project can be considered part of the 70 percent Congestion Relief category. Maintenance costs of items listed in the 70 percent Congestion Relief category are eligible under the 30 percent category. Facilities that are not considered to contribute to congestion relief (Items 28-30) are eligible under the 30 percent category.

<table>
<thead>
<tr>
<th>Congestion Relief (at least 70%)</th>
<th>Maintenance and Non-Congestion Relief (no more than 30%)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>New or Expanded Facilities</strong></td>
<td>• Lane removal for bike lanes</td>
</tr>
<tr>
<td>1. New roadways and bridges</td>
<td></td>
</tr>
<tr>
<td>2. Roadway and bridge widening</td>
<td>• Pavement overlay (less than 1 inch)</td>
</tr>
<tr>
<td>3. Roadway widening for bike lanes</td>
<td>• Pot hole repair, chip seal, fog seal, crack seal (except when part of roadway rehabilitation project)</td>
</tr>
<tr>
<td><strong>Major Rehabilitation and Reconstruction</strong></td>
<td>• Roadway realignment that does not increase roadway capacity</td>
</tr>
<tr>
<td>4. Roadway rehabilitation (grinding and overlay, or new structural pavement, or new overlay 1-inch thick or greater)</td>
<td>• Bridge replacement for aesthetic purposes</td>
</tr>
<tr>
<td>5. Roadway realignment</td>
<td>• Minor drainage improvements not part of a congestion relief project</td>
</tr>
<tr>
<td>6. Bridge retrofit or replacement</td>
<td></td>
</tr>
<tr>
<td>7. Roadway drainage improvements for the purpose of improving capacity-impeding conditions such as significant and frequent roadway flooding</td>
<td></td>
</tr>
<tr>
<td>8. New sidewalk or sidewalk widening</td>
<td></td>
</tr>
<tr>
<td><strong>Traffic Operations</strong></td>
<td>• Stand alone landscaping project of an existing median</td>
</tr>
<tr>
<td>9. Median installation for safety improvement or left-turn movement</td>
<td>• Traffic signal replacement, bulb replacement, hardware, software, inductive loop repair</td>
</tr>
<tr>
<td>10. New traffic signal, passive permissive left turn (PPLT) installation, signal removal for congestion relief reasons, traffic signal upgrades, intersection lighting</td>
<td></td>
</tr>
<tr>
<td>11. Traffic signal coordination</td>
<td></td>
</tr>
<tr>
<td>12. Traffic signal interconnection</td>
<td></td>
</tr>
<tr>
<td>Congestion Relief (at least 70%)</td>
<td>Maintenance and Non-Congestion Relief (no more than 30%)</td>
</tr>
<tr>
<td>------------------------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>13. Centrally controlled traffic signal optimization system</td>
<td></td>
</tr>
<tr>
<td>14. Traffic surveillance or detection system (video)</td>
<td></td>
</tr>
<tr>
<td>15. Traffic data collection system for performance monitoring purposes (in pavement detection, radar)</td>
<td></td>
</tr>
<tr>
<td><strong>Smart Growth-Related Infrastructure</strong>*</td>
<td></td>
</tr>
<tr>
<td>16. Traffic calming measures</td>
<td></td>
</tr>
<tr>
<td>17. Pedestrian ramps</td>
<td></td>
</tr>
<tr>
<td>18. Pedestrian traffic signal activation</td>
<td></td>
</tr>
<tr>
<td>19. Pedestrian crossings/overcrossings</td>
<td></td>
</tr>
<tr>
<td>20. Buffer area between sidewalk and street</td>
<td></td>
</tr>
<tr>
<td>21. Pedestrian roadway lighting</td>
<td></td>
</tr>
<tr>
<td><strong>Transit Facilities</strong></td>
<td></td>
</tr>
<tr>
<td>22. New bus stops</td>
<td></td>
</tr>
<tr>
<td>23. Bus stop enhancements</td>
<td></td>
</tr>
<tr>
<td>24. Bus-only lanes</td>
<td></td>
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<tr>
<td>25. Queue jumper lanes for buses</td>
<td></td>
</tr>
<tr>
<td>26. Traffic signal priority measures for buses</td>
<td></td>
</tr>
<tr>
<td>27. Transit operational costs for shuttle and circulator routes</td>
<td></td>
</tr>
<tr>
<td>28. Erosion control (unless required as part of a congestion relief project)</td>
<td>• Light bulb replacement</td>
</tr>
<tr>
<td>29. Landscaping (unless required as part of a congestion relief project)</td>
<td>• Bus-only lanes that do not provide congestion relief</td>
</tr>
<tr>
<td>30. Roadway signing and delineation (unless it is a congestion relief project)</td>
<td></td>
</tr>
</tbody>
</table>

Note: Staff costs for congestion relief project development (environmental, preliminary engineering, design, right-of-way acquisition, and construction management) are eligible expenditures under the 70 percent category. Staff costs for transportation infrastructure maintenance or traffic operations efforts are eligible under the 30 percent category. Costs for general TransNet fund administration and transportation planning are eligible up to 1 percent of annual revenues.

*To receive credit for providing congestion relief under the 70 percent category, smart growth-related infrastructure must be provided in one of the existing or planned (not potential) seven Regional Comprehensive Plan smart growth land use type characteristic areas: Metropolitan Center, Urban Center, Town Center, Community Center, Transit Corridor, Special Use Center, or Rural Community. Smart growth-related infrastructure built outside of one of the seven types of characteristic areas is eligible under the 30 percent category.
DRAFT 2011 LEGISLATIVE PROGRAM

Introduction

Each year, the Executive Committee recommends a legislative program to the Board of Directors for the upcoming calendar year. Consistent with past programs, the draft 2011 Legislative Program (Attachment 1) includes policies and programs for federal and state legislation as well as local activities. During the year, the Executive Committee took action on several bills; an update on the status of these bills is included as Attachment 2.

Discussion

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

The 2010 Legislative Program (Attachment 3), approved by the Board in December 2009, includes 30 separate legislative goals. Staff has modified the 2010 program as a starting point to initiate Executive Committee discussion regarding the 2011 program. In Attachment 1, proposed deletions are shown in strikethrough text, and modifications and additions are underlined. The major changes are discussed below. Additionally, the Public Safety Committee met on October 15, 2010, and recommended continuing to include the three existing public safety-related goals, as well as the addition of two new goals, which are discussed below.

Proposed Modifications

Modifications are proposed for six goals in the 2011 program.

- Goal No. 1A – Pursue SANDAG priorities for the next surface federal transportation reauthorization including appropriate funding levels, goods movement/border funding programs, transit investment and reforms, process improvements including streamlined environmental processes, climate change, nonmotorized transportation, and tribal transportation planning; and
• Goal No. 7A - Pursue policy and/or legislative changes to enable comprehensive state environmental process to fulfill federal environmental requirements.

Goal No. 7A in the 2010 Legislative Program supports changes to allow the state environmental process (the California Environmental Quality Act) to fulfill federal National Environmental Policy Act (NEPA) requirements. Major changes to the federal NEPA process will likely be considered in the context of the next federal surface transportation authorization; therefore, staff recommends deleting Goal No. 7A and including an environmental streamlining priority within the broader Goal No. 1A, which focuses on SANDAG priorities for the next surface transportation authorization.

• Goal No. 4A - Pursue FY 2012 federal appropriation requests and potential infrastructure funding.

This goal is updated to reflect the FY 2012 federal appropriations process and any future infrastructure funding.

• Goal No. 6A – Participate in discussions with stakeholders and develop SANDAG priorities for federal climate change legislation; and

• Goal No. 2B - Support policies and/or legislation implementing climate change plans and programs that are consistent with the Regional Comprehensive Plan and Regional Transportation Plan.

During the 111th Congress, multiple proposals were introduced to address climate change, including reducing greenhouse gas emissions. With the 111th Congress coming to a close, climate change proposals appear to have lost momentum. Therefore, staff recommends incorporating discussions with stakeholders and developing priorities for federal climate change legislation within the broader Goal No. 2B, which focuses on implementing climate change plans and programs agencywide. Goal No. 2B would continue to provide staff flexibility to address climate change if it becomes a priority at the federal level.

• Goal No. 4B – Support efforts to prevent additional diversions of public transit funding.

This goal has been updated to reflect the changes made to transportation and transit funding in March 2010 with the gas tax swap. The term “spillover” 1 has been deleted from this goal, as the gas tax swap eliminated spillover revenues within the Public Transportation Account.

Public Safety-Related Goals

On October 15, 2010, the Public Safety Committee voted to recommend that the Executive Committee include the three existing public safety-related goals in the 2011 Legislative Program. These are Goals Nos. 7B, 8B, and 16B, which focus on pursuing resources for public safety voice and data communications and interoperability; pursuing state and federal homeland security funding to improve public safety, border security, and other efforts; and pursuing funding for

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1 Spillover revenues occur when revenue derived from sales taxes on gasoline is proportionately higher in relationship to revenue derived from all taxable sales.
prevention and intervention programs that address substance abuse and youth and gang violence, and funding for other initiatives such as 211 services.

The Public Safety Committee also recommended that the Executive Committee consider two new public safety-related goals in the 2011 Legislative Program, as follows:

- Support efforts to seek changes in local, state, and federal laws to effectively apprehend, prosecute, and mete out appropriate penalties for those involved in Internet Crimes against Children.

The purpose of the goal would be to support efforts by other agencies to address Internet crimes against children. New computer technology presents unique challenges for law enforcement agencies to identify and apprehend offenders and help victims. The Public Safety Committee discussed the need for SANDAG and the Public Safety Committee to be supportive of these efforts.

Board Policy No. 026 states that the role of the Public Safety Committee is to advise the Board on matters concerning the Automated Regional Justice Information System and the Criminal Justice Division. Internet crimes against children could fall under the Public Safety Committee’s role to advise on matters related to the Criminal Justice Division. Additionally, included in the 2011 Legislative Program is Goal No. 18B, which supports other organizations’ legislative programs where consistent with SANDAG policy.

The Executive Committee is asked to discuss whether a new separate goal concerning Internet crimes against children should be included in the 2011 Legislative Program, or whether Goal No. 18B of the draft program supporting other agencies’ legislative programs would provide staff the flexibility to address these issues as legislation is introduced.

- Support efforts to pursue state legislation to permanently fund graffiti abatement programs with a dedicated portion of restitution.

This year the Public Safety Committee explored the feasibility of expanding graffiti tracking efforts across the region. A pilot will begin in January 2011 and run until June 2011. To continue graffiti tracking efforts beyond the initial pilot period, identifying a stable source of revenues would be important. As part of the pilot program, an evaluation of the efficiency and effectiveness gained by the jurisdiction as a result of using the system will be conducted. Documentation regarding the number of graffiti cases that are solved by utilizing the system and the amount of restitution that is ordered and collected also will be evaluated.

This goal would propose a way to permanently fund these programs by supporting efforts to pursue legislation that would dedicate a portion of restitution funds to this program before these funds are distributed to the 18 cities and the County. The Executive Committee should discuss whether there is enough information at this time to support efforts for legislation to fund graffiti abatement programs with restitution funds, or whether this issue should be revisited after some of the information from the pilot program has been collected.
Next Steps

The Executive Committee may take action on the 2011 Legislative Program either on November 5 or at its December 3, 2010, meeting. Final action on the 2011 Legislative Program is scheduled for the December 17, 2010, Board of Directors meeting.

KIM KAWADA
TransNet and Legislative Affairs Program Director

Attachments: 1. Draft 2011 Legislative Program
              2. Summary of FY 2009-2010 State Legislation
              3. 2010 Legislative Program

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

#### (A) SPONSOR

<table>
<thead>
<tr>
<th>NO.</th>
<th>GENERAL DESCRIPTION OF GOAL</th>
<th>PRIORITY</th>
<th>BOARD POSITION</th>
<th>T</th>
<th>R</th>
<th>P</th>
<th>B</th>
<th>JURISDICTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1A</td>
<td>Pursue SANDAG priorities for the next federal surface transportation reauthorization, including appropriate funding levels, goods movements/border funding programs, transit investment and reforms, process improvements, including streamlined environmental processes, climate change, nonmotorized transportation, and tribal transportation planning. (2007)</td>
<td>Highest</td>
<td>Sponsor</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td>Federal/State</td>
</tr>
<tr>
<td>2A</td>
<td>Pursue funding from the statewide infrastructure bond measures; participate in development of guidelines and other activities to maximize the availability and flexibility of funding for the San Diego region to support the Regional Transportation Plan (RTP) and the Regional Comprehensive Plan (RCP) implementation. (2006)</td>
<td>Highest</td>
<td>Sponsor</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td>State</td>
</tr>
<tr>
<td>3A</td>
<td>Expand access to resources and technical tools that will enable SANDAG to prepare an RTP in compliance with Senate Bill 375. (2009)</td>
<td>Highest</td>
<td>Sponsor</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td>Federal State</td>
</tr>
<tr>
<td>5A</td>
<td>Pursue statutory authority for a subregional funding mechanism dedicated to public transit. (2009)</td>
<td>Highest</td>
<td>Sponsor</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td>State/Local</td>
</tr>
<tr>
<td>6A</td>
<td>Participate in discussions with stakeholders and develop SANDAG priorities for federal climate change legislation. (2009)</td>
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Summary of FY 2009-2010 State Legislation

During 2010, the Executive Committee took formal positions on four bills, and three of these bills were signed into law by the Governor. The fourth bill did not make it out of the Legislature. The Governor’s actions on the legislative measures were consistent with the Executive Committee’s recommended actions on the bills. Below is a summary of the bills.

**Senate Bill 1371 (Correa) Transportation: Bond-Funded Projects: Letter of No Prejudice**  
**Position: Support**  
**Chapter 292, Statutes of 2010**

Senate Bill 1371 (SB 1371) was introduced on February 19, 2010, by Senator Lou Correa (D-Santa Ana). SB 1371 would provide a letter of no prejudice process for the $950 million portion of high-speed rail bond measure (Proposition 1A, 2008) that funds the passenger rail capital projects that provide connectivity to the high-speed train system.

**Senate Bill 1318 (Committee on Transportation and Housing) Omnibus Bill**  
**Position: Support**  
**Chapter 491, Statutes of 2010**

Senate Bill 1318 (SB 1318) was introduced on February 19, 2010, by the Committee on Transportation and Housing. SB 1318 would make noncontroversial changes to sections of law related to both transportation and housing. Included in this year’s omnibus bill is a provision to repeal the reporting requirements related to SANDAG consolidation.

**Senate Bill 1268 (Simitian) Toll Bridges, Lanes, and Highways: Electronic Toll Collection Mechanisms: Disclosure of Personal Information**  
**Position: Oppose Unless Amended**  
**Chapter 489, Statutes of 2010**

Senate Bill 1268 (SB 1268) was introduced on February 19, 2010, by Senator Joe Simitian (D-Palo Alto). SB 1268 would require a transportation agency that uses electronic toll collection system to establish a privacy policy regarding personally identifiable information to provide the policy to subscribers and post the policy on the Internet Web site.

Additionally, the bill would allow a transportation agency to store personally identifiable information, such as the account name, credit card number, billing address, vehicle information, and other basic account information to perform account functions, such as billing, account settlement, or enforcement activities. On or after July 1, 2011, all other information must be discarded no more than four years and six months after the closure date of the billing cycle after the bill and all toll violations have been paid and resolved. Finally, SB 1268 would provide remedies for a person whose personally identifiable information has been knowingly sold.

SANDAG concerns with this bill were addressed when the bill amended the timelines for purging information. Originally the bill stated that information would have to be discarded 60 days after an account was closed, but this was changed to include a timeline of no more than four years and six months for discarding information. This amendment provided a reasonable timeline for SANDAG and other agencies to address any issues that could potentially arise with a customer account.
Assembly Bill 2198 (Cook) Tribal Gaming: Local Agencies
Position: Support
Held in Assembly Appropriations Committee

Assembly Bill 2198 (AB 2198) was introduced on February 18, 2010, by Assembly Member Paul Cook (R-Yucaipa). AB 2198 would restore $30 million in funding to the Indian Gaming Special Distribution Fund (SDF). These funds were vetoed by Governor Arnold Schwarzenegger from the FY 2007-08 budget, and if restored would be available to local agencies impacted by tribal gaming.

Although AB 2198 was held in the Assembly Appropriations Committee, language was included in Senate Bill 856 (SB 856), the General Government trailer bill to the budget that would restore $30 million in funding to the Indian Gaming SDF. Before the Governor signed SB 856, it was rumored that he would use his line item veto power to blue pencil these funds, but to the surprise of many, he did not. SB 856 (Chapter 719, Statutes of 2010) was signed by the Governor on October 19, 2010, and includes a provision to restore funding to the SDF.
2010 LEGISLATIVE PROGRAM

OVERARCHING GOAL: Pursue policy and legislatives changes that enable SANDAG to better implement its adopted plans and programs

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<td>Pursue funding from the statewide infrastructure bond measures; participate in development of guidelines and other activities to maximize the availability and flexibility of funding for the San Diego region to support the Regional Transportation Plan (RTP) and the Regional Comprehensive Plan (RCP) implementation. (2006)</td>
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<td>Pursue FY 2011 federal appropriation requests and potential economic stimulus funding. (2005)</td>
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<td>State/Local</td>
</tr>
<tr>
<td>3C</td>
<td>Legislation relating to personnel matters, i.e., workers’ compensation, Public Employee Retirement Systems (PERS) benefits, and other labor-related issues. (2003)</td>
<td>Lower</td>
<td>Monitor/Respond</td>
<td></td>
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<td>Federal/State/Local</td>
</tr>
<tr>
<td>4C</td>
<td>Legislation requiring local agencies to implement new administrative compliance measures. (2005)</td>
<td>Lower</td>
<td>Monitor/Respond</td>
<td></td>
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<td>Federal/State</td>
</tr>
</tbody>
</table>

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

Periodic status reports on legislative activities are provided to the Executive Committee during the year. This status report provides an update on recent legislation pertaining to the FY 2011 federal budget, recent federal grant activity, and the National Environmental Policy Act (NEPA) Delegation Pilot Program.

Discussion

FY 2011 Appropriations Process

The House of Representatives approved the FY 2011 Transportation, Housing, and Urban Development (THUD) spending bill, H.R. 5850, by a vote of 251 to 167 on July 29, 2010. The House-passed bill contains a total of $67.4 billion in spending for the U.S. Department of Transportation (USDOT). Specifically, the legislation provides $45.2 billion for highway spending, a $4.1 billion increase from FY 2010; $11.3 billion for transit programs, a $500 million increase from FY 2010; and $10.9 billion for aviation, safety, and other related transportation programs.

The Senate Appropriations Committee passed its version of the THUD bill on July 21, 2010. The legislation, approved unanimously, includes $67.9 billion in spending for the USDOT (the same funding level as FY 2010), of which $41.8 billion is slated for highway programs, $10.5 billion for transit-related programs, and $15.6 billion for aviation, safety, and other related transportation programs.

The pending FY 2011 appropriations legislation also includes discretionary funding for the following projects in the San Diego region:

Table 1
Pending FY 2011 Transportation Appropriations Projects

<table>
<thead>
<tr>
<th>Project</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>I-805/La Jolla Village Drive Interchange</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>Vesta Street Overpass</td>
<td>$450,000</td>
</tr>
<tr>
<td>Positive Train Control</td>
<td>$1,000,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$2,450,000</strong></td>
</tr>
</tbody>
</table>
The full Senate is expected to consider its version of the THUD Appropriations bill in December 2010. Once that occurs, leaders of the House and Senate will need to convene a conference committee to develop a compromise version for final passage and the President’s signature. It is likely that the THUD bill will be incorporated into a larger omnibus appropriations package that includes multiple spending bills, either prior to adjournment of the legislative session, or during a lame-duck session after the November 2, 2010, elections.

Federal Railroad Administration Programs

For Federal Railroad Administration (FRA) programs, the House THUD legislation allocates $1.4 billion for high-speed and intercity passenger rail, $1.1 billion less than last year’s level. The bill also appropriates $75 million for Positive Train Control (PTC), a $25 million increase over the FY 2010 levels. While providing additional funding for PTC, the House Committee report acknowledges the challenges that commuter rail operators face in implementing PTC, but notes that implementation will offer significant safety benefits for rail passengers. The House bill also contains $1.79 billion for grants to Amtrak, for operating subsidies, capital improvements, and debt service.

The Senate bill includes $1 billion for high-speed rail, $400 million less than the House request. For PTC, the bill provides $150 million, which doubles the House request, and provides $100 million more than the amount authorized by Congress last year. The Senate provides $1.98 billion for Amtrak capital and operating grants, $194 million less than the requested House levels.

Transportation Investment Generating Economic Recovery (TIGER) Grants

The House bill provides $400 million for the USDOT TIGER grants, $200 million less than the amount provided in FY 2010. Of these grants, $100 million must be used for projects in rural areas.

The Senate bill provides $800 million for the TIGER program, which doubles the amount provided by the House, and is a $200 million increase over last year’s enacted budget.

Federal Aviation Administration

The Senate bill allocates $16.5 billion in budgetary resources for the Federal Aviation Administration. This represents a $4 million decrease from the House request, but overall it is a $34 million increase from the President’s budget.

Recent FY 2010 Federal Grant Awards

The Federal Transit Administration (FTA) awarded $776 million in discretionary funding grants to states and localities for bus and bus facilities state of good repair projects, making this the largest amount of bus money that the USDOT has ever given out at its discretion in a single year. After receiving a total of 422 applications totaling more than $4 billion, the FTA awarded 152 separate grants to entities located in 45 states plus the District of Columbia.
In the San Diego region, both the San Diego Metropolitan Transit System (MTS) and the North County Transit District (NCTD) were grants recipients. MTS was awarded $3 million to replace buses in its fleet that are beyond their useful lives with compressed natural gas buses that will reduce overall energy usage and emissions. NCTD will use the awarded $332,000 grant to fund the removal and disposal of underground storage tanks at its bus maintenance facility in Oceanside.

USDOT recently released a full list of TIGER II grant winners. Requests for TIGER II grant funds totaled more than $19 billion. Forty-two capital projects and 33 planning projects will share nearly $600 million in discretionary funding. Likewise, the U.S. Department of Housing and Urban Development also announced the grant recipients for the Sustainable Communities Initiative. There were no projects selected in the San Diego region for these two grants.

On October 27, 2010, USDOT Secretary Ray LaHood announced the award of $2.5 billion in FRA funding for intercity and high-speed rail projects. The grants will be funded through the FY 2010 Consolidated Appropriations Act and the FY 2009 Omnibus Appropriations Act. Of this, $902 million is slated for rail projects across California, and the San Diego region is expected to receive approximately $50 million for the following projects along the coastal rail (Pacific Surfliner) corridor:

- Positive Train Control San Onofre-San Diego: $24,900,000
- CP Elvira to CP Morena Double Track: $10,000,000
- San Dieguito Bridge, Del Mar Platform: $7,000,000
- Sorrento/ Miramar Double Track Phase 2: $4,000,000
- CP Eastbrook to CP Shell: $4,000,000
- Project Study Report: $400,000

**NEPA Delegation Pilot Program**

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) included provisions that allow five states, Alaska, California, Ohio, Oklahoma, and Texas, to assume the responsibilities of the Federal Highway Administration (FHWA) under NEPA and provide documentation of compliance with the federal law. The program offers the opportunity to test a streamlined environmental process. In California, Caltrans is in essence the federal agency for those projects where it assumes FHWA environmental responsibilities. The pilot program is set to expire on August 10, 2011. This issue was expected to be addressed in the next federal surface transportation authorizing legislation; however, progress on the bill has been delayed. Support for the continuation of the NEPA Delegation Pilot Project is consistent with the Goal No. 7A of the SANDAG 2010 Legislative Program, which supports streamlining the environmental process. Staff will work with Caltrans to support the continuation of this important program before the provisions sunset in August 2011.

KIM KAWADA
TransNet and Legislative Affairs Program Director

Key Staff Contact: Victoria Stackwick, (619) 699-6926, vst@sandag.org
STATE LEGISLATIVE STATUS REPORT

Introduction

Periodic status reports on legislative activities are provided to the Executive Committee during the year. On October 8, 2010, Governor Arnold Schwarzenegger signed the California State budget for FY 2010-2011 into law. This report provides a summary of the main provisions of the FY 2010-2011 budget. Additionally, staff will provide a verbal update on the ballot measure results from the November 2, 2010, election.

Discussion

State Budget Update

The FY 2010-2011 budget passed the California State Legislature and was signed by the Governor on October 8, 2010. The FY 2010-2011 budget agreement includes $19.3 billion in solutions for the $17.9 billion budget shortfall, including $8.5 billion in spending reductions, $5.3 billion in new federal funds, $5.2 billion from additional revenues and fund shifts, and $0.5 billion in alternative funding. These solutions would be offset by $0.2 billion in higher than anticipated state expenditures. The FY 2010-2011 budget General Fund spending totals $86.6 billion, including a reserve of $1.3 billion. The following is a summary of key budget issues related to transportation and local government.

Gas Tax Swap

The transportation portions of the budget were primarily addressed in March 2010 when the Legislature passed and the Governor signed the gas tax swap legislation. The main transportation funding provisions under the gas tax swap are summarized in Attachment 1.

The FY 2010-2011 budget made one change to the gas tax swap passed in March. The budget increased the Highway Users Tax Account (HUTA) contribution to the General Fund from $650 million to $761.1 million. The other provisions of the gas tax swap remained the same. The State Transportation Improvement Program (STIP) will be funded at about $630 million, and the cities and counties will receive about $630 million for local streets and roads. The 18 cities and the County of San Diego are expected to receive approximately $48.7 million, as summarized in the table below.
<table>
<thead>
<tr>
<th>Local Streets and Roads Funding for the San Diego Region¹</th>
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<tbody>
<tr>
<td>Carlsbad</td>
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<tr>
<td>Chula Vista</td>
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<tr>
<td>Coronado</td>
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<td>Del Mar</td>
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<td>El Cajon</td>
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<td>Encinitas</td>
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<td>Escondido</td>
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<td>Imperial Beach</td>
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<td>La Mesa</td>
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<td>Lemon Grove</td>
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<td>National City</td>
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<td>Oceanside</td>
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<td>Poway</td>
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<tr>
<td>San Diego</td>
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<tr>
<td>San Marcos</td>
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<tr>
<td>Santee</td>
</tr>
<tr>
<td>Solana Beach</td>
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<tr>
<td>Vista</td>
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</tbody>
</table>

**Subtotal for Cities** $26,498,802

| County of San Diego | $22,245,335 |

| **Total Funding**   | **$48,744,137** |

As part of the gas tax swap, the State Transit Assistance (STA) program will be funded at $400 million for FY 2010-2011. The STA funds provide funding to local transit agencies to fund a portion of the operation and capital costs associated with local mass transportation programs. From the $400 million allocation, San Diego Metropolitan Transit System (MTS) will receive $18.4 million and North County Transit District (NCTD) will receive $5.9 million.

Proposition 1A (2008) Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century

Through a line item veto, the Governor reduced the local intercity rail allocations from Proposition 1A (Prop. 1A). The Governor reduced the high-speed rail local assistance funding from $146.1 million to $38.5 million. Additionally, he reduced funding for the high-speed rail capital outlay from $88.3 million to $62.4 million. In his veto message, the Governor stated that the California High-Speed Rail Authority, Caltrans, and local jurisdictions should work together to

¹ California City Finance: http://www.californiacityfinance.com/HUTAupdate100305.pdf
develop a strategy and a list of projects that will best accomplish the goal of moving passengers between destinations around the state. At this time, it is unclear what the impact will be on the program of projects that were submitted to the California Transportation Commission.

At the end of session, the Governor signed Senate Bill 1371 (SB 1371), which would provide a letter of no prejudice (LONP) process for the $950 million portion of the Prop. 1A high-speed rail bond that funds the passenger rail capital projects that provide connectivity to the high-speed train system. SB 1371 would allow local agencies to utilize the LONP process to keep a project moving or to start a project associated with passenger rail capital projects. The LONP would allow local agencies that expend their own resources to fund a project with the guarantee that the state will repay them when funds become available. It remains uncertain, however, when the state will have funds available to reimburse local agencies.


The Public Transportation Modernization, Improvement, and Service Enhancement Account (PTMISEA) program is distributed by formula to transit agencies throughout the state. The FY 2010-2011 budget includes an allocation of $1.5 billion for PTMISEA. Of these funds, MTS will use its share of funds on rail cars for the Blue Line Trolley, and the NCTD share of funds will be dedicated to the Blue Line Trolley improvements.²

Additionally, the budget included $100 million for the Transit System Safety, Security, and Disaster Response Account (TSSDRA). TSSDRA funds are available for capital projects that provide increased security and safety, and for capital expenditures to increase the capacity of transit operators, including waterborne transit operators, to develop disaster response transportation systems. Of the formula funds, MTS will receive about $2.7 million and NCTD will receive $0.9 million.

Public Beach Restoration Fund

The FY 2010-2011 budget includes an allocation to SANDAG in the amount of $6.5 million for beach sand replenishment from the California Boating and Waterways funding account.

Other Provisions in the FY 2010-2011 Budget

Pension Reform

The state budget agreement includes a measure to reduce pension benefits for newly hired state employees. The measure sets benefit levels for new employees at levels that were in place for employees prior to 1999. In addition, all future state employees would have their pension benefits calculated based on their highest average annual pay over any consecutive three years of employment, rather than the one-year period applicable to some current state employees. The requirements would not affect pension benefits for current state employees and retirees or for any SANDAG employees.

² In 2008, NCTD exchanged PTMISEA funds with SANDAG in order to could complete the SPRINTER project; as a result the FY 2010-11 PTMISEA funds will go back to SANDAG and be used for Blue Line Trolley improvements.
Proposed Constitutional Amendment to Build State Reserves

The budget agreement also would place a measure on the 2012 primary election ballot that would increase the size of the state’s reserve and impose a spending cap. The new measure would increase the maximum size of the existing Budget Stabilization Account from 5 percent to 10 percent of annual General Fund revenues. It also would limit the conditions under which the reserve could be used.

KIM KAWADA
TransNet and Legislative Affairs Program Director


Key Staff Contact: Genevieve Morelos, (619) 699-1994, gmo@sandag.org

Sales and Excise Taxes on Gasoline

The gas tax swap repealed the six percent state sales tax on gasoline, and created a new gasoline excise tax of 17.3 cents per gallon for FY 2010-2011 (in addition to the current 18 cents per gallon state excise tax). During FY 2010-2011, the new excise tax funding would be used to first pay General Fund debt service, and then would be allocated 50 percent to the State Transportation Improvement Program (STIP) and 50 percent to cities and counties for local streets and roads. The new 17.3 cent excise tax also would generate additional transportation revenues (about $650 million) that would be used for future appropriations by the Legislature. During FY 2011-2012, the new excise tax formula would change; funding would first be allocated to pay General Fund debt service, and then would be distributed as follows: 44 percent to the STIP; 12 percent to the State Highway Operation and Protection Program; and 44 percent split between cities and counties for local streets and roads (using existing Highway Users Tax Account formulas).

Sales and Excise Taxes on Diesel

The sales tax on diesel, which is currently set at five percent, provides $313 million to transit programs (divided equally between local transit agencies and state transit programs). The legislative proposal would increase the sales tax on diesel by 1.75 percent, and would allocate 75 percent to local transit agencies and 25 percent to state transit programs. While the Proposition 42 (Prop. 42) structure provided more funding for public transit (spillover, sales tax on diesel, sales tax on nine cents of the excise tax on gasoline, and sales tax on gasoline [Prop. 42]), the state had suspended the State Transit Assistance funding through FY 2013 to provide General Fund relief. The gas tax swap legislation appropriates $400 million to local transit operators and state transit programs for FY 2010-2011. In FY 2011-2012, the increased diesel sales tax would provide about $350 million for transit operations and state transit programs.
San Diego Association of Governments

EXECUTIVE COMMITTEE

November 5, 2010

AGENDA ITEM NO.: 6

Action Requested: APPROVE

REVIEW OF NOVEMBER 19, 2010, DRAFT BOARD AGENDA

<table>
<thead>
<tr>
<th>ITEM #</th>
<th>RECOMMENDATION</th>
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<tr>
<td>1.</td>
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<tr>
<td>1.</td>
<td>APPROVAL OF MEETING MINUTES</td>
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<td>1.</td>
<td>A. OCTOBER 8, 2010, BOARD POLICY MEETING MINUTES</td>
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<td>1.</td>
<td>B. OCTOBER 22, 2010, BOARD BUSINESS MEETING MINUTES</td>
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<tr>
<td>2.</td>
<td>PUBLIC COMMENTS/COMMUNICATIONS/MEMBER COMMENTS</td>
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<tr>
<td></td>
<td>Members of the public shall have the opportunity to address the Board on any issue within the jurisdiction of SANDAG that is not on this agenda. Anyone desiring to speak shall reserve time by completing a “Request to Speak” form and giving it to the Clerk of the Board prior to speaking. Public speakers should notify the Clerk of the Board if they have a handout for distribution to Board members. Speakers are limited to three minutes. Board members also may provide information and announcements under this agenda item.</td>
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<tr>
<td>3.</td>
<td>ACTIONS FROM POLICY ADVISORY COMMITTEES</td>
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<tr>
<td>3.</td>
<td>This item summarizes the actions taken by the Executive Committee on November 5 and the Transportation Committee on November 12, 2010.</td>
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</tbody>
</table>

CONSENT (4 through 10)

| 4.     | QUARTERLY INVESTMENT REPORT - PERIOD ENDING SEPTEMBER 30, 2010 (Lisa Kondrat-Dauphin)* | INFORMATION |
|        | The SANDAG Investment Policy requires that the Board of Directors be provided a quarterly report of investments held by SANDAG. This report includes all money under the direction or care of SANDAG as of September 30, 2010. |
| 5.     | QUARTERLY PROGRESS REPORT ON TRANSPORTATION PROJECTS -- JULY TO SEPTEMBER 2010 (José A. Nuncio)* | INFORMATION |
| 5.     | This quarterly report summarizes the current status of major highway, transit, arterial, traffic management, and transportation demand management projects in the SANDAG five-year Regional Transportation Improvement Program for the period July to September 2010. |
6. REPORT SUMMARIZING DELEGATED ACTIONS TAKEN BY EXECUTIVE DIRECTOR (Lauren Warrem)

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

7. REPORTS ON MEETINGS AND EVENTS ATTENDED ON BEHALF OF SANDAG (Kim Kawada)

Board members will provide brief reports orally or in writing on external meetings and events attended on behalf of SANDAG since the last Board of Directors meeting.

8. 2010 SAN DIEGO REGIONAL TRIBAL SUMMIT PROCEEDINGS (Jane Clough-Riquelme)

The SANDAG Board of Directors and the Southern California Tribal Chairmen's Association held a regional policy summit on April 9, 2010. The Borders Committee recommends that the Board of Directors accept the summit proceedings for distribution.

9.

10.

CHAIR’S REPORT (11 through 13)

11. REPORT FROM NOMINATING COMMITTEE ON SLATE OF BOARD OFFICERS FOR 2011 (National City Mayor Ron Morrison, Nominating Committee Chair)

In September, Chair Pfeiler appointed a six-person Nominating Committee for Board officers. After consideration of the applications and interviews, the Committee recommends the attached slate of nominees for SANDAG Chair, First Vice Chair, and Second Vice Chair positions for 2011. In accordance with SANDAG Bylaws, the election of officers is scheduled for the December Board meeting. Additional nominations from the floor also may be made at the December meeting.

12.

13.
+14. 2050 REGIONAL TRANSPORTATION PLAN: PROPOSED METHODOLOGY FOR CONDUCTING THE RTP AIR QUALITY CONFORMITY DETERMINATION (Second Vice Chair Jack Dale, Transportation Committee Chair; Rachel Kennedy)*

SANDAG is currently developing the 2050 Regional Transportation Plan (RTP) along with its air quality conformity determination. Both the current version of the emissions model approved by the U.S. Environmental Protection Agency (EMFAC 2007) and the new version of the model (EMFAC 2010), currently under development by the California Air Resources Board, only contain emissions factors to 2040, earlier than the 2050 RTP horizon year. The draft methodology for conducting the air quality conformity determination for the 2050 RTP was released for a 30-day public comment period on September 17, 2010, and a public hearing was held on October 15, 2010. The Transportation Committee recommends that the Board of Directors approve shortening the timeframe and the proposed methodology for conducting the regional emissions analysis for the 2050 RTP.

+15. PREFERRED 2050 REGIONAL TRANSPORTATION PLAN REVENUE CONSTRAINED TRANSPORTATION NETWORK SCENARIO (Second Vice Chair Jack Dale, Transportation Committee Chair; Heather Werdick and Dave Schumacher)*

The Board of Directors has been reviewing the four Revenue Constrained Transportation Network Scenarios developed for the 2050 Regional Transportation Plan (RTP), including the performance of each Scenario. The Board of Directors will be asked to consider and approve the preferred Revenue Constrained Transportation Network Scenario for use in the Draft 2050 RTP.

+16. RECOMMENDATIONS FROM THE 2010 BINATIONAL SEMINAR (Imperial Beach Councilmember Patricia McCoy, Borders Committee Chair; Hector Vanegas)

This report will present highlights from the 2010 binational seminar on Crossborder Climate Change Strategies and recommendations from the Borders Committee on possible next steps. The Borders Committee recommends that the Board of Directors accept the recommendations from the 2010 binational seminar.

+17. ANNUAL UPDATE ON THE ACTIVITIES OF THE CRIMINAL JUSTICE RESEARCH DIVISION AND CLEARINGHOUSE (El Cajon Mayor Mark Lewis, Public Safety Committee Chair; Cynthia Burke)

As part of the SANDAG Criminal Justice Clearinghouse, regional crime and arrest statistics as well as statistics related to drug use among the offender population are tracked on a regular basis. SANDAG has maintained these statistics since the late 1980s and remains the only regional source for up-to-
date historical information. These data provide timely information for policymakers and practitioners interested in how crime and law enforcement’s response varies over time and across jurisdictions. An overview and update of the activities and accomplishments of the Criminal Justice Research Division and the Clearinghouse will be provided.

18. **FINANCIAL MARKET STATUS (Lauren Warrem and Marney Cox)**

   This monthly briefing is intended to keep the Board of Directors informed about the latest developments in the financial markets, the economy, and revenues, and the strategies we are exploring and implementing to minimize possible impacts to SANDAG.

19. **QUALITY OF LIFE FUNDING STRATEGY UPDATE (Chair Lori Holt Pfeiler; Rob Rundle)**

   The Quality of Life Ad Hoc Steering Committee and the Quality of Life Stakeholders Working Group have been meeting regularly to provide input to the Board of Directors on the development of a Quality of Life funding strategy. An update will be provided on the work that has been accomplished to date.

20.

21.

22. **UPCOMING MEETINGS**

   The next Board of Directors Policy meeting is scheduled for Friday, December 3, 2010, at 10 a.m. The next Board of Directors Business meeting is scheduled for Friday, December 17, 2010, at 9 a.m. **Please note that the December Board meetings will be held respectively on the first and third Fridays of the month due to the holiday schedule.**

23. **ADJOURNMENT**

   + next to an agenda item indicates an attachment

   * next to an agenda item indicates a San Diego County Regional Transportation Commission item