Board Members

Jack Dale, Chair
Councilmember, City of Santee
(Representing East County)

Jim Janney, First Vice Chair
Mayor, City of Imperial Beach
(Representing South County)

Don Higginson, Second Vice Chair
Mayor, City of Poway
(Representing North County Inland)

Matt Hall
Mayor, City of Carlsbad
(Representing North County Coastal)

Vacant
City of San Diego

Greg Cox
Chairman, County of San Diego

Board Alternates

Terry Sinnott
Mayor, City of Del Mar
(Representing North County Coastal)

Art Madrid
Mayor, City of La Mesa
(Representing East County)

Ron Morrison
Mayor, City of National City
(Representing South County)

Chris Orlando
Councilmember, City of San Marcos
(Representing North County Inland)

Marti Emerald
Councilmember, City of San Diego

Sherri Lightner
Councilmember, City of San Diego

Bill Horn
Supervisor, County of San Diego

Gary L. Gallegos
Executive Director, SANDAG

EXECUTIVE COMMITTEE AGENDA

Friday, October 11, 2013
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

• SERVICE BUREAU FY 2013 YEAR-END REPORT

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 the Clerk of the Committee seated at the front table. Members of the public may address the Committee on any issue under the agenda item entitled Public Comments/Communications/Member Comments. Public speakers are limited to three minutes or less per person. The Executive Committee may take action on any item appearing on the agenda.

Public comments regarding the agenda can be sent to SANDAG via comment@sandag.org. Please include the agenda item, your name, and your organization. Email comments should be received no later than 12 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 Committee Clerk no later than 12 noon, two working days prior to the meeting.

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EXECUTIVE COMMITTEE  
Friday, October 11, 2013

ITEM #  
+1. APPROVAL OF SEPTEMBER 13, 2013, MEETING MINUTES  
APPROVE

2. PUBLIC COMMENTS/COMMUNICATIONS/MEMBER COMMENTS

Public comments under this agenda item will be limited to five public speakers. 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. Other public comments will be heard during the items under the heading “Reports.” 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. Public speakers are limited to three minutes or less per person. Committee members also may provide information and announcements under this agenda item.

CONSENT (3)

+3. LEGISLATIVE STATUS REPORT (Victoria Stackwick)  
INFORMATION

Periodic status reports on legislative activities are reported to the Executive Committee throughout the year. This report provides a summary of the various state and federal activities.

REPORTS (4 through 6)

+4. ANNUAL REVIEW AND PROPOSED AMENDMENTS TO BOARD POLICIES AND BYLAWS (John Kirk)  
DISCUSSION/POSSIBLE ACTION

The Executive Committee is asked to: (1) discuss the proposed amendments to the Board Policies, and 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; (2) recommend that the Board of Directors renew the annual delegation of authority to the Executive Director pursuant to Board Policy No. 003: Investment Policy; and (3) recommend that the Board of Directors renew its approval of Board Policy No. 032: San Diego County Regional Transportation Commission Interest Rate Swap Policy, as amended.

+5. REVIEW OF DRAFT BOARD AGENDAS (Renée Wasmund)  
APPROVE

The Executive Committee is asked to approve the draft agenda for the October 25, 2013, Board Business meeting. Staff also will provide a verbal update on the November 1, 2013, Board Policy meeting agenda.

+6. SERVICE BUREAU FY 2013 YEAR-END REPORT (Cheryl Mason)  
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. This report summarizes Service Bureau activities during FY 2013.
7. CONTINUED PUBLIC COMMENTS

If the five speaker limit for public comments was exceeded at the beginning of this agenda, other public comments will be taken at this time. Subjects of previous agenda items may not again be addressed under public comment.

8. UPCOMING MEETINGS

The next meeting of the Executive Committee is scheduled for Friday, November 1, 2013, at 9 a.m. (first Friday due to the Thanksgiving holiday).

9. ADJOURNMENT

+ next to an agenda item indicates an attachment
SAN DIEGO ASSOCIATION OF GOVERNMENTS

EXECUTIVE COMMITTEE

October 11, 2013

AGENDA ITEM NO.: 1

Action Requested: APPROVE

EXECUTIVE COMMITTEE DISCUSSION AND ACTIONS
SEPTEMBER 13, 2013

Chairman Jack Dale (East County) called the meeting of the SANDAG Executive Committee to order at 9:01 a.m. The attendance sheet for the meeting is attached.

1. APPROVAL OF THE JUNE 14, 2013, MEETING MINUTES

Action: Upon a motion by Mayor Matt Hall (North County Coastal), and a second by Second Vice Chair Don Higginson (North County Inland), the minutes of the July 12, 2013, Executive Committee meeting were unanimously approved.

2. PUBLIC COMMENTS/COMMUNICATIONS/MEMBER COMMENTS

There were no public comments.

REPORTS (3 THROUGH 6)

3. REQUEST FOR RESPONSE TO PUBLIC INQUIRY (DISCUSSION/POSSIBLE ACTION)

At the June 14, 2013, Board Policy meeting, a request was made to direct staff to verify/respond to information provided by a member of the public regarding greenhouse gas emissions reductions. SANDAG Board Policy No. 001: Operations Policy requires Board of Directors approval for staff to perform work in excess of four hours on a project that is not in the Program Budget. Because the requested work is estimated to take more than four hours, the Executive Committee is asked to discuss the request and provide further direction.

Mike Bullock, Sierra Club, spoke regarding his request that the Board of Directors review his calculations and data regarding greenhouse gas emission reductions in the region.

Jack Shu, Cleveland National Forest Foundation, spoke regarding his support of this request.

Action: This item was presented for discussion/possible action.

4. FEDERAL AND STATE LEGISLATIVE STATUS REPORTS (APPROVE)

Periodic status reports on legislative activities are provided to the Executive Committee throughout the year. This report provided a summary of the various state and federal activities.

Victoria Stackwick, Senior Legislative Analyst, presented the federal legislative report.
Jaymie Bradford, Senior Legislative Analyst, presented information on Assembly Bill 401 (Daly), and requested that the Executive Team approve a support position on this bill.

**Action:** Upon a motion by First Vice Chair Jim Janney (South County), and a second by Mayor Hall, the Executive Committee approved a support position on Assembly Bill 401 (Daly), which would provide statewide authority for the use of design build on transportation projects.

5. REVIEW OF DRAFT BOARD AGENDAS (APPROVE)

   +A. SEPTEMBER 27, 2013, DRAFT BOARD BUSINESS AGENDA

   Renée Wasmund, Chief Deputy Executive Director, presented the item.

   **Action:** Upon unanimous consent, the Executive Committee approved the draft agenda for the September 27, 2013, Board of Directors meeting, as amended.

   +B. OCTOBER 11, 2013, DRAFT BOARD POLICY AGENDA

   Ms. Wasmund presented the item.

   **Action:** Upon a motion by First Vice Chair Janney, and a second by Councilmember Marti Emerald (City of San Diego), the Executive Committee approved the draft agenda for the October 11, 2013, Board of Directors meeting, as amended.

6. MATTERS TO BE COMMUNICATED IN ACCORDANCE WITH AUDITING STANDARDS (INFORMATION)

   In accordance with the Statement of Auditing Standards 114 (SAS 114), the auditor should communicate with those charged with governance: (a) the auditor’s responsibilities under generally accepted auditing standards; (b) an overview of the planned scope and timing of the audit; and (c) significant findings from the audit. Items (a) and (b) are included in the attached letter. Item (c) will be communicated after the audit is complete and the Comprehensive Annual Financial Report (CAFR) is issued. The CAFR is anticipated for presentation at the January 2014 Executive Committee and Board of Directors meetings.

   André Douzdjian, Finance Director, introduced the item.

   Jennifer Farr, Mayer Hoffman McCann PC, presented the item.

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

7. CONTINUED PUBLIC COMMENTS

   There were no continued public comments.

8. UPCOMING MEETINGS

   The next meeting of the Executive Committee is scheduled for Friday, October 11, 2013, at 9 a.m.
9. ADJOURNMENT

Chairman Dale adjourned the meeting at 9:46 a.m.

Attachment: Attendance sheet
## CONFIRMED ATTENDANCE
### SANDAG EXECUTIVE COMMITTEE MEETING
#### SEPTEMBER 13, 2013

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San Diego Association of Governments
EXECUTIVE COMMITTEE
October 11, 2013
AGENDA ITEM NO.: 3
Action Requested: INFORMATION

LEGISLATIVE STATUS REPORT
File Number 7300400

Introduction
Monthly status reports on legislative activities are provided to the Executive Committee. Attachments 1 and 2 respectively include summaries from Ellison Wilson Advocacy on state legislative activity and from Peyser and Associates on federal legislative activity related to SANDAG for the month of September.

KIM KAWADA
TransNet and Legislative Affairs Program Director

Attachments: 1. Report from Ellison Wilson Advocacy
2. Report from Peyser and Associates

Key Staff Contact: Victoria Stackwick, (619) 699-6926, victoria.stackwick@sandag.org
TO: SANDAG BOARD OF DIRECTORS  
FROM: ELLISON WILSON ADVOCACY, LLC  
SUBJECT: SANDAG LEGISLATIVE ACTIVITY REPORT – SEPTEMBER 2013

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**CAPITOL UPDATE**

In typically chaotic fashion, the first year of the two-year 2013-14 Legislative Session concluded late on September 12th and like each year, this year was not without some last minute drama, as further detailed below. The Governor now has until October 13th to sign or veto all bills passed by the Legislature. At this point, the Legislature is not scheduled to return until Monday, January 6th, 2014.

This year alone over 2,500 bills were introduced. Of these thousands of bills, we have highlighted a number below that were active during the final month of the legislative year that were indicated to be of particular interest to SANDAG.

**Last Minute Activity on CEQA Reform Bills.** This year Senate President Pro Tem Steinberg had vowed to reform our state’s environmental law (CEQA), as it is viewed by the business community as antiquated and oftentimes abused as merely an anti-development stall tactic. Steinberg had introduced SB 731, which was fairly devoid of any real meaningful CEQA reform, but served as a platform to continue discussions with both environmental and business groups throughout the year. When it became clear near the end of the year that no consensus could be reached and no one was happy with the direction of SB 731, Steinberg began to refocus his efforts on streamlining CEQA requirements for the construction of the new Sacramento Kings arena (Steinberg is from Sacramento). Within the final two weeks of the year that language was amended into a previously unrelated bill, SB 743. Steinberg was able to curry political support for the bill from labor groups by recently facilitating an agreement that guarantees the arena will be constructed by unionized workers.

On a late night immediately prior to the last day of the year at an Assembly Local Government Committee hearing, Steinberg officially shelved SB 731 and moved two broader CEQA reforms into the arena bill SB 743. Purportedly this was at the behest of Governor Brown. The two broader reforms were: 1) giving the Governor’s Office of Planning and Research the go-ahead to develop a new way of measuring traffic impacts of major projects, based on total “vehicle miles traveled” rather than intersection congestion, 2) adding a section that reduced the need to do environmental studies for certain commercial mixed-use projects near transit, if those projects are part of a “specific plan area.”

As such, SB 743 was brought up for a vote in each house on the final night of the year and it passed relatively easily with largely bipartisan support.
However, about an hour after it was passed, Steinberg introduced a third bill, AB 852, which he cast as a “minor cleanup bill” to SB 743. Upon further prodding Steinberg admitted that it was requested by labor unions who feared that big box stores, notably Walmart, could potentially take advantage of parts of SB 743 and would receive streamlined environmental review procedures that were intended for the arena. While his fellow Democrats in the Senate voted in favor of AB 852, the bill ultimately stalled in the Assembly as both Republicans and Democrats expressed their frustration over the last minute nature of AB 852 and for changing the deal after having already voted for SB 743. There was substantial debate over whether the “cleanup” in AB 852 actually would have done much to change or narrow the reforms passed earlier in SB 743. Regardless the Legislature adjourned for the year without the passage of AB 852. This may be an issue that continues to be discussed when the Legislature returns next January.

IFD/Post-RDA Bills Held by the Authors. This year we continued to see a number of Infrastructure Financing District/Post-redevelopment bills, most notably AB 229 (Perez), AB 243 (Dickinson), AB 1080 (Alejo), SB 1 (Steinberg), and SB 33 (Wolk). Near the end of the year the Governor indicated that he did not want any of these bills sent to him (essentially threatening to veto any that arrive on his desk.) Specifically, the DOF issued an analysis on Alejo’s AB 1080 indicating an oppose position, which is understood to apply to each of the other bills as well. The analysis stated:

- “Since economic and policy considerations necessitated the elimination of redevelopment agencies, the Administration recognizes there is a desire on the part of local governments and other impacted parties for a new economic development tool to fill the resultant void. However, the establishment of additional and/or new economic development tools at the local level is premature at this time.”
- “Prior to the dissolution of RDAs, cities took numerous actions to protect, hide, or illicitly utilize assets of the former RDAs in an effort to prevent the liquidation and distribution of those assets to local affected taxing entities. This is evidenced by the SCO's claw back audits, where the SCO has already ordered the return of over $1 billion in illegitimate property and cash transfers made between cities and their former RDAs, and by Finance's Due Diligence Reviews, where hundreds of millions in inappropriate cash transfers were made between cities and their former RDAs. Allowing this measure to become law prior to the SCO and Finance's completion of their audits and reviews could encourage cities to continue to shield these assets from distribution to the affected taxing entities. Protecting, hiding, and utilizing former RDA assets is beneficial to the cities, and is contrary to the state's goal of protecting core public services by returning tax dollars to the affected taxing entities. Therefore, any legislation that would facilitate or encourage those efforts is not in the best interest of the state.”
- “Until it is clearly demonstrated that local governments are complying with the winding down of RDAs, new legislation should not be considered. However, once an adequate level of compliance has been reached, the Administration believes a better alternative would be to create an entirely new mechanism for funding local economic development projects, including those projects envisioned by this bill. The Administration is committed to developing a comprehensive proposal that will enable local government entities to collaborate on and finance regional economic development efforts upon voter approval, while also limiting the fiscal burden that will be placed on individual property owners.”

As such, none of the aforementioned bills were sent to the Governor this year, and will continue to be discussed once the Legislature resumes in January.

The Governor has Already Taken Action on Several Bills that are Pertinent to SANDAG:

- AB 14 (Lowenthal) was passed by the Legislature on August 19th and on September 6th was signed by the Governor. AB 14 requires the Transportation Agency to prepare a state freight plan and establish a freight advisory committee.
• AB 179 (Bocanegra) was passed by the Legislature on September 10th and was signed by the Governor on September 27th. AB 179 expands privacy protections currently afforded to electronic toll collection subscribers to include users of electronic transit fare collection systems.

• AB 266 (Blumenfield) was passed by the Legislature on September 6th and was signed by the Governor on September 28th. AB 266 extends the sunset date for certain clean air vehicles with white vehicle stickers to use HOV lanes until January 1, 2019.

• AB 405 (Gatto) was passed by the Legislature on September 10th, but vetoed by the Governor on September 29th. AB 405 would have converted HOV lanes on State Route 134 and SR 210 in L.A. from full-time to part-time operation. His veto message is as follows: “To the Members of the California State Assembly: I am returning Assembly Bill 405 without my signature. This bill limits the 24/7 carpool lane controls on about 13 miles of the 134 freeway in Los Angeles to the hours of heavy commuter traffic. Carpool lanes are especially important in Los Angeles County to reduce pollution and maximize use of freeways. We should retain the current 24/7 carpool lane control.”

• AB 528 (Lowenthal) was passed by the Legislature on August 22nd and was signed by the Governor on September 6th. AB 528 deletes, recasts, and modifies the requirements of the State Rail Plan and clarifies requirements of the California High-Speed Rail Business Plan.

• AB 946 (Stone) was passed by the Legislature on September 6th and was signed by the Governor on September 30th. AB 946 allows the Monterey-Salinas Transit District and the Santa Cruz Metropolitan Transit District, with the approval of Caltrans and the CHP to conduct a transit bus-only program on the shoulders of certain highways.

• SB 99 (Committee on Budget and Fiscal Review) was passed by the Legislature on September 10th and signed by the Governor on September 26th. SB 99 creates the “Active Transportation Program” which distributes funding for human-powered transportation projects and programs.

• AB 1222 (Bloom) exempts certain public transit workers from the requirements of the Public Employees’ Pension Reform Act of 2013 (PEPRA) for a specified period of time pending a ruling from the federal district court, and authorizes cashflow loans of up to $26 million to local mass transit providers.

• AB 1290 (Perez) modifies the composition of the California Transportation Commission and imposes new duties relative to assessing progress in implementing sustainable communities strategies.

The Following Bills are Currently on the Governor’s Desk Awaiting Action:

• AB 401 (Daly) authorizes Caltrans and regional transportation agencies to use the design-build (DB) procurement method for transportation projects in California, while requiring Caltrans to oversee construction inspection of these projects on the state highway system.

• AB 1222 (Bloom) exempts certain public transit workers from the requirements of the Public Employees’ Pension Reform Act of 2013 (PEPRA) for a specified period of time pending a ruling from the federal district court, and authorizes cashflow loans of up to $26 million to local mass transit providers.

• AB 1290 (Perez) modifies the composition of the California Transportation Commission and imposes new duties relative to assessing progress in implementing sustainable communities strategies.

**ACTIVITY REPORT**

9/4: Reviewed and analyzed amendments taken in the appropriations committees on AB 401 (Daly), AB 1290 (Perez), SB 1 (Steinberg), and SB 731 (Steinberg), as well as additional amendments to SB 556 (Corbett). Attended/monitored Senate Floor session re: AB 266 (Blumenfield) and AB 946 (Stone); provided subsequent updates to SANDAG staff on aforementioned bills. Researched request from
SANDAG staff concerning the status of legislation to exempt transit workers from pension requirements.

9/5: Reviewed and analyzed SANDAG communications on AB 1222 re: transit workers; reviewed and analyzed further amendments to AB 179 (Bocanegra) and SB 556 (Corbett); provided subsequent updates to SANDAG staff.

9/6: Reviewed and analyzed further amendments to AB 401 (Daly). Researched status of IFD/Post-RDA bills (AB 229, AB 243, AB 1080, SB 1, SB 33, etc.); provided subsequent updates to SANDAG staff.

9/9: Reviewed and analyzed amendments to SB 731 (Steinberg) and AB 1330 (Perez). Provided subsequent updates to SANDAG staff on aforementioned bills, as well as Governor actions on AB 14, AB 528, and SB 557 and floor updates AB 266 and SB 99.

9/10: Reviewed and analyzed further amendments to SB 731 (Steinberg). Attended/monitored respective floor sessions for AB 1290 (Perez), SB 99 (Budget), AB 179 (Bocanegra), SB 1 (Steinberg), AB 401 (Daly). Researched request from SANDAG staff on AB 1222 (Bloom). Provided subsequent updates to SANDAG staff.

9/11: Reviewed and analyzed SANDAG communications on SB 731 (Steinberg) and provided staff with NY Times article. Attended/monitored Assembly Floor for AB 1222 (Bloom) and Assembly Local Government Committee for SB 731 (Steinberg). Provided subsequent updates to SANDAG staff.

9/12: Communicated with author’s office on SB 556 (Corbett). Reviewed and analyzed AB 1112 (Ammiano), which was gut-and-amended re: Bay Area County and Transportation Funding Act. Attended/monitored respective floor sessions for AB 401 (Daly), SB 731 (Steinberg), SB 743 (Steinberg), and AB 852 (Dickinson). Provided subsequent updates to SANDAG staff.

9/13: Researched and provided thorough overview on last minute maneuvering on CEQA legislation, including versions of amendments, to SANDAG staff.

9/16: Weekly teleconference with SANDAG staff

9/17: Reviewed and analyzed SANDAG communications on AB 401 (Daly).

9/18: Distributed update to SANDAG staff on 2/3’s parcel tax legislation.

9/19: Distributed SANDAG’s signature request letter on AB 401 (Daly) to Governor’s office and appropriate legislative offices.

9/26: Provided update to SANDAG staff on Governor’s signature on SB 99 (Budget).

9/27: Provided updates to SANDAG staff on Governor’s signatures on AB 179 (Bocanegra) and SB 743 (Steinberg).

9/30: Provided updates to SANDAG staff on Governor’s actions on AB 266 (Blumenfield), SB 286 (Yee) and AB 405.
September 12, 2013

Transportation Update from Peyser Associates

CR / FY2014 THUD Appropriations

Plans for the House to vote today on a continuing resolution (CR) that would fund the government through December 15 were pulled on Wednesday afternoon after House leaders determined that conservatives would vote against the bill because they are unhappy with the way it addresses ObamaCare funding. Majority Leader Eric Cantor’s (R-VA) plan called for linking a resolution withholding funds for the healthcare reform law with a bill to keep the government running. If passed by the House, the Senate would have to vote on the healthcare measure before it could act on the spending bill but the spending bill could still become law even if Senate Democrats voted down the health law portion. Conservative Republicans are insisting the CR include more than a symbolic vote. Since House Democrats do not support the low number in the CR, they planned to vote against the bill when brought to the floor. This means that only a small-number of Republicans need to say they are going to oppose the bill to cause big problems for Republican leadership.

The CR itself introduced in the House provides funding at $986.3 billion, slightly below current, post-sequestration levels. Almost all policy and funding provisions included in currently enacted Appropriations legislation carry forward in the CR and the bill does not include new or controversial riders, or changes in existing federal policy.

At this point, it appears that the House leadership team is still searching for a solution that can garner enough votes in both the House and Senate and not cause a government shutdown on September 30. Though the House is currently scheduled to be out of session the last week of the month, it is likely they would remain should the CR issue remain unresolved.

Top congressional leaders (Senate Majority Leader Harry Reid; Minority Leader Mitch McConnell; House Speaker John Boehner; and House Minority Leader Nancy Pelosi) are meeting today to discuss both the CR and the upcoming issue of the debt limit being reached in mid-October.

Highway Trust Fund Revenue Fix Under Discussion

Congressional transportation and tax policy leaders are discussing, some publicly, the potential for including additional revenue for the highway trust fund in whatever comprehensive tax reform package moves through Congress. In recent weeks Sen. Barbara Boxer has noted that Senate Finance Committee Chair Max Baucus (D-MT) and House Ways and Means Chair Dave Camp (R-MI) are discussing that topic. Boxer and House T&I Chair Bill Shuster (R-PA) have both expressed support for the concept but neither has indicated what form the revenue increase should take and how much should be raised.

Boxer will be convening a hearing later this month to explore the needs of the trust fund and options for raising revenue.
Two things are worthy of note here. First, there is no timetable for approving tax reform in either body of Congress. In fact, many observers do not believe this Congress could agree on a reform package before the 2014 election. Second, the absence of a specific "ask" from the transportation community is a serious problem in developing support for revenues.

Those who were around for the 1982 gas tax increase -- the most recent one done exclusively for the trust fund (the 1990 and 1993 increases were sold as deficit reduction measures with the full proceeds going to transportation only in the "out" years) -- will recall the long drumbeat for a "Nickle for America" from transportation leaders on and off the Hill that preceded the 5¢ /gal tax increase. In the absence of a campaign like that, it is hard to believe the tax committees will do the right thing.

All in all this process does not yet appear set up to produce a major transportation bill in 2014. If anything can get done, it would more likely be a repeat of MAP-21 -- one or two years with a general fund "patch" on the trust fund.

**Rail Legislation Slated for Introduction in the House**

House Railroad Subcommittee Chair Jeff Denham (R-CA) said this week he anticipates introducing in October a bill to reauthorize the PRIIA legislation. Staff has confirmed to us that they are exchanging "draft outlines" of legislation but no detailed summaries or language yet.

We are in frequent touch with staff and will keep our readers posted on developments.

**Upcoming Hearings**

Next week, Senator Mark Warner (D-VA) plans to introduce legislation creating an infrastructure bank. Warner, who chairs the surface transportation subcommittee of the Senate Commerce, Science and Transportation Committee, introduced a similar bill last Congress but indicated that some changes have been made to encourage greater support with this version. The “Build Act” (from 2011) proposed a $10 billion fund that would eventually become self-sustaining after an initial infusion of federal monies. Warner’s subcommittee will hold a hearing on his new bill on September 24.

In addition, as mentioned above, the Senate EPW Committee will hold a hearing on the solvency of the Highway Trust Fund and raising the gas tax on September 25. No witnesses have been announced.

**Support for Transit Tax Benefit Parity**

Supporters of the Commuter Parity Act (H.R. 2288), which would permanently set the maximum tax benefit for parking and mass transit at $220 a month, held a press conference this week urging support and action for their legislation. If the issue is not addressed, the transit benefit will fall to $125 in January. The current benefit for both parking and transit is $245. By dropping the maximum to $220, the authors are able to keep the bill cost-free. The legislation also includes a benefit of up to $35 per month for bicycle commuting.

Sen. Chuck Schumer (D-NY) has introduced a Senate measure (S. 1116) on the issue that keeps the benefit at $245 for both parking and transit.
September 26, 2013

Transportation Update from Peyser Associates

CR / FY2014 Appropriations

The prospect of a government shutdown continues to loom over Washington. As this is written battle lines are being drawn and neither side is giving a hint of a coming peace initiative.

After a vote of 100-0 on a procedural vote to take up the government funding bill, the Senate is actively working today to speed up the procedural process to allow the chamber to vote on a House-passed CR providing funding for the FY2014 fiscal year through December 15. The Senate plans to, as early as today or as late as Saturday, pass a CR which provides FY2013 sequester level funding and also strips out the language defunding Obamacare included in the original House version. In addition, Senate Democrats may try to change the date of the CR to November 15. After the Senate vote, it will need to be sent back to the House where Speaker John Boehner (R-OH) said this morning that the House is unlikely to pass the exact version that the Senate sends over. It is unclear what sort of changes House Republicans want to make to the CR. But making changes and sending it back to the Senate would create a serious time crunch to meet the midnight deadline of September 30.

If leaders on Capitol Hill are serious about avoiding a shutdown, they will advance a very short-term (i.e. 3 to 7 days) CR over the weekend or on Monday to keep government open while this drama unfolds. We suggest our readers watch for that as a sign that cooler heads may prevail.

Senate EPW Committee Hearing – Funding the Highway Trust Fund

The Senate EPW Committee discussed “The Need to Invest in America’s Infrastructure and Preserve Federal Transportation Funding” in a hearing on Wednesday morning. All of the witnesses spent time discussing the impending crisis of a failing Highway trust Fund (HTF) and the harm it is already doing to our nation as it impedes the ability to plan major projects. Senate Finance Chairman Max Baucus (R-MT) appeared at the hearing and discussed the idea of tying a revenue fix for the HTF into whatever large-scale tax reform vehicle moves this year or next. EPW Chair Barbara Boxer discussed the idea of replacing the federal gas tax with a sales tax at the refinery level. Boxer indicated such a fee could provide enough revenue to fund the surface transportation program for six years. Boxer spoke of the consensus within Congress, and also as evidenced by a diverse witness list, of bipartisan recognition of the funding problem related to infrastructure. She believes it is now time for lawmakers to start exploring what the best solution is.

Panel 1

- Peter Ruane, President and CEO, American Road and Transportation Builders Association
- The Honorable Michael Lewis, President, American Association of State Highway and Transportation Officials

New York – Washington, DC
• Janet Kavinoky, Executive Director of Transportation and Infrastructure, United States Chamber of Commerce
• Greg Cohen, President and CEO, American Highway Users Alliance
• Ray Poupore, Executive Vice President, National Construction Alliance
• Greg DiLoreto, President, American Society of Civil Engineers

Panel 2

• Jack Basso, Principal, Peter J. Basso and Associates, LLC
• Kathy Ruffalo, President, Ruffalo and Associates
• Jack Schendorf, Of Counsel, Covington and Burling, LLP
• The Honorable Sean Connaughton, Secretary of Transportation, Virginia

Senate Commerce Committee Hearing – Infrastructure Bank

The Surface Transportation Subcommittee of the Senate Commerce Committee held a hearing this week to look at innovative financing ideas as a means to fund infrastructure projects. As we reported earlier this month, Subcommittee Chairman Mark Warner (D-VA) plans to introduce bipartisan legislation with Senator Roy Blunt (R-MO) to create a new infrastructure financing authority. The consensus of both lawmakers who spoke at the hearing and the witnesses who appeared (listed below) was that creating innovation financing tools is best viewed as a means to supplement existing federal transportation programs rather than an option that could replace the federal role or an opportunity to redirect existing resources that are already stretched thin. Warner said at the hearing that he hopes his plan is considered as part of the reauthorization of MAP-21, which will have to be addressed next year. Witnesses at the hearing were:

• The Honorable Norm Mineta, Former United States Secretary of Transportation, Former United States Secretary of Commerce
• Jack Basso, Principal, Peter J. Basso and Associates, LLC Transportation Finance Consultants
• Robert Dove, Managing Director, Carlyle Infrastructure Partners, The Carlyle Group
• J. Perry Offutt, Managing Director, Infrastructure Banking for the Americas, Morgan Stanley
• Matt Connelly, Vice President, Transportation, UPS

PRIAA Reauthorization Update

In meetings on both the House and Senate side this week, we learned that, despite continued delays, the House still hopes to present draft rail legislation to open the discussion before the end of October. In meetings with Senate staff, it appears that the Senate is not actively working on legislation and is waiting to see what the House ends up doing.
<table>
<thead>
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<th>Date</th>
<th>Activity</th>
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| 9/4  | Mid Coast Executive Briefing (via teleconference)  
|      | DC meeting coordination for September 18 visit |
| 9/6  | Discussion of Mid Coast DC meetings (via teleconference) |
| 9/9  | DC meeting coordination for September 18 visit |
| 9/10 | Phone calls and emails with V. Stackwick regarding Mid-Coast SR-11 Update Conference Call |
| 9/11 | DC meeting coordination for September 18 visit |
| 9/12 | Prepare weekly transportation update and send to SANDAG, MTS, NCTD  
|      | Phone call with V. Stackwick  
|      | DC meeting coordination for September 18 visit |
| 9/13 | Phone call with V. Stackwick and K. Kawada |
| 9/16 | Emails and phone call with clients in preparation for DC meetings |
| 9/17 | Meetings with Congressional staff |
| 9/18 | Meetings with Congressional staff and Members of Congress. Meetings with agency staff and Administrator. |
| 9/19 | Phone calls and emails with V. Stackwick as initial follow-up from DC meetings  
|      | Send language on car purchase options; email exchanges with P. Jablonski on same  
|      | Prepare weekly transportation update and send to SANDAG, MTS, NCTD |
| 9/26 | Prepare weekly transportation update and send to SANDAG, MTS, NCTD |
ANNUAL REVIEW AND PROPOSED AMENDMENTS
TO BOARD POLICIES AND BYLAWS

Introduction

Each year the Office of General Counsel solicits requests from staff and leadership for any suggested changes to Board Policies or 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 brought to the Executive Committee for discussion and possible recommendation to the Board of Directors.

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. 001: Operations Policy (Attachment 1)

The opening paragraph of this Policy, along with Section A.12, are proposed to be amended to reflect the practice of the Board of Directors of ratifying the approvals of the Policy Advisory Committees (PACs). Various changes also are proposed, reflecting the merger of the Regional Comprehensive Plan, the Regional Transportation Plan, and the Sustainable Communities Strategy into the Regional Plan, and the respective responsibilities of the Board of Directors, Transportation Committee, and Regional Planning Committee in the development and approval of the Regional Plan.

The proposed change to Section B.1. would clarify the process for a Board member to request that an item be placed on the Board agenda, with that member making the request in writing to the Chairperson prior to the Executive Committee’s approval of the agenda.

Historically, the annual review of lower-level committees and working groups was a two-step process. First, the Executive Committee reviewed a list of all such committees and working groups to determine the need for their continued existence, and then the Board of Directors was provided with an informational report on the status of these groups. The proposed revision to Section B.12,
coupled with a corresponding revision to Section 6.6 of Board Policy No. 004, Rules of Procedure For Board of Directors, Policy Advisory Committees, and Other Legislative Bodies, would delete the responsibility of the Executive Committee to conduct an annual review, with the entirety of the review instead taking place at the Board of Directors, which would discuss the groups and take action as needed.

Finally, Section G.2. is proposed to be amended to allow for the potential of securely emailing closed session materials rather than the present practice of personal delivery.

**Board Policy No. 003: Investment Policy (Attachment 2)**

The Director of Finance, in consultation with the SANDAG investment advisors, Public Financial Management (PFM), and Cutwater Asset Management, has reviewed Board Policy No. 003. Based on that review, no changes to the Policy are proposed at this time.

Additionally, the language in Section 5.1 of this Policy calls for the Board to renew its delegation of authority to the Executive Director for conducting investments on behalf of SANDAG on an annual basis subject to the limitations set forth in the Policy. The Executive Committee is asked to recommend that the Board of Directors renew this delegation for the coming year.

**Board Policy No. 004: Rules of Procedure For Board of Directors, Policy Advisory Committees, and Other Legislative Bodies (Attachment 3)**

As referenced in the discussion above on Board Policy No. 001, the proposed revision to Section 6.6 of this Policy would consolidate the annual review of committees and working groups with the Board of Directors.

**Board Policy No. 009: Discrimination Complaint Procedures (Attachment 4)**

Various changes to this policy are proposed in response to recommendations from a recent third-party compliance review of SANDAG Americans with Disabilities Act of 1990 (ADA) and Title VI of the Civil Rights Act of 1964 (Title VI) policies and practices. A significant proposed change is the identification of a specific ADA Compliance Officer (the Director of Administration) as well as a Title VI Compliance Officer (Office of General Counsel). Complaint procedures for both categories of alleged discrimination also are clarified, and complaint forms are set forth for the public’s use.

**Board Policy No. 014: Environmental Quality (Attachment 5)**

Only one proposed changed is presented for this policy, correcting an erroneous statutory reference.

**Board Policy No. 017: Delegation of Authority (Attachment 6)**

An amendment to Section 4.4, relating to real property acquisition, is proposed. The revised language would authorize the Executive Director to approve the amount of compensation offered for property sought to be acquired by SANDAG, so long as that amount is based on a qualified appraisal and is within the project budget. Board Policy No. 021: Acquisition of Real Property Interests and Relocation Assistance, currently references the Board of Directors as establishing the amount of just compensation. Delegation of this authority would streamline project timelines
where extensive property interests are needed. This authority would relate only to offers of compensation, and would in no way impact the Board’s sole authority to initiate condemnation proceedings through a resolution of necessity. A companion revision is proposed to Board Policy No. 021 referencing this delegation.

A revision to Section 4.9 is proposed to limit application of the section to formal lawsuits and claims, and to exclude informal claims and administrative procedures that are handled in accordance with the contract process and within a project’s scope and budget.

Section 4.15 is proposed to be added to the Policy to expressly delegate to the Executive Director the authority to execute right-of-way certifications for submittal to Caltrans. This is in response to a request from Caltrans for a clearer expression of this authority.

Board Policy No. 021: Acquisition of Real Property Interests and Relocation Assistance (Attachment 7)

A change to Section 2.2 is proposed, as referenced in the discussion on Board Policy No. 017, to authorize the Executive Director to establish the value of just compensation to be offered for SANDAG property acquisitions, so long as that amount is based on a qualified appraisal and is within the project budget.

Board Policy No. 024: Procurement and Contracting – Construction (Attachment 8)

Various subsections of Section 1.5.6 imposing threshold financial responsibility requirements are proposed to be limited to design-bid-build contracts, allowing a greater degree of flexibility in establishing financial responsibility requirements for design-build and construction manager/general contractor procurements. In each of these alternative contract delivery methods, in accordance with newly proposed language in Section 8 and 9, the Board of Directors would be required to establish overall selection criteria, including financial responsibility criteria, based on the unique aspects of the project.

A minor revision to Section 1.5.7 is proposed to limit the mandate of a formal administrative hearing to a final finding of non-responsibility rather than an initial finding of non-responsibility. This would allow staff to raise questions regarding a bidder’s responsibility and receive clarifications without the formality of such a hearing.

Sections 9 and 10 are proposed to be added to the Policy reflecting the recently-acquired authority for SANDAG to utilize the construction manager/general contractor and design sequencing project delivery methods. The language of these proposed sections largely mirrors the referenced California Public Contracts Code sections authorizing use of the processes by SANDAG.

Board Policy No. 027: Transportation Development Act (Attachment 9)

A non-substantive typographical correction of a statutory reference is proposed to section 6.2.4.
Board Policy No. 031: TransNet Ordinance and Expenditure Plan Rules (Attachment 10)

One change is proposed to Rule 16: Repayment of Commercial Paper Program Proceeds. The added language recognizes that Internal Revenue Service regulations or other laws may impact that ability to roll short-term notes into long-term notes, often depending on the useful life of the asset financed by the notes.

Board Policy No. 032: San Diego County Regional Transportation Commission Interest Rate Swap Policy (Attachment 11)

All Board Policies are typically reviewed by SANDAG management on an annual basis for potential changes, but one Policy has a specific requirement for annual review. This is Board Policy No. 032: San Diego County Regional Transportation Commission Interest Rate Swap Policy. Section 1 of the Policy provides in part: “The Interest Rate Swap Policy shall be reviewed and updated at least annually and presented to the Board of Directors for approval.” Amendments to this Policy would be accompanied by an implementing resolution at the Board of Directors.

This Policy was reviewed by management and the SANDAG Financial Advisor, PFM. The proposed additions to Section 4.2.2 reflect the requirement that swap dealers be properly registered. A newly proposed Section 7 reflects requirements imposed by the Dodd–Frank Wall Street Reform and Consumer Protection Act.

Board Policy No. 036: Debt Policy (Attachment 12)

SANDAG, acting as the San Diego County Regional Transportation Commission, has been issuing debt in order expedite Board identified TransNet Early Action Program (EAP) projects. The purpose of the proposed Debt Policy is to establish guidelines for the issuance and management of SANDAG’s current and future debt. The Debt Policy is designed to inform decision making and provide transparency to SANDAGs financial market participants and the general public. The proposed Debt Policy confirms the commitment of the Board of Directors, management, staff, and other decision makers to adhere to sound financial management practices.

JOHN F. KIRK
General Counsel

Attachments: 1. SANDAG Board Policy No. 001 - Operations Policy
2. SANDAG Board Policy No. 003 - Investment Policy
3. SANDAG Board Policy No. 004 - Rules of Procedure for Board of Directors, Policy Advisory Committees, and Other Legislative Bodies
4. SANDAG Board Policy No. 009 - Discrimination Complaint Procedures
5. SANDAG Board Policy No. 014 - Environmental Quality
6. SANDAG Board Policy No. 017 - Delegation of Authority
7. SANDAG Board Policy No. 021 - Acquisition of Real Property Interests and Relocation Assistance
8. SANDAG Board Policy No. 024 - Procurement and Contracting - Construction
9. SANDAG Board Policy No. 027 - Transportation Development Act
10. SANDAG Board Policy No. 031 - TransNet Ordinance and Expenditure Plan Rules
11. SANDAG Board Policy No. 032 - San Diego County Regional Transportation Commission Interstate Rate Swap Policy
12. SANDAG Board Policy No. 036 - Debt Policy

Key Staff Contact: John F. Kirk, General Counsel, (619) 699-1997, john.kirk@sandag.org
OPERATIONS POLICY
Board and Policy Advisory Committees Responsibilities

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

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

A. Board Responsibilities

1. Approve the Regional Plan, which merges the Regional Comprehensive Plan (RCP), the Regional Transportation Plan, and the Sustainable Communities Strategy and as well as plan components and other regional plans (e.g., Regional Energy Plan, MHCP, etc.).

2. Approve the Regional Transportation Plan (RTP), Regional Transportation Improvement Program (RTIP) and corridor studies

3. Fulfill responsibilities of SB 1703 as consolidated agency

4. Fulfill the responsibilities of the San Diego Regional Transportation Commission (RTC)

5. Approve programming of funds (TDA, CMAQ, STIP, etc.)

6. Approve project environmental reports

7. Approve Overall Work Program and Program Budget

8. Approve amendments to the Program Budget and Overall Work Program and authorize contracts with consultants for amounts equal to or greater than the amounts to be determined for administrative and policy committee authorization.

9. Approve the annual legislative agenda

10. Provide policy direction through Policy Development Board meetings

11. Appoint Committees and Board officers
12. Delegate responsibilities to Policy Advisory Committees and approve committee actions. All items delegated to the five Policy Advisory Committees are subject to direct Board action upon request of any members.

13. Delegate responsibilities to Board Chair consistent with Board criteria. Conference sponsorships and proclamations are hereby delegated subject to current or subsequently approved criteria.

B. Executive Committee Membership and Responsibilities

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

1. Set agenda for Board. Any Board member requesting that an item be considered for inclusion on the agenda must present such request in writing to the Chairperson prior to the Executive Committee’s consideration of such agenda.

2. Review and recommend annual Overall Work Program and Program Budget

3. Approve amendments to the Program Budget and Overall Work Program and authorize contracts up to amount approved by the Board

4. Review and act on state and federal legislation

5. Comment on behalf of SANDAG or provide recommendations to the Board regarding comments on third party environmental documents

6. Act upon and evaluate dispute resolution

7. Advise on personnel actions

8. Act on behalf of Board when timing requires

9. Make policy recommendations to the Board

10. Perform other duties as assigned by the Board

11. Approve financial/contracting transactions, including selection of vendors, acceptance of funding, stipulations of any nature, and any resulting budget amendment up to $500,000, subject to increase by Board action.

12. Annually review a list of all the SANDAG lower-level committees and working groups to determine the need to maintain the committee or working group and approve any revisions in functions or membership.
13.12. Review all proposed amendments to the Bylaws or Board Policies and make recommendations to the Board regarding those amendments.

44.13. Conduct expedited reviews and approvals of Energy Working Group actions on an as-needed basis.

C. Transportation Committee Membership and Responsibilities

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

1. Provide oversight for consolidated transit responsibilities
2. Provide policy oversight for transportation plans and corridor and systems studies
3. Establish/approve transportation prioritization criteria
4. Approve TDA and STA claim amendments and RTIP and STIP amendments
5. Recommend funding allocations to the Board
6. Approve transit operator budgets for funding
7. Approve Regional Short Range Transit Plan and Coordinated Human Service and Public Transit Transportation Plan
8. Make recommendations regarding changes to Board Policy No. 018 (Transit Service Policy) and Board Policy No. 029 (Regional Fare Policy and Comprehensive Fare Ordinance)
9. Conduct public hearings as delegated by Board
10. Approve contracts for transit up to amount approved by the Board
11. Advise Board on other transportation policy-level issues
12. Recommend legislative program for transportation and transit
13. Approve financial/contracting transactions, including selection of vendors, acceptance of funding, stipulations of any nature, and any resulting budget amendment up to $500,000 for transportation items, subject to increase by Board action
14. Convene closed sessions and make final decisions with regard to real property transactions related to transportation projects, however, this delegation does not include the authority to make a Resolution of Necessity or to commence litigation.
15. Conduct hearings and authorize additional public meetings when appropriate pursuant to Board Policy No. 025 to hear official testimony from the public regarding Comprehensive Fare Ordinance amendments

16. Approve amendments to the Comprehensive Fare Ordinance

17. Accept for distribution, hold public hearings regarding, and adopt/certify environmental documents where items can be approved through actions of the policy committee

18. Approve loans of TransNet funds when such loans are incorporated into an RTIP amendment requiring an exchange of TransNet funds for funds from another source

19. Provide oversight and approvals for Coordinated Transportation Services Agency (CTSA) matters and appoint Transportation Committee representative to the CTSA board

20. Approve revisions to funding allocations for Federal Transit Administration Section 5311 funding

21. Approve the TransNet compliance audits consistent with Board Policy No. 031 (TransNet Ordinance and Expenditure Plan Rules)

22. Provide input on project selection criteria for, and recommend projects for funding under, the TransNet Smart Growth Incentive Program and Environmental Mitigation Program

23. Provide oversight for Service Authority for Freeway Emergencies (SAFE) responsibilities and related motorist aid programs

23.24. Provide coordinated oversight with the Regional Planning Committee for recommendations on the preparation and implementation of components of the Regional Plan

D. Regional Planning Committee Membership and Responsibilities

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

1. Provide coordinated oversight with the Transportation Committee for recommendations on the preparation and implementation of the RCP and its components of the Regional Plan

2. Recommend regional infrastructure financing strategies to the Board

3. Represent the Board for outreach and public information on the RCP Regional Plan and its components

4. Advise Board on regional planning policy issues

5. Approve distribution of funds from the California Coastal Commission Beach Sand Mitigation Fund
6. Recommend project selection criteria for, and recommend projects for funding under, the TransNet Smart Growth Incentive Program and Environmental Mitigation Program.

E. Borders Committee Membership and Responsibilities

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

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

F. Public Safety Committee Membership and Responsibilities

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

G. Distribution of Meeting Materials

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

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

H. Work Assigned to Staff

Requests for staff to perform work on a project that is not specified in the Overall Work Program or Program Budget shall only be conducted following approval by the Board if the work is estimated to exceed four hours of staff time.

Adopted January 2003
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 the California Government Code. 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**

4.1. **Safety.** Safety of principal is the foremost objective of the investment program. Investments of SANDAG shall be undertaken in a manner that seeks to ensure preservation of capital in the portfolio.

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

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

5. **Delegation of Authority**

5.1 The Board of Directors delegates the authority to invest or to reinvest funds, or to sell or exchange securities so purchased, to the Executive Director for a one-year period. The Executive Director is charged with the responsibility for carrying out the policies of the Board of Directors and shall assume full responsibility for investment transactions until the delegation of authority is revoked or expires. In accordance with the SANDAG 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, unless delegated per Section 5.5, 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, except for an authorized investment advisor/manager with discretionary authority delegated per Section 5.5.

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**: bonds 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 Municipal 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.
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. 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 SANDAG 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 five years. 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 or by a federally 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.

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. 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 in California. 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 A quarterly investment report shall be submitted to the Board Members. The reports should include information in accordance with Section 53646(b) of the California Government Code.
12. Safekeeping and Custody

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

12.2 The only exception to the foregoing shall be securities purchases made with: (i) LAIF, (ii) San Diego County Treasurer’s Investment Pool, (iii) CAMP pool, (iv) Nonnegotiable Certificates of Deposit, (v) bank deposits, 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 November 2010
Amended February 2012
RULES OF PROCEDURE FOR BOARD OF DIRECTORS, POLICY ADVISORY COMMITTEES AND OTHER LEGISLATIVE BODIES

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

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

Procedures for the Board and Policy Advisory Committees

1. Ordinances
   1.1 Every ordinance shall be signed by the Chair of the Board, or for the comprehensive fare ordinance the Chair of the Transportation Committee, and attested by the Clerk of the Board.
   1.2 Upon the passage of an ordinance, the votes of the Board members or Transportation Committee members, as appropriate, shall be entered in the minutes.
   1.3 Ordinances shall not be passed within five days of their introduction, nor at any meeting other than a regular meeting. An urgency ordinance may, however, be passed immediately upon introduction and either at a regular or special meeting. Except when, after reading the title, further reading is waived by regular motion adopted by unanimous vote of the Board or Transportation Committee members present, all ordinances shall be read in full at the time of introduction or passage. When ordinances, other than urgency ordinances, are altered after introduction, they shall be passed only at a regular or at an adjourned regular meeting held at least five days after alteration. Corrections of typographical or clerical errors are not alterations within the meaning of this section.
   1.4 The Clerk of the Board shall cause a proposed ordinance or proposed amendment to an ordinance, and any ordinance adopted by the Board or Transportation Committee to be published at least once in a newspaper of general circulation in the SANDAG area of jurisdiction.
   1.5 The publication of an ordinance as required by this policy, may be satisfied by either of the following actions:
       1.5.1 Publication of a summary of a proposed ordinance or proposed amendment to an ordinance. The summary shall be prepared by the Clerk of the Board and the Office of General Counsel. The summary shall be published and a certified copy of the full text of the proposed ordinance or proposed amendment shall be posted in the office of the Clerk of the Board at least
five days prior to the meeting at which the proposed ordinance or amendment is to be adopted. Within fifteen (15) days after adoption of the ordinance or amendment, the Clerk of the Board shall publish a summary of the ordinance or amendment with the names of the Board or Transportation Committee members voting for and against the ordinance or amendment and the Clerk of the Board shall post in the office of the clerk a certified copy of the full text of the adopted ordinance or amendment along with the names of those members voting for and against the ordinance or amendment; or

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

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

2. Board Policies

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

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

3. Public Comment and Public Meetings

3.1 Persons wishing to provide comment or testimony shall be permitted to address the Board or Policy Advisory Committee after submitting a written request to speak, identifying themselves and the agenda item on which they want to be heard. Ordinarily, each speaker will be allowed no more than three minutes. The Chair, however, may extend or limit the time for each presentation or may permit additional time to speakers representing a group of individuals or organizations to avoid duplicative testimony or for other reasons that are in the best interest of the Board or committee in the Chair’s discretion. Testimony must be limited to issues relevant to the agenda item.
3.2 The Board wishes to maximize the number of people who can address SANDAG legislative bodies within the time limits set for the meeting while a quorum is present. The Board believes that meetings that last longer than the time set for meeting adjournment can discourage public participation and can hinder the conduct of government business due to loss of a quorum. Therefore, meetings of SANDAG legislative bodies shall be adjourned by the end time set forth in the agenda, unless extended to a specific time by a majority vote of the legislative body. The meeting shall be extended no more than once and may be adjourned to a later date. The Board of Directors wishes to maximize the number of people who can address SANDAG legislative bodies within the time limits set for the meeting while a quorum is present. Accordingly, the chair of a SANDAG legislative body may reduce the speaking time allocated for each speaker or establish a time certain for completion of one or more agenda items when the number of speakers and/or number of items on the agenda are reasonably likely to prevent the conclusion of business prior to the time the meeting is set to adjourn. Decisions by the chair shall be based on the time allocated for the meeting, the number of agenda items, the complexity of each item, and the number of persons wishing to address the legislative body on each item.

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

3.4 The Board or a Policy Advisory Committee (PAC) Chair, as applicable, will determine with staff’s assistance whether additional public meetings at which formal public testimony will be taken outside of regularly scheduled Board or PAC meetings are appropriate. Such additional public meetings may take the form of scoping meetings, focus group meetings, open houses, workshops or similar alternative formats. The applicable Chair will appoint one or more members of the relevant legislative body to act as public meeting officer(s) at SANDAG public meetings that are not held during a meeting of a SANDAG legislative body. If no Board or PAC members are available to serve as public meeting officers, the Chair may appoint the Executive Director or his/her delegate to serve as the public meeting officer. When a public meeting occurs before a public meeting officer, the public meeting officer or Clerk of the Board shall ensure that all official public testimony given at the public meeting are accurately included in the written records, and ensure those written records are forwarded to the Board of Directors or PAC for review prior to the time designated for the relevant legislative body to render its recommendation or final decision.
3.5 The public meeting officer’s written records regarding the public meeting must include, at least, the following elements:

3.5.1 An objective description of the subject matter of the public meeting.

3.5.2 The public comments received by proponents and opponents of the meeting’s subject matter. The records shall indicate the hour and minute when the public meeting was opened and closed.

3.5.3 A list of the notices that were published, mailed, or Internet-posted, including the date of mailing or publication, the name of any newspaper, Internet address or web site, and a list of addresses and entities to which the notice was delivered. If multiple public meetings at which official public testimony is taken regarding the same subject matter are held throughout San Diego County, information regarding the notices and agendas for each public meeting shall be included in the public meeting records.

3.5.4 A copy of the agenda for the public meeting, including the time period during which public testimony was heard. The agenda also shall list contact information for the transcriber attending the public meeting.

3.5.5 A reference to the location where an audio and/or video recording, or transcript of the public meeting is archived, and where all original written comments submitted to the public meeting officer are available for viewing.

3.6 Before the Board of Directors or PAC takes action on the item that was the subject of a public meeting conducted by a public meeting officer, it will allow additional public comment at a regularly scheduled meeting of the legislative body.

3.7 By voting at a meeting where a public meeting officer’s records will be relied upon, each voting member of the legislative body will be affirming that he or she has:

3.7.1 Thoroughly reviewed the public meeting officer’s records of any minutes or transcript from, or listened to an audio or watched a video recording of, the public meeting(s); and

3.7.2 Given due consideration to any letters, e-mails, voicemails, or other comments submitted by the public that are part of the public meeting record.

3.8 If a voting member of a legislative body cannot attest that he or she has met the criteria listed in Section 3.6, he or she may participate in the discussion regarding the subject matter of the public meeting, and need not leave the legislative body meeting room, but should not vote on the matter.
4. **Standards of Conduct & Ethics Applicable to All of SANDAG Legislative Bodies**

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

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

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

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

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

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

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

4.4.4 Receiving or accepting, directly or indirectly, any gift or favor from anyone doing business with the Board under circumstances from which it could reasonably be inferred that such was intended to influence such person in their duties or as a reward for official action.

4.4.5 Soliciting any gift or favor in the member’s official capacity, either directly or indirectly, when such solicitation might reasonably be inferred as to have a potential effect on the member’s duties or decisions, or when the individual’s position as a Board member would in any way influence the decision of the person being solicited.
4.5 Prohibited Interests

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

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

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

4.5.4 Definitions

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

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

4.5.4.3 For purposes of this section, “render a decision” means to take part personally and substantially in the project by rendering a decision, approval, or disapproval; by making a formal written recommendation; by conducting an investigation; by rendering advice on a significant basis; or by using confidential information.
4.5.4.4 **For purposes of this section, "project" means any matter where a private business has made an application to SANDAG for discretionary funding or discretionary entitlements, or where SANDAG exercises discretion to enter into a lease, agreement, or contract with a private business.**

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

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

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

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

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

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

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

4.5.6.1.5 any person from whom a SANDAG Board member or a member of the SANDAG Board member’s immediate family has received gifts that total $420\(^1\) or more within twelve months prior to the decision;

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\(^1\) This amount is subject to adjustment by the Fair Political Practices Commission.
4.5.6.1.6 the personal expenses, income, assets, or liabilities of a SANDAG Board member or a member of SANDAG Board member’s immediate family.

4.5.7 Prohibitions Applicable to Former Board Members

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

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

4.6 Lobbying and Campaign-Related Activities

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

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

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

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

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

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

4.6.3 The prohibitions contained in 4.6.2 shall not apply:

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

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

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

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

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

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

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

4.9 No Board member shall disclose to any person, other than members of the Board and other Board staff designated to handle such confidential matters, the content or substance of any information presented or discussed during a closed session meeting unless the Board authorizes such disclosure by the affirmative vote of a majority of the Board.

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

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

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

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

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

4.15 Pursuant to Section 18944.1 and 18944.2 of Title 2 of the California Code of Regulations, certain procedures must be followed in order for a gift (travel, tickets, seats at an event, food, etc.) to be considered a gift to SANDAG instead of to an individual SANDAG public official or designated employee. A document entitled “Guidance Regarding Gifts” shall be posted on the SANDAG Web site to provide information regarding SANDAG practices, which are intended to assist public officials and designated employees in complying with regulations promulgated by the California Fair Political Practices Commission.
5. Additional Advisory Membership on Board and Policy Advisory Committees

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

5.2 In determining whether to supplement the Board with additional regular or temporary advisory members, the Board will first review whether the existing Board and Policy Advisory Committees (PAC) membership structures provide the opportunity for beneficial advice and information to SANDAG on matters of interest to the region.

5.2.1 The Board will consider adding a new regular advisory member to the Board or a PAC if it finds that the additional advisory member would provide beneficial advice and information to the Board or PAC, and that such advice/information cannot be provided by the existing Board and PAC membership structures. The agency/group wishing to become a regular advisory member shall submit a written request to the Board Chair or PAC Chair. For new regular advisory Board or PAC members, the finding and review required by this Section 5.2.1 as well as the selection criteria in Section 5.3 shall apply.

5.2.2 From time to time, the Board or a PAC may determine it is in best interest of SANDAG to provide an agency/group with temporary advisory “seat” at the Board or at one of its PACs when specific agenda items arise. The agency/group wishing to obtain a temporary advisory seat shall meet the criteria listed in Section 5.3 and shall submit a written request to the Board Chair or PAC Chair at least three days prior to the meeting, identifying the reasons for its request and the specific agenda item(s) to be considered. The decision about whether to fulfill the request shall be at the sole discretion of the Board Chair or PAC Chair.

5.3 The following criteria for selection of additional advisory members also shall apply:

5.3.1 Agency/group has land use and/or eminent domain authority;

5.3.2 Agency/group has regional authorities and responsibilities important to the SANDAG mission;

5.3.3 Membership by the agency/group would enhance SANDAG regional decision-making;

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

5.3.5 Agency/group is able to agree on the form of representation and who will represent it.
6. Procedures Applicable to SANDAG Legislative Bodies Other Than the Board and Policy Advisory Committees

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

6.1 All of the SANDAG legislative bodies are required to comply with the requirements of the Act, including but not limited to the following:

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

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

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

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

6.1.4 Secret ballots and anonymous voting are prohibited.

6.1.5 An attendance, registration, or sign-in sheet may be used at public meetings to document the presence of persons other than the members of the legislative body, however, the sheet must clearly state that its completion is voluntary and not a precondition for attendance.

6.1.6 Meetings may not be held in facilities that are inaccessible to disabled persons or in facilities that prohibit the admittance of any persons on the basis of race, religious creed, color, national origin, ancestry or sex.

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

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

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

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

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

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

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

6.2.3 Unless otherwise provided by the Board or Policy Advisory Committee, each legislative body should select a chair and vice chair by a vote of the majority of a quorum on an annual basis.

6.2.4 Roberts Rules of Order should be used by legislative bodies for guidance on procedural matters such as the making of motions and voting.

6.2.5 The chair of a legislative body may direct that comments from the public shall be limited to no more than three minutes per person. Comments from the public should be requested following introduction of each agenda item. Efforts should be made to make it clear to the members of the legislative body and audience when a comment is being made by a member of the public versus a member of the legislative body.
6.2.6 In the event a legislative body is having difficulty taking action on items due to lack of attendance to create a quorum, the legislative body may make a recommendation regarding changes to membership and seek approval of these recommendations from the Board or Policy Advisory Committee that created the legislative body.

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

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

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

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

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

Adopted June 2003
Amended November 2004
Amended January 2006
Amended December 2006
Amended December 2007
Amended September 2008
Amended January 2010
Amended February 2012
Amended _________ 2013
DISCRIMINATION COMPLAINT PROCEDURES

This policy is intended to establish a procedure under which complaints alleging discrimination in SANDAG’s provision of services or SANDAG activities can be made by persons who are not employees of SANDAG.

Background

It is SANDAG policy to comply with state and federal laws and regulations including the Americans with Disabilities Act of 1990 (ADA), Title VI of the Civil Rights Act of 1964 (Title VI) and other federal and state discrimination laws. SANDAG prohibits discrimination by its employees, contractors, and consultants. The responsibility for the implementation of the discrimination complaint procedures is assigned to the Office of General Counsel. SANDAG does not discriminate on the basis of race, color, sex, creed, religion, national origin, age, marital status, ancestry, medical condition, disability, veteran status, or sexual orientation in conducting government business. Persons who believe they have been subjected to discrimination or have been denied access to services or accommodations required by law, have the right to use this grievance procedure.

The procedures below are the same for complaints of any type of prohibited discrimination; however, because SANDAG has a designated ADA Coordinator, a separate complaint form and contact information are referenced below for complaints relating to medical condition or disability. All other complaints under this policy should be addressed to the SANDAG Office of General Counsel, as described below.

Procedures

1. **Applicability**

   This complaint procedure is applicable to all persons who are not employees of SANDAG. This includes, but is not limited to, visitors to SANDAG, members of the public viewing SANDAG publications, Board, committee, and working group members, vendors, or any other person transacting business with SANDAG or using SANDAG’s services who believe that they have been subjected to discrimination by SANDAG employees, contractors, or consultant. In general, it is designed to address disputes including but not limited to concerning the following:

   1.1 Disagreements regarding a requested service, accommodation, or modification of a SANDAG practice or requirement;

   1.2 Inaccessibility of a program, publication, or activity; and

   1.3 Harassment or discrimination prohibited by California or federal law on the basis of disability;
Violation of privacy in the context of disability.

2. **Identification of Compliance Officer and ADA Coordinator**

With the exception of laws relating to discrimination on the basis of medical condition or disability, the SANDAG’s Office of General Counsel is the Compliance Officer for this policy and is responsible for administering this complaint procedure as well as ensuring compliance with applicable laws. The Compliance Officer can be reached at: SANDAG, 401 B Street, Suite 800, San Diego, California 92101; (619) 699-1900.

The ADA Coordinator is the person responsible for administering this complaint procedure as well as ensuring compliance with applicable laws related to medical condition or disability. The ADA Coordinator can be reached at: SANDAG, 401 B Street, Suite 800, San Diego, California 92101; (619) 699-1900.

3. **Preliminary Review Process**

   3.1 Informal Resolution - Prior to initiating the formal complaint procedure set forth below, and as a prerequisite to it, the complaining party shall contact the Compliance Officer or ADA Coordinator as applicable for assistance in resolving the matter informally as soon as is reasonably practicable, generally within approximately fifteen (15) calendar days of the time the grievant became aware of the SANDAG act or omission that is the subject of the complaint. If the Compliance Officer or ADA Coordinator is not successful in quickly achieving a satisfactory resolution (that is, generally within approximately thirty [(30)] calendar days), the Compliance Officer or ADA Coordinator will take the steps described in subparagraph 3.2.

   3.2 Review Panel - The Compliance Officer or ADA Coordinator will convene an ad-hoc review panel to review the issue(s) raised. The panel will consist of the following (or their designees): the Compliance Officer or ADA Coordinator as applicable, a member of the management staff, a Deputy Executive Director, and (depending upon the issues) such other personnel as may be appropriate. This panel will review the request, investigate and attempt to resolve the issues within approximately thirty (30) calendar days of the request for or initiation of a second review. No formal report need be issued by the panel, but the panel will document the outcome of its review in a letter to the complaining party. If the complaining party is not satisfied with the panel’s disposition of the matter, the complaining party may file a formal complaint in accordance with the procedure described below.

4. **Formal Complaint**

If the procedure set forth above for preliminary review does not yield a successful resolution, then the complaining party may file a formal complaint in the following manner:

   4.1 When To File Complaint - Complaints must be in writing and must be filed within ten (10) calendar days of the complaining party’s receipt of notice of the end of the preliminary review process described above.
4.2 What To File - A complaint must be in writing and include the following information requested in one of the two attached forms entitled:

- Discrimination Complaint Form
- Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 Discrimination Complaint Form

The complaining party’s name, address, e-mail address and phone number;

4.1.1.1 A full description of the problem;

A statement of the remedy requested; and

Complainant must also also must attach a copy of the letter from the Review Panel setting forth the outcome of the preliminary review procedure described above.

4.2.4.3 Where To File Complaint - The complaint shall be filed with the Compliance Officer or ADA Coordinator as applicable, at SANDAG, 401 B Street, Suite 800, San Diego, California 92101; Fax number (619) 699-1995; TTY (619) 699-1904595-5625.

4.3.4.4 Notice of Receipt - Upon receipt of the complaint, the Compliance Officer or ADA Coordinator as applicable, will review the complaint for timeliness and appropriateness for this grievance procedure, and will provide the complaining party with written notice acknowledging its receipt.

4.4.4.5 Investigation - The Compliance Officer, ADA Coordinator, or his or her designee shall promptly initiate an investigation. In undertaking the investigation, the Compliance Officer or ADA Coordinator may interview, consult with, and/or request a written response to the issues raised in the complaint from any individual the Compliance Officer or ADA Coordinator believes to have relevant information, including staff and members of the public. The Compliance Officer or ADA Coordinator also may hold an informal hearing at his or her discretion.

4.5.4.6 Representation - The complaining party and any party against whom the grievance is directed shall have the right to have a representative. The party shall indicate whether he or she is to be assisted by a representative and, if so, the name of that representative. For purposes of this procedure, the representative may be an attorney so long as the Office of General Counsel serves as the Compliance Officer or is otherwise present during proceedings.

4.6.4.7 Findings And Notification - Upon completion of the investigation, the Compliance Officer or ADA Coordinator will prepare and transmit to the complaining party, and to any party against whom the complaint is directed, a final report containing a summary of the investigation, written findings and a proposed disposition. This transmission will be expected within forty-five (45) calendar days of the filing of the formal complaint. The deadline may be extended by the SANDAG General Counsel for good cause. The final report shall also be provided, where
appropriate, to any person whose authority will be needed to carry out the proposed disposition or to determine whether any personnel action is appropriate.

4.7 Final Disposition - The disposition proposed by the Compliance Officer or ADA Coordinator shall be put into effect promptly. The complaining party or any party against whom the complaint or the proposed disposition is directed may appeal. The appeal to the Executive Director (as set forth below) will not suspend the implementation of the disposition proposed by the Compliance Officer or ADA Coordinator, except in those circumstances where the Executive Director decides that good cause exists making the suspension of implementation appropriate.

5. Urgent Matters

Whenever the application of any of the time deadlines or procedures set forth in this complaint procedure creates a problem due to the nature of the complaint, the urgency of the matter, or the proximity of the upcoming event, the Compliance Officer or ADA Coordinator as applicable, will, at the request of the complaining party, determine whether an appropriate expedited procedure can be fashioned.

6. Remedies

Possible remedies under this complaint procedure include corrective steps, actions to reverse the effects of discrimination or to end harassment, and measures to provide a reasonable accommodation or proper ongoing treatment. As stated above, a copy of the Compliance Officer's or ADA Coordinator's report may, where appropriate, be sent to appropriate persons to determine whether any personnel action should be pursued.

7. Appeal

7.1 Within ten (10) calendar days of the issuance of the final report, the complaining party or any party against whom the complaint is directed may appeal to the Executive Director the Compliance Officer's or ADA Coordinator's determination.

7.2 An appeal is taken by filing a written request for review with the SANDAG Executive Director, 401 B Street, Suite 800, San Diego, California 92101; Fax number (619) 699-1995; TTY (619) 699-1904.

7.3 The written request for review must specify the particular substantive and/or procedural basis for the appeal, and must be made on grounds other than general dissatisfaction with the proposed disposition. Furthermore, the appeal must be directed only to issues raised in the formal complaint as filed or to procedural errors in the conduct of the complaint procedure itself, and not to new issues.

7.4 The review by the Executive Director or his or her designee normally shall be limited to the following considerations: Were the proper facts and criteria brought to bear on the decision? Were improper or extraneous facts or criteria brought to bear on the decision that substantially affected the decision to the detriment of the complaining party? Were there any procedural irregularities that substantially affected the outcome of the matter?
to the detriment of the complaining party? Given proper facts, criteria, and procedure, was the decision one that a person in the position of the decision-maker might reasonably have made?

7.5 A copy of the Executive Director's written decision will be expected within thirty (30) calendar days of the filing of the appeal and shall be sent to the parties, the Compliance Officer or ADA Coordinator, and, if appropriate, to persons whose authority will be needed to carry out the disposition. The deadline may be extended by the Executive Director for good cause. The decision of the Executive Director on the appeal is final.

8. **Title VI Complaints**

SANDAG operates programs without regard to race, color, and national origin in compliance with Title VI of the Civil Rights Act. In order to comply with 49 CFR Section 21.9(b), recipients and subrecipients of Federal Transit Administration (FTA) funding such as SANDAG are required to develop procedures for investigating and tracking Title VI complaints and to make the procedures for filing a complaint available to members of the public upon request. This policy contains the procedures that members of the public should follow in order to request additional information regarding SANDAG's nondiscrimination obligations or file a discrimination complaint against SANDAG. Any person who believes himself or herself or any specific class of persons to be subjected to discrimination prohibited by Title VI also may file a written complaint with the FTA. A complaint should be filed no later than 180 days after the date of the alleged discrimination, unless the time for filing is extended by FTA. Title VI complaints regarding FTA funded programs at SANDAG can be sent to:

Federal Transit Administration Office of Civil Rights  
Attention: Title VI Program Coordinator  
East Building, 5th Floor - TCR  
1200 New Jersey Ave., SE  
Washington, DC 20590

9. **Confidentiality**

SANDAG will take reasonable measures to protect the privacy of the complaining party and those individuals who may be the subject of a complaint. SANDAG cannot guaranty privacy, however, particularly if disclosure is necessary for a complete investigation or is required by law.

Adopted June 2003  
Amended November 2004  
Amended January 2010  
Amended February 2012  
Amended _______ 2013
Discrimination Complaint Form

Instructions: If you believe SANDAG has engaged in discrimination against one or more persons based on a basis other than medical condition or disability, please fill out this form completely, in black ink or type. Sign and return to the address on page 2. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities upon request.

Complainant:

Address:

City, State and Zip Code:

Telephone: Home: Business:

Person Discriminated Against: (if other than the complainant)

Address:

City, State, and Zip Code:

Telephone: Home: Business:

When did the discrimination occur? Date:

Describe the acts of discrimination providing the name(s) where possible of the individuals who discriminated (use space on page 3 if necessary):

Has a complaint been filed with another bureau of the Department of Justice or any other Federal, State, or local civil rights agency or court?
Yes______ No______

If yes:

Agency or Court:

Contact Person:

Address:

City, State, and Zip Code:

Telephone Number:

Date Filed:

Additional space for answers:

____________________________________________________

____________________________________________________

____________________________________________________

____________________________________________________

____________________________________________________

Signature: _________________________________________

Date: ________________________________

Return to:

Discrimination Compliance Officer – Special Office of General Counsel

SANDAG
Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 Discrimination Complaint Form

Instructions: If you believe SANDAG has engaged in discrimination against one or more persons based on medical condition or disability, please fill out this form completely, in black ink or type. Sign and return to the address on page 2. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities upon request.

Complainant: ____________________________

Address: ____________________________

City, State and Zip Code: ____________________________

Telephone: Home: ____________________________ Business: ____________________________

Person Discriminated Against: ____________________________
(if other than the complainant)

Address: ____________________________

City, State, and Zip Code: ____________________________

Telephone: Home: ____________________________ Business: ____________________________

When did the discrimination occur? Date: ____________________________

Describe the acts of discrimination providing the name(s) where possible of the individuals who discriminated (use space on page 3 if necessary): ____________________________

______________________________

______________________________
Has a complaint been filed with another bureau of the Department of Justice or any other Federal, State, or local civil rights agency or court?

Yes ______  No ______

If yes:

Agency or Court:

Contact Person:

Address:

City, State, and Zip Code:

Telephone Number:

Date Filed:

Additional space for answers:

Signature: _________________________________________

Date: ________________________________

Return to:

ADA Coordinator
ENVIRONMENTAL QUALITY

Section 21082 of California Environmental Quality Act (CEQA) requires SANDAG to adopt objectives, criteria and procedures for the evaluation of public and private projects undertaken or approved by SANDAG, and the preparation, if required, of environmental impact reports in connection with that evaluation. This policy is intended to record SANDAG’s adoption of updated local guidelines for implementing CEQA and to make those guidelines consistent with the current provisions and interpretations of CEQA.

Procedures

1. The California Legislature has amended the California Environmental Quality Act ("CEQA") (Pub. Resources Code § 21000 et seq.), the CEQA Guidelines (Cal. Code of Regs, tit. 14, §15000 et seq.) have been revised, and the California courts have provided new interpretations of the provisions of CEQA since SANDAG last adopted local guidelines for implementation of CEQA.

2. The Board hereby adopts the guidelines found at California Code of Regulations, Title 14, beginning at section 15000 and in effect as of January 1, 2003, and as subsequently amended as its "Local Guidelines for Implementing the California Environmental Quality Act." Any and all prior actions of the Board of Directors enacting earlier guidelines are hereby repealed.

Adopted June 2003
Amended 2013
DELEGATION OF AUTHORITY

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

Definitions

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

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

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

“Emergency or Urgent Need” for purposes of this policy shall mean a situation in which, in the Executive Director’s or his/her designee’s opinion, injury to persons, or significant injury to property, covered species, habitats, linkages, and/or corridors identified in the San Diego County Natural Communities Conservation Planning program, or interruption of a public service will occur if immediate action is not taken.

Procedures

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

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

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

4.1 Enter into agreements not currently incorporated in the budget and make other modifications to the budget in an amount up to $100,000 per transaction so long as the overall budget remains in balance. This provision may not, however, be used multiple times on the same budget line item or contract in order to circumvent the $100,000 limit.

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

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

4.4 Approve the establishment of an offer of just compensation based on a qualified appraisal and within approved project budget for property sought to be acquired, and direct payment to persons for such property so long as the payment amount does not exceed 110 percent of the appraised value, or the full satisfaction of court judgments regarding property valuation.

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

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

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

4.8 Settle all lawsuits initiated under paragraph 4.7.

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

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

4.11 Execute tolling agreements to extend the statute of limitations for litigation involving SANDAG as a potential plaintiff or defendant when deemed in the best interest of SANDAG by the Executive Director and Office of General Counsel.

4.12 Authorize transfers of funds in the SANDAG budget for capital improvement projects following approval of such a transfer by the affected transit operator’s board of directors or designated governing body.
4.13 Authorize the expenditure of Emergency Land Management Funds designated in the most recent Board-adopted Environmental Mitigation Program Funding Strategy based upon support from a cross-section of technical experts not affiliated with the request.

4.14 Modify the Board of Directors meeting agenda regarding issues that arise after the most recent Executive Committee meeting with the concurrence of Chair of the Board.

4.15 Execute Right-of-Way Certifications for submittal to the California Department of Transportation, and take all other actions necessary to facilitate the timely filing of such certifications, for SANDAG projects that are either on the State Highway System or for those off-system projects with federal funding.

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

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

Adopted October 2003
Amended November 2004
Amended December 2006
Amended December 2008
Amended February 2012
Amended November 2012
Amended 2013
ACQUISITION OF REAL PROPERTY INTERESTS AND RELOCATION ASSISTANCE

The purpose of this policy is to encourage and expedite the acquisition of real property by agreements with owners, to avoid litigation and relieve congestion in the courts, to assure consistent treatment for owners in the public programs, and to promote public confidence in public land acquisition programs carried out by SANDAG. This policy also covers relocation assistance provided by SANDAG to individuals, families, businesses, farm operations, and nonprofit organizations that are required to relocate as a result of projects constructed by SANDAG for the benefit of the public.

Section 14085 et seq. of the California Government Code states that whenever any public entity is to receive state or federal funds for the purposes of project planning, design, rights-of-way, construction, acquisition, or improvement of exclusive public mass transit guideways (and their related fixed facilities, power systems, passenger facilities, vehicles, and equipment), it shall prepare plans for the complete project that are applicable to the type of project, and transmit them to the Department of Transportation for its review and approval of policies, procedures, and performance standards, prior to the implementation of the project or the project phases affected. This policy is intended to cover the following components of Section 14085: acquisition of rights-of-way and other related real properties; and relocation assistance.

Additionally, Government Code sections 7260-7276, require public entities such as SANDAG to provide relocation assistance to displaced persons and to implement a relocation assistance program.

Procedures

1. Acquisition of rights-of-way and other related real properties will be prosecuted within the following policy parameters:

   1.1 All property owners will be dealt with fairly and equitably in the acquisition of lands or interests therein required by SANDAG.

   1.2 Settlements will be based on estimates of fair market value as supported by current appraisal practices.

   1.3 SANDAG shall pay for expenses which the owner(s) must incur for title and escrow fees incidental to conveying real property to SANDAG.

   1.4 SANDAG shall make reasonable efforts to acquire expeditiously by negotiation the required property interests.
1.5 Condemnation will be utilized where negotiations have reached an impasse or there is a requirement to meet time restraints imposed by funding sources or construction schedules.

1.6 The Relocation Assistance Program will be fairly administered to ensure that all owners receive any and all benefits to which they are legally entitled.

2. The following guidelines shall be utilized by SANDAG or its agents to ensure fair and equitable treatment of all property owners affected by SANDAG acquisitions as set out in Government Code Section 7267 et seq., as it may be amended from time to time:

2.1 The real property interests to be acquired shall be appraised and the fair market value established before the initiation of negotiations and the property owner shall be given the opportunity to accompany the appraiser during his inspection on the property. The property owner may request an independent appraisal to be conducted at SANDAG expense for an amount not to exceed $5,000. (Government Code Section 7267.1 and 7267.2)

2.2 SANDAG or its agents shall make a prompt offer to the property owner for the full estimate of market value established by the Board Executive Director or his or her designee. SANDAG or its agents shall also provide the property owner with a written statement of, and summary of the basis for, the amount established as just compensation. The summary shall contain the following elements:

2.2.1 The owner’s name and address.

2.2.2 Zoning and present use of the property.

2.2.3 Highest and best use of the property.

2.2.4 Consideration to be paid by SANDAG.

2.2.5 Total property area and amount to be acquired.

2.2.6 Market value of the property to be acquired and a statement as to how the value was established, i.e., market data approach, income approach, or cost approach.

2.2.7 Amount of damages or a statement indicating that there are no compensable damages. (Government Code Section 7267.2)

2.3 SANDAG shall make reasonable efforts to acquire by negotiation the real property interests required so as to reduce the need for litigation. SANDAG shall strive at all times to assure consistent treatment of property owners involved in public improvement projects and to promote public confidence in SANDAG’s acquisition practices. (Government Code Sections 7267 and 7267.1a)
2.4 SANDAG shall schedule the construction or development of a public improvement, insofar as it is practicable, so that no person lawfully occupying real property shall be required to move from a dwelling or business, assuming a replacement dwelling is available, without at least 90 days written notice from the SANDAG. (Government Code Section 7267.3)

2.5 Should rental property become vacant, SANDAG may rent the vacated premises prior to acquisition.

2.6 The threat of condemnation shall not be used to coerce a property owner into agreement. (Government Code Section 7267.5 and 7267.6)

2.7 SANDAG will offer to acquire the entire property if the owner so desires where the acquisition of a portion of the property would leave the remaining portion in such shape or condition as to constitute an uneconomic remnant. (Government Code Section 7267.7)

3. Relocation assistance is a program that has been established by federal and state law to provide help to individuals, families, businesses, farm operations, and nonprofit organizations required to relocate as a result of a public improvement project. Its primary objective is to assist all project displacees to the end that they do not suffer disproportionate injury as a result of projects constructed for the benefit of the public as a whole.

3.1 Relocation assistance shall be in accordance with Section 7260-7276 of the State Government Code, as it may be amended from time to time.

3.2 No person will be required to relocate due to a proposed construction project until a replacement facility has been made available which meets the following standards:

3.2.1 Decent, safe, and sanitary.

3.2.2 Fair housing.

3.2.3 In areas not generally less desirable than the property to be acquired in regard to public utilities or public and commercial facilities.

3.2.4 Within the financial means of the displacee.

3.2.5 Reasonably accessible to the displacee's place of employment, public services, and commercial facilities.

3.2.6 Adequate to accommodate the displacee.

3.2.7 In an equal or better neighborhood.

3.2.8 Available on the market to the displacee.
3.3 In lieu of a replacement facility, the eligible owner or occupant may agree to accept a cash settlement as provided by state law.

3.4 Moving and related payments will be paid as provided by state law.

3.4.1 Individuals, businesses, and nonprofit organizations occupying the property to be acquired at the time of the first written offer to purchase and move as a result of SANDAG's acquisition, will be eligible for reimbursement of moving expenses.

3.4.2 Residential occupants will receive either the actual reasonable costs involved in moving family and personal property up to a maximum of 50 miles, or a payment based on a schedule relating to the size of their present dwelling, not to exceed $500.

3.4.3 Businesses, farms, and nonprofit organizations will be entitled to reimbursement for (1) actual reasonable costs involved in moving the operation and personal property up to a maximum of 50 miles, (2) actual reasonable expenses incurred in searching for a replacement property, and (3) actual direct losses of tangible property.

3.5 Instead of accepting an actual moving expense payment, a business owner may be paid an amount equal to the average annual net earnings of the farm or business for the last two years prior to relocation. The payment may not be less than $2,500 or more than $10,000. A business may qualify for an In Lieu Payment if the agency determines that the business cannot be relocated without a substantial loss of the existing dollar volume of business and it is not a part of a business having an additional establishment. A part-time individual or family occupation in the home that does not contribute materially to the income of the displaced owner is ineligible for an In Lieu Payment.

3.6 The Board hereby adopts the Department of Housing and Community Development relocation assistance regulations set forth in Title 25, Division 1, Chapter 6, Subchapter 1 of the California Administrative Code, except as supplemented herein, as SANDAG's Relocation Assistance Program for all projects that must have such regulations apply pursuant to Government Code section 7267.8.

3.7 Pursuant to section 6152 of Title 25 of the California Administrative Code, the provisions for review commencing with section 6150 shall be supplemented as follows:

3.7.1 In the case of complaints dismissed for untimeliness or for any other reason not based on the merits of the claim, SANDAG shall furnish a written statement to the complainant stating the reason for the dismissal of the claim as soon as possible but no later than two (2) weeks from receipt of the last material submitted by the complainant or the date of the hearing, whichever is later.
3.7.2 Except to the extent the confidentiality of material is protected by law or its disclosure is prohibited by law, the Board shall permit the complainant to inspect all files and records bearing upon his claim or the prosecution of the complainant's grievance. If a complainant is improperly denied access to any relevant material bearing on the claim, such material may not be relied upon in reviewing the initial determination.

3.7.3 The principles established in all determinations by SANDAG shall be considered as precedent for all eligible persons in similar situations regardless of whether or not a person has filed a written request for review. All written determinations shall be kept on file and available for public review.

3.7.4 Any aggrieved party has a right to representation by legal or other counsel at his expense at any and all stages of the proceedings set forth in these sections.

3.7.5 If a complainant, other than the owner of a displaced advertising sign, seeks to prevent displacement, SANDAG shall not require the complainant to move until at least twenty (20) days after it has made a determination and the complainant has had an opportunity to seek judicial review. In all cases, SANDAG shall notify the complainant in writing twenty (20) days prior to the proposed new date of displacement.

3.7.6 Where more than one person is aggrieved by the failure of SANDAG to refer them to comparable permanent or adequate temporary replacement housing, the complainants may join in filing a single written request for review. A determination shall be made by SANDAG for each of the complainants.

3.8 Before any project may be undertaken which involves the displacement of people, SANDAG or its agents shall complete a Replacement Housing Study to determine the needs of the relocatees and the availability of replacement housing. The SANDAG studies shall serve to assure that orderly relocation can be accomplished and that realistic and adequate plans are developed for relocating all displaced persons.

3.9 Comparable replacement dwellings will be available or provided for each displaced person within a reasonable amount of time. Such assurance is a part of the SANDAG Relocation Assistance Program study process and must be specifically given on every project requiring displacement.

3.10 Relocation advisory services will be provided to assist persons in relocating into safe, decent, and sanitary housing that meets their needs and is within their financial means. The same will be provided for displaced business and farm operators to aid them in finding suitable replacement locations to continue operations. Assistance is required throughout the acquisition phase of the project and starts at the time SANDAG begins acquiring properties on a project.
3.11 No person lawfully occupying real property shall be required to move from a dwelling, assuming a decent, safe, and sanitary replacement dwelling is available, or to move a business or farm operation, without at least 90 days written notice from SANDAG, prior to the date the move is required.

3.12 SANDAG shall follow generally the procedures outlined in the following Caltrans guides: Right-of-Way; Relocation Assistance Handbook; and How to Make Relocation Studies and Plans

3.13 All cash payments to owners or occupants for any purpose shall be formally reported to the Board as to amount, rationale, and applicable code or statute.

Adopted November 2003
Amended December 2008
Amended 2013
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 4220.1F 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 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 For design-bid-build projects, 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 For design-bid-build projects, 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, or in the case of a Job Order Contract, at least 50 percent of the maximum amount of the Job Order Contract; and

1.5.6.1.4 For design-bid-build projects, 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 exceed 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 shall be afforded an administrative hearing upon the submission of a timely protest of such issue. Any additional evidence submitted in the course of the protest procedure 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, Responsibility, Bid, or Award

1.8.1 SANDAG shall include in all procurements a procedure to be followed by interested parties who wish to protest a specification, procedure, or finding of nonresponsibility. 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, or in the case of a protest regarding a finding of nonresponsibility by an administrative hearing officer or panel, 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 all functions of the awarding authority under Section 4100 et seq.

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 4220.1F 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 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 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.
6.1.4 Any firm that assists SANDAG or any of its member or affiliated agencies in the preparation of a design-build procurement document will not be allowed to participate as a bidder/offeror or join a team submitting a bid/offer in response to a design-build procurement document except under the provisions in Section 7.1.4 of Board Policy No. 016.

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 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 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 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 JOC does not exceed a term of three years in duration.

7.1.1.4 The 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 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 policies, 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” contracting is a contract procurement process project delivery method 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. **Selection criteria for design-build procurements shall be subject to Board approval.**

9. **Construction Manager/General Contractor Contracting**

Construction Manager/General Contractor (CM/GC) contracting is a project delivery method using a best value procurement process in which a construction manager is procured to provide pre-construction services during the design phase of the project and construction services during the construction phase of the project. Notwithstanding Section 1 of this Policy, SANDAG is permitted to use the CM/GC contracting method on transit projects in accordance with Public Contracts Code 6950-6958. A competitive negotiation process similar to the process described in Board Policy No. 016 for the procurement of services will be used to procure CM/GC services. **Selection criteria for CM/GC procurements shall be subject to Board approval.**

10. **Design Sequencing Contracting**

“Design sequencing” contracting is a method of project delivery that enables the sequencing of design activities to permit each construction phase to commence when the design for that phase is complete, instead of requiring design for the entire project to be completed before commencing construction. This is a variation of the design-bid-build project delivery method. SANDAG is permitted to use the design sequencing contracting method on transit projects in accordance with Public Contracts Code 6950-6958.

Adopted November 2003
Amended December 2006
Amended December 2007
Amended December 2008
Amended January 2010
Amended November 2010
Amended February 2012
Amended November 2012
Amended 2013
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 \(\frac{1}{8}\) 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:

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

- **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.

- **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.

- **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 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 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).

<table>
<thead>
<tr>
<th>Operator</th>
<th>Required Ratio</th>
<th>PUC Section</th>
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<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>
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*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 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 multiyear timeframe that focuses on longer term trends. In order to measure multiyear 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 November 2010
Amended __________ 2013
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 November 18, 2005. This rule was superseded by Rule #11.

Text:

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 #2: Loan of Funds for Privately Funded Projects
Adoption Date: April 22, 1988 (Resolution RC88-5)
Amendment: Amended November 18, 2005

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 November 18, 2005

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 November 18, 2005

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 November 18, 2005

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 November 18, 2005, and July 27, 2012

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. Except as allowed below for the Local Street and Road Program and Transit System Service Improvements Program, interest accrued must 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.

For the Local Street and Road Program and Transit System Service Improvements Program that receive annual funding allocations, interest accrued may be pooled and must be applied to one or more active projects in accordance with the RTIP process.

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 November 18, 2005

**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 November 18, 2005

**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 purchases 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 November 18, 2005

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 November 18, 2005, and December 21, 2007

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 November 18, 2005. 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 November 18, 2005, __________ 2013
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. **Unless otherwise prohibited by law or regulation, repayment of the proceeds may be accomplished by rolling the outstanding amount into a long-term bond issue during the five-year repayment period. In such cases, the agency would then be responsible for its proportionate share of the bond issuance costs and annual debt service costs.** The repayment of debt, in all cases, is the first priority on the use of the agency’s share of annual TransNet revenues.

### Rule #17: Fiscal and Compliance Audits

**Adoption Date:** November 18, 2005

**Amendment:** Amended July 24, 2009, November 19, 2010, November 18, 2011, and July 27, 2012

**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 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.

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.

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.
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.

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

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 for initial draft acceptance by the ITOC (per Rule #17(I)(E)), 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 and accepted by the ITOC.

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: 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 unexpended funds, including any unexpended 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 (see Board Policy No. 035 for project completion deadlines and other Competitive Grant Program Procedures). 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, the agency is required to transfer the unexpended principal 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) while the interest may be so transferred or pooled in accordance with Rule #6. The audit should make note to which project the principal 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. Closed projects should no longer show in the following year’s audit. 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 annual fiscal and compliance audit. Such documentation shall consist of a signed staff report or resolution. Transfers that require an amendment to the RTIP must follow the amendment process outlined in Rule #7. Transfers between Local Street and Road Formula projects are subject to Rule #18.

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

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

<table>
<thead>
<tr>
<th>Context/Facility Type</th>
<th>Bicycle Measures</th>
<th>Pedestrian Measures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rural Local Road</td>
<td>• Minimum 6-foot paved shoulder</td>
<td>• Not required with 85\textsuperscript{th} percentile speeds ≤ 25 mph.</td>
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<tr>
<td></td>
<td></td>
<td>• Paved or graded walkway consistent with community character on streets with fronting uses and 85\textsuperscript{th} percentile speeds &gt; 25 mph.</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 in the AASHTO Guide for the Planning, Design, and Operation of Pedestrian Facilities, the Department of State Architect’s California Access Compliance Reference Manual, and the U.S. Department of Transportation’s ADA Accessibility Guidelines for Buildings and Facilities (ADAAG). Consistency with the design recommendations in SANDAG’s Planning and Designing for Pedestrians is encouraged.

**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

Amendment: Amended January 22, 2010, and November 19, 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
<table>
<thead>
<tr>
<th>Fund Source</th>
<th>Operator/Service</th>
<th>Vehicle Service Miles</th>
</tr>
</thead>
<tbody>
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<td>Article 4.0</td>
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<td>Rural Bus</td>
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<td>Poway Fixed Route</td>
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<tr>
<td>Article 8</td>
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<td>El Cajon Express</td>
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<td>Poway Dial-A-Ride</td>
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<td>Chula Vista Handytrans</td>
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<td>County Transit System - WHEELS</td>
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<td>Poway Call-A-Ride</td>
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<td>Article 4.5</td>
<td>Total</td>
<td>1,573,623</td>
</tr>
</tbody>
</table>

**MTDB (MTS) Area Total** 16,768,923
<table>
<thead>
<tr>
<th>Fund Source</th>
<th>Operator/Service</th>
<th>Vehicle Service Miles</th>
</tr>
</thead>
<tbody>
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<td>NCTD FAST</td>
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<td>Total</td>
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<tr>
<td>Article 4.5</td>
<td>NCTD Lifeline</td>
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<td>NSDCTDB (NCTD) Area Total</td>
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<tr>
<td>REGIONAL TOTAL</td>
<td></td>
<td>24,933,755</td>
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</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></td>
</tr>
<tr>
<td>1. New roadways and bridges</td>
<td>• Lane removal for bike lanes</td>
</tr>
<tr>
<td>2. Roadway and bridge widening</td>
<td>• Pavement overlay (less than 1 inch)</td>
</tr>
<tr>
<td>3. Roadway widening for bike lanes</td>
<td>• Pot hole repair, chip seal, fog seal, crack seal (except when part of roadway rehabilitation project)</td>
</tr>
<tr>
<td><strong>Major Rehabilitation and Reconstruction</strong></td>
<td>• 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></td>
</tr>
<tr>
<td>9. Median installation for safety improvement or left-turn movement</td>
<td>• Stand alone landscaping project of an existing median</td>
</tr>
<tr>
<td>10. New traffic signal, passive permissive left turn (PPLT) installation, signal removal for congestion relief reasons, traffic signal upgrades, intersection lighting</td>
<td>• Traffic signal replacement, bulb replacement, hardware, software, inductive loop repair</td>
</tr>
<tr>
<td>11. Traffic signal coordination</td>
<td></td>
</tr>
<tr>
<td>12. Traffic signal interconnection</td>
<td></td>
</tr>
<tr>
<td>Congestion Relief (at least 70%)</td>
<td>Maintenance and Non-Congestion Relief (no more than 30%)</td>
</tr>
<tr>
<td>--------------------------------</td>
<td>--------------------------------------------------------</td>
</tr>
<tr>
<td>13. Centrally controlled traffic signal optimization system</td>
<td></td>
</tr>
<tr>
<td>14. Traffic surveillance or detection system (video)</td>
<td></td>
</tr>
<tr>
<td>15. Traffic data collection system for performance monitoring purposes (in pavement detection, radar)</td>
<td></td>
</tr>
<tr>
<td><strong>Smart Growth-Related Infrastructure</strong></td>
<td></td>
</tr>
<tr>
<td>16. Traffic calming measures</td>
<td></td>
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<td>17. Pedestrian ramps</td>
<td></td>
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<tr>
<td>18. Pedestrian traffic signal activation</td>
<td></td>
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<tr>
<td>19. Pedestrian crossings/overcrossings</td>
<td></td>
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<tr>
<td>20. Buffer area between sidewalk and street</td>
<td></td>
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<tr>
<td>21. Pedestrian roadway lighting</td>
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<tr>
<td><strong>Transit Facilities</strong></td>
<td></td>
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<tr>
<td>22. New bus stops</td>
<td></td>
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<tr>
<td>23. Bus stop enhancements</td>
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<td>24. Bus-only lanes</td>
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<tr>
<td>25. Queue jumper lanes for buses</td>
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<tr>
<td>26. Traffic signal priority measures for buses</td>
<td></td>
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<tr>
<td>27. Transit operational costs for shuttle and circulator routes</td>
<td></td>
</tr>
<tr>
<td>28. Erosion control (unless required as part of a congestion relief project)</td>
<td></td>
</tr>
<tr>
<td>29. Landscaping (unless required as part of a congestion relief project)</td>
<td></td>
</tr>
<tr>
<td>30. Roadway signing and delineation (unless it is a congestion relief project)</td>
<td></td>
</tr>
</tbody>
</table>

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

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

The purpose of the Interest Rate Swap Policy of the San Diego County Regional Transportation Commission (SANDAG) is to establish guidelines for the use and management of interest rate swaps and options. The “Interest Rate Swap Policy” or the “Policy” is intended to provide general procedural direction regarding the use, procurement and execution of interest rate swaps. The Policy is intended to relate to various interest rate hedging techniques, including the contractual exchange of different fixed and variable rate payment streams through interest rate swap agreements and is not intended to relate to other derivative products that SANDAG may consider.

SANDAG is authorized under California Government Code Section 5922 to enter into interest rate swaps to manage the amount and duration of rate, spread, or risk when used in combination with the issuance of bonds or notes.

1. Scope and Authority

This Interest Rate Swap Policy shall govern SANDAG’s use and management of all interest rate swaps and options. While adherence to this Policy is required in applicable circumstances, SANDAG recognizes that changes in the capital markets, SANDAG’s programs and other unforeseen circumstances may from time to time produce situations that are not covered by the Policy and will require modifications or exceptions to achieve policy goals. In these cases, management flexibility is appropriate provided specific authorization from the Board of Directors is obtained.

The Interest Rate Swap Policy shall be reviewed and updated at least annually and presented to the Board of Directors for approval. Day-to-day responsibility for management of interest rate swaps shall fall within the responsibilities of the Director of Finance.

SANDAG shall be authorized to enter into interest rate swap transactions only with qualified swap counterparties. The Director of Finance, in consultation with SANDAG’s bond counsel and financial advisor, shall have authority to select the counterparties, so long as the criteria set forth in the Interest Rate Swap Policy are met.

2. Approach and Objectives

Interest rate swaps and options are appropriate interest rate management tools that can help SANDAG meet important financial objectives. Properly used, these instruments can increase SANDAG’s financial flexibility, hedge exposure to interest rate risk, provide opportunities for interest rate savings or enhanced investment yields, and help SANDAG manage its balance sheet through better matching of assets and liabilities. Swaps should be integrated into SANDAG’s overall debt program and should not be used for speculation or leverage.

Swaps are appropriate to use when they achieve a specific objective consistent with SANDAG’s overall financial strategies. They may be used, for example, to lock in a current
market fixed rate or create additional variable rate exposure. They may also be used to produce interest rate savings, to limit or hedge variable rate exposure, to alter the pattern of debt service payments or for asset/liability matching purposes. Swaps may be used to cap, limit or hedge variable rate payments. Options granting the right to commence or cancel an underlying swap may be used to the extent the swap itself is consistent with these guidelines or SANDAG determines there are other advantages to be derived in purchasing or granting the option; however, SANDAG must determine if the use of any such option is appropriate and warranted given the potential benefit, risks, and SANDAG’s objectives. SANDAG, together with SANDAG’s financial advisor and bond counsel, shall periodically review SANDAG’s swap guidelines and recommend appropriate changes.

3. Conditions for Use of Interest Rate Swaps and Options

3.1 Rationale

SANDAG may use interest rate swaps and options if it is reasonably determined that the proposed transaction is expected to:

3.1.1 Optimize capital structure, including schedule of debt service payments and/or fixed vs. variable rate allocations.

3.1.2 Achieve appropriate asset/liability match.

3.1.3 Reduce risk, including:

3.1.3.1 Interest rate risk;

3.1.3.2 Tax risk; or

3.1.3.3 Liquidity renewal risk.

3.1.4 Provide greater financial flexibility.

3.1.5 Generate interest rate savings.

3.1.6 Enhance investment yields.

3.1.7 Manage exposure to changing markets in advance of anticipated bond issuances (through the use of anticipatory hedging instruments).

3.2 Benefit Expectation

Financial transactions, using fixed rate swaps or other derivative products, should result in debt service savings of at least 2% when compared to the projected debt service SANDAG would consider for traditional bonds or notes. This threshold will serve as a guideline and will not apply should the transaction, in SANDAG’s sole judgment, meet any of the other objectives outlined herein. The debt service savings target reflects the greater complexity and higher risk of derivative financial instruments. Such comparative savings analyses shall include, where applicable, the consideration of the probability (based on historical interest rate indices, where applicable, or other accepted analytic techniques) of the realization of savings for both the derivative and traditional structures.
For example, assuming a refunding of $100 million of existing bonds, if a traditional fixed rate advance refunding that does not use derivative products would have a present value savings threshold of $5.0 million, which is 5.0% of the refunded par, then a refunding structure utilizing a derivative product would have to achieve a threshold of $7.0 million in present value savings, or 7.0% of the refunded par. Therefore, the transaction utilizing a swap or other derivative product would have to generate an additional $2.0 million to meet the target. Such analysis should consider structural differences in comparing traditional vs. derivative alternatives, e.g., the non-callable nature of derivative transactions.

For variable rate or other swap transactions that do not result in a fixed interest rate, SANDAG will evaluate any additional value generated through the transaction in assessing the benefits of proceeding, including the ability to meet the objectives outlined herein. These benefits include, for example, managing interest rate or tax risk, optimizing the capital structure or further reducing interest expense.

In determining any benefit in implementing a fixed-to-variable swap, the cost of remarketing, in addition to the cost of credit enhancement or liquidity fees, must be added to the projected variable rate of the bonds or notes. Such a calculation should consider the trading performance of comparable bonds or notes and any trading premium resulting from a specific form of credit enhancement or liquidity and/or any impact related to broader industry trends.

3.3 Maximum Notional Amount

SANDAG will limit the total notional amount of outstanding interest rate swaps based on the proper management of risks, calculation of termination exposure, and development of a contingency plan. The total “net notional amount” of all swaps related to a bond or note issue should not exceed the outstanding or expected to be issued par amount of the related bonds or notes. For purposes of calculating the net notional amount, credit shall be given to any fixed versus variable rate swaps that offset for a specific bond or note transaction.

3.4 Maximum Maturity

SANDAG shall determine the appropriate term for an interest rate swap agreement on a case-by-case basis. In connection with the issuance or carrying of bonds or notes, the term of the swap agreement between SANDAG and a qualified swap counterparty shall not extend beyond the final maturity date of the related bonds or notes.

3.5 Liquidity Considerations

SANDAG shall consider the impact of any variable rate bonds or notes issued in combination with an interest rate swap on the availability and cost of liquidity support for other variable rate programs. SANDAG recognizes that there is a limited supply of letter of credit or liquidity facility support for SANDAG’s variable rate bonds or notes, and the usage of liquidity support in connection with an interest rate swap may result in higher overall financing costs. SANDAG shall consider the benefits of not using liquidity when using a fixed rate bond in conjunction with a swap to variable to create synthetic variable rate debt.
3.6 Call Option Value Considerations

When considering the relative advantage of an interest rate swap to fixed rate bonds, SANDAG will consider the value of the call option on fixed rate bonds, or the cost of including a call or cancellation option in a swap. The value derived from the ability to call bonds at a future date is foregone when using a “non-callable” swap for the remaining term of the bonds. While fixed rate bonds are typically structured with a call provision at a certain time, after which the bonds may be refunded, this opportunity may be lost through the utilization of a long-dated “non-callable” swap, impairing SANDAG’s ability to reap economic savings, unless this option is specifically included under the swap.

4. Interest Rate Swap Features

4.1 Interest Rate Swap Agreement

SANDAG will use terms and conditions as set forth in the International Swap and Derivatives Association, Inc. (“ISDA”) Master Agreement. The swap agreement between SANDAG and each swap counterparty shall include payment, term, security, collateral, default, remedy, termination, and other terms, conditions, provisions and safeguards as SANDAG, in consultation with its bond and general counsel and financial advisor, deems necessary or desirable.

Subject to the provisions contained herein, the terms of SANDAG’s swap agreement shall use the following guidelines:

4.1.1 SANDAG’s downgrade provisions triggering termination shall in no event be worse than those affecting the counterparty.

4.1.2 Governing law for swaps will be New York or California.

4.1.3 The specified indebtedness related to credit events in any swap agreement should be narrowly defined and refer only to indebtedness of SANDAG that could have a materially adverse affect on SANDAG’s ability to perform its obligations under the swap.

4.1.4 Collateral thresholds for the swap provider, and for SANDAG if applicable, should be set on a sliding scale reflective of credit ratings of the swap provider or guarantor. Collateral should be held by an independent third party.

4.1.5 Eligible collateral is outlined in Appendix A.

4.1.6 Termination value should be set by a “market quotation” methodology, unless SANDAG deems an alternative methodology to be appropriate.

4.1.7 SANDAG will consider the use of swap insurance to mitigate possible termination risk and also to mitigate the need for SANDAG to post collateral under the Credit Support Annex.

4.2 Interest Rate Swap Counterparties

4.2.1 Credit Criteria
SANDAG will only do business with highly rated counterparties or counterparties whose obligations are supported by highly rated parties. SANDAG will structure swap agreements to protect itself from credit deterioration of counterparties, including the use of credit support annexes or other forms of credit enhancement to secure counterparty performance. Such protection shall include any terms and conditions in SANDAG’s sole discretion are necessary or appropriate or in SANDAG’s best interest.

SANDAG will make its best efforts to work with qualified swap counterparties that at the time of execution of a swap transaction have a general credit rating of: (i) at least “Aa3” or “AA-” by one of the nationally recognized rating agencies and not rated lower than “A2” or “A” by any nationally recognized rating agency, or (ii) have a “AAA” subsidiary as rated by at least one nationally recognized credit rating agency. The nationally recognized rating agencies are Moody’s Investors Services, Inc., Standard and Poor’s Rating Services, and Fitch Ratings.

For lower rated (below “AA-”) counterparties, SANDAG will seek credit enhancement in the form of:

- 4.2.1.1 Contingent credit support or enhancement;
- 4.2.1.2 Collateral consistent with the policies contained herein;
- 4.2.1.3 Ratings downgrade triggers; or
- 4.2.1.4 Guaranty of parent, if any.

In addition, qualified swap counterparties must have a demonstrated record of successfully executing swap transactions as well as creating and implementing innovative ideas in the swap market.

### 4.2.2 Swap Dealers

Each swap counterparty with which SANDAG executes a swap transaction will be registered with the Commodity Futures Trading Commission (“CFTC”) as a “swap dealer.”

### 4.3 Limitations on Termination Exposure to a Single Counterparty

In order to diversify SANDAG’s counterparty credit risk, and to limit SANDAG’s credit exposure to any one counterparty, limits will be established for each counterparty based upon both the credit rating of the counterparty as well as the relative level of risk associated with each existing and proposed swap transaction. The guidelines below provide general termination exposure guidelines with respect to whether SANDAG should enter into an additional transaction with an existing counterparty. SANDAG may make exceptions to the guidelines at any time to the extent that the execution of a swap achieves one or more of the goals outlined in these guidelines or provides other benefits to SANDAG. In general, the maximum Net Termination Exposure, as defined below, to any single counterparty should be set so that it does not exceed a prudent level as measured against the available financial resources of SANDAG.
Such guidelines will also not mandate or otherwise force automatic termination by SANDAG or the counterparty. Maximum Net Termination Exposure is not intended to impose retroactively any terms and conditions on existing transactions. Such provisions will only act as guidelines in making a determination as to whether or not a proposed transaction should be executed given certain levels of existing and projected net termination exposure to a specific counterparty. Additionally, the guidelines below are not intended to require retroactively additional collateral posting for existing transactions. Collateral posting guidelines are described in the “Collateral Requirements” section below. The calculation of net termination exposure per counterparty will take into consideration multiple transactions, some of which may offset the overall exposure to SANDAG.

Under this approach, SANDAG will set limits on individual counterparty exposure based on existing as well as new or proposed transactions. The sum of the current market value and the projected exposure shall constitute the Maximum Net Termination Exposure. For outstanding transactions, current exposure will be based on the market value as of the last quarterly swap valuation report provided by the financial advisor. Projected exposure shall be calculated based on the swap’s potential termination value taking into account possible adverse changes in interest rates as implied by historical or projected measures of potential rate changes applied over the remaining term of the swap.

For purposes of this calculation, SANDAG shall include all existing and projected transactions of an individual counterparty and all transactions will be analyzed in aggregate such that the maximum exposure will be additive.

The exposure thresholds, which will be reviewed periodically by SANDAG to ensure that they remain appropriate, will also be tied to credit ratings of the counterparties and whether or not collateral has been posted as shown in the table below. If a counterparty has more than one rating, the lowest rating will govern for purposes of the calculating the level of exposure.

The following chart provides the Maximum Net Termination Exposure to a swap counterparty given the lowest credit rating.

<table>
<thead>
<tr>
<th>Credit Rating Category</th>
<th>Maximum Collateralized Exposure</th>
<th>Maximum Uncollateralized Exposure</th>
<th>Maximum Total Termination Exposure</th>
</tr>
</thead>
<tbody>
<tr>
<td>AAA</td>
<td>Not applicable</td>
<td>$50 million</td>
<td>$100 million</td>
</tr>
<tr>
<td>AA</td>
<td>$50 million</td>
<td>$50 million</td>
<td>$100 million</td>
</tr>
<tr>
<td>A</td>
<td>$30 million</td>
<td>$15 million</td>
<td>$45 million</td>
</tr>
<tr>
<td>Below A</td>
<td>$30 million</td>
<td>None</td>
<td>$30 million</td>
</tr>
</tbody>
</table>

If the exposure limit is exceeded by a counterparty, SANDAG shall conduct a review of the exposure limit per counterparty. SANDAG, in consultation with its bond
counsel and financial advisor, shall explore remedial strategies to mitigate this exposure.

4.4 Collateral Requirements

As part of any swap agreement, SANDAG may require collateralization or other forms of credit enhancements to secure any or all swap payment obligations. As appropriate, SANDAG may require collateral or other credit enhancement to be posted by each swap counterparty under the following circumstances:

4.4.1 Each counterparty to SANDAG may be required to post collateral (subject to applicable thresholds) if the credit rating of the counterparty or parent falls below the “AA” category. Additional collateral for further decreases in credit ratings of each counterparty shall be posted by each counterparty in accordance with the provisions contained in the Credit Support Annex of the ISDA Agreement between each counterparty and SANDAG.

4.4.2 Threshold amounts shall be determined by SANDAG on a case-by-case basis. SANDAG will determine the reasonable threshold limits for the initial deposit and for increments of collateral posting thereafter.

4.4.3 In determining maximum uncollateralized exposure, SANDAG shall also consider and include, as applicable, financial exposure to the same corporate entities that it may have through other forms of financial dealings, such as securities lending agreements and commercial paper investments.

4.4.4 Collateral shall be deposited with a third party trustee, or as mutually agreed upon between SANDAG and the counterparty.

4.4.5 A list of acceptable securities that may be posted as collateral and the valuation of such collateral will be determined and mutually agreed upon during negotiation of the swap agreement with each swap counterparty. A complete list of acceptable securities and valuation percentages are included as Attachment A.

4.4.6 The market value of the collateral shall be determined on at least a weekly basis, or more frequently if SANDAG determines it is in SANDAG’s best interest given the specific collateral security.

4.4.7 SANDAG shall determine on a case-by-case basis whether other forms of credit enhancement are more beneficial to SANDAG.

4.5 Swap Insurance

If, after a cost/benefit analysis, it is determined that it would be beneficial to insure the interest rate swap, swap insurance will be pursued.

4.6 Security and Source of Repayment

SANDAG will generally use the same security and source of repayment (pledged revenues) for the interest rate swap as is used for the related bond or note issue.

4.7 Prohibited Interest Rate Swap Features
SANDAG will not use interest rate swaps that are: (i) speculative or create extraordinary leverage or risk, (ii) lack adequate liquidity to terminate without incurring a significant bid/ask spread, (iii) provide insufficient price transparency to allow reasonable valuation, or (iv) are used as investments.

5. **Evaluation and Management of Interest Rate Swap Risks**

Prior to the execution of any swap transaction, SANDAG’s Director of Finance, financial advisor and bond counsel shall evaluate the proposed transaction and report the findings to SANDAG’s Board. Such a review shall include the identification of the proposed benefit and potential risks. As part of this evaluation, SANDAG shall compute the Maximum Net Termination Exposure to the proposed swap counterparty.

5.1 **Evaluation Methodology**

SANDAG will review the following areas of potential risk for new and existing interest rate swaps:

<table>
<thead>
<tr>
<th>Type of Risk</th>
<th>Description</th>
<th>Evaluation Methodology</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basis Risk</td>
<td>The mismatch between actual variable rate debt service and variable rate indices used to determine swap payments.</td>
<td>SANDAG will review historical trading differentials between the variable rate bonds or notes and the index.</td>
</tr>
<tr>
<td>Tax Risk</td>
<td>The risk created by potential tax events that could affect swap payments.</td>
<td>SANDAG will review the tax events in proposed swap agreements. It will also evaluate the impact of potential changes in tax law on LIBOR indexed swaps.</td>
</tr>
<tr>
<td>Counterparty Risk</td>
<td>The risk that the counterparty fails to make required payments.</td>
<td>SANDAG will monitor exposure levels, ratings thresholds and collateralization requirements.</td>
</tr>
<tr>
<td>Termination Risk</td>
<td>The risk that the transaction is terminated in a market dictating termination payment by SANDAG.</td>
<td>SANDAG will compute its termination exposure for all existing and proposed swaps at market value and under a worst-case scenario. SANDAG will consider use of swap insurance to mitigate this risk.</td>
</tr>
<tr>
<td>Rollover Risk</td>
<td>The mismatch of the maturity of the swap and the maturity of the underlying bonds or notes.</td>
<td>SANDAG will determine its capacity to issue variable rate bonds or notes that may be outstanding after the maturity of the swap.</td>
</tr>
<tr>
<td>Liquidity Risk</td>
<td>The inability to continue or renew a liquidity facility.</td>
<td>SANDAG will evaluate the expected availability of liquidity support for swapped and unhedged variable rate debt and will consider the use of variable rate debt that does not require liquidity (e.g., auction rate securities)</td>
</tr>
<tr>
<td>Credit Risk</td>
<td>The occurrence of an event modifying the credit rating of the issuer or its counterparty.</td>
<td>SANDAG will monitor the ratings of its counterparties and insurers.</td>
</tr>
</tbody>
</table>
5.2 Managing Interest Rate Swap Risks

5.2.1 Annual Report to the Board

Staff will evaluate the risks associated with outstanding interest rate swaps at least annually and provide a written evaluation to the Board of Directors. This evaluation will include the following information:

5.2.1.1 A description of all outstanding interest rate swaps, including related bond series, types of swaps, rates paid and received by SANDAG, existing notional amount, average life and remaining term of each swap agreement and the current termination value of outstanding swaps.

5.2.1.2 Separately for each swap, the actual debt service requirements versus the projected debt service on the swap transaction. For any swap used as part of a refunding, the actual cumulative savings versus the projected savings at the time the swap was executed.

5.2.1.3 The credit ratings of each swap counterparty, parent, guarantor and credit enhancer insuring the swap payments, if any.

5.2.1.4 Actual collateral posting by swap counterparty, if any, per swap agreement and in total by swap counterparty.

5.2.1.5 Information concerning any material event involving outstanding swap agreements, including a default by a swap counterparty, counterparty downgrade or termination.

5.2.1.6 An updated contingency plan to replace, or fund a termination payment in the event an outstanding swap is terminated.

5.2.1.7 The status of any liquidity support used in connection with interest rate swaps, including the remaining term and current fee.

SANDAG shall review the Interest Rate Swap Policy with the Board at least annually.

5.2.2 Contingency Plan

SANDAG shall determine the termination exposure of each of its swaps and its total swap termination payment exposure at least annually and prepare a contingency plan to either replace the swaps or fund the termination payments, if any, in the event one or more outstanding swaps are terminated. SANDAG shall assess its ability to obtain replacement swaps and identify revenue sources to fund potential termination payments.

5.3 Terminating Interest Rate Swaps

5.3.1 Optional Termination

SANDAG will structure interest rate swaps to include optional termination at the current market valuation, which would allow SANDAG to terminate a
swap prior to its maturity if it is determined that it is financially advantageous to do so, but will not provide this right to the counterparty.

5.3.2 Mandatory Termination

In the event a swap is terminated as a result of a termination event such as a default or credit downgrade of either counterparty, SANDAG will evaluate whether it is financially advantageous to obtain a replacement swap or, depending on market value, make or receive a termination payment.

In the event SANDAG makes a swap termination payment, SANDAG shall attempt to follow the process identified in its swap contingency plan. SANDAG shall also evaluate the economic costs and benefits of incorporating a provision into the swap agreement that will allow SANDAG to make termination payments over time.

6. Disclosure and Financial Reporting

SANDAG will take steps to ensure that there is full and complete disclosure of all interest rate swaps to the SANDAG Board of Directors, rating agencies and in disclosure documents. With respect to its financial statements, SANDAG will adhere to the guidelines for the financial reporting of interest rate swaps as set forth by the Government Accounting Standards Board.

7. Dodd-Frank Act

7.1 Conformance to Dodd-Frank

It is the intent of SANDAG to conform this Policy to the requirements relating to legislation and regulations for derivatives transactions under Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, as supplemented and amended from time to time, including any regulations promulgated in connection therewith (herein collectively referred to as “Dodd-Frank”). Pursuant to such intent, it is the policy of SANDAG that, with respect to each interest rate swap: (i) each swap advisor engaged or to be engaged by SANDAG will function as the designated qualified independent representative of SANDAG, sometimes referred to as the “Designated QIR”; (ii) each swap advisor agree to meet and meets the requirements specified in CFTC Regulation 23.450(b)(1) or any successor regulation thereto (herein referred to as the “Representative Regulation”); (iii) each swap advisor provide a written certification to SANDAG to the effect that such swap advisor agrees to meet and meets the requirements specified in the Representative Regulation; (iv) SANDAG monitor the performance of each swap advisor consistent with the requirements specified in the Representative Regulation; (v) SANDAG exercise independent judgment in consultation with its swap advisor in evaluating all recommendations, if any, presented by any swap dealer with respect to transactions authorized pursuant to this Policy; and (vi) SANDAG rely on the advice of its swap advisor with respect to interest rate swaps authorized pursuant to this Policy and not rely on recommendations, if any, presented by any swap dealer with respect to interest rate swaps authorized pursuant to this Policy.
7.2 Legal Entity Identifier

SANDAG shall obtain and maintain current at all times a “legal entity identifier” from a firm designated by the CFTC to provide such numbers.

7.3 Clearing

In connection with the execution of any swap entered into on or after September 9, 2013, SANDAG shall complete and maintain, as required by the CFTC, an annual filing regarding how it generally meets its financial obligations associated with entering into uncleared swaps.

7.4 Recordkeeping

Comprehensive records shall be maintained, either in paper or electronic form, of any interest rate swap entered into by SANDAG for at least five (5) years following the termination thereof. Such records shall be retrievable within five (5) business days and shall be open to inspection by the CFTC.

Adopted: November 2005
Amended __________ 2013
APPENDIX A: ACCEPTABLE COLLATERAL

<table>
<thead>
<tr>
<th>SECURITY</th>
<th>VALUATION PERCENTAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>(A) Cash</td>
<td>100%</td>
</tr>
<tr>
<td>(B) (x) Negotiable debt obligations issued by the U.S. Treasury Department or the Government National Mortgage Association (“Ginnie Mae”), or (y) mortgage backed securities issued by Ginnie Mae (but with respect to either (x) or (y) excluding interest only or principal only stripped securities, securities representing residual interests in mortgage pools, or securities that are not listed on a national securities exchange or regularly quoted in a national quotation service) and in each case having a remaining maturity of:</td>
<td></td>
</tr>
<tr>
<td>(i) less than one year</td>
<td>99%</td>
</tr>
<tr>
<td>(ii) greater than one year but less than 10 years</td>
<td>98%</td>
</tr>
<tr>
<td>(iii) greater than 10 years</td>
<td>95%</td>
</tr>
<tr>
<td>(C) (x) Negotiable debt obligations issued by the Federal Home Loan Mortgage Corporation (“Freddie Mac”) or the Federal Home Loan Mortgage Association (“Fannie Mae”) or (y) mortgage backed securities issued by Freddie Mac or Fannie Mae but excluding interest only or principal only stripped securities, securities representing residual interests in mortgage pools, or securities that are not listed on a national securities exchange or regularly quoted in a national quotation service.</td>
<td>95%</td>
</tr>
<tr>
<td>(D) Any other collateral acceptable to SANDAG’s sole discretion.</td>
<td>The valuation percentage shall be determined by the Valuation Agent from time to time and in its reasonable discretion.</td>
</tr>
</tbody>
</table>

For example, if a counterparty is required to post $1.0 million of collateral and wished to use Ginnie Mae’s with five years remaining to maturity, it would be required to post $1,052,632 ($1.0 million/0.95) to satisfy the collateral requirement.
APPENDIX B: GLOSSARY OF TERMS

Asset/Liability Matching
Matching the term and amount of assets and liabilities in order to mitigate the impact of changes in interest rates.

Bid/Ask Spread
The difference between the bid price (at which a market maker is willing to buy) and the ask price (at which a market maker is willing to sell).

Call Option
The right to buy an underlying asset (e.g. a municipal bond) after a certain date at a certain price. A call option is frequently embedded in a municipal bond, giving the issuer the right to buy, or redeem, the bonds at a certain price.

Collateral
Assets pledged to secure an obligation. The assets are potentially subject to seizure in event of default.

Downgrade
A negative change in credit ratings.

Forward Starting Swap
Interest rate swap that starts at some time in the future. Used to lock-in current interest rates.

Hedge
A transaction that reduces the interest rate risk of an underlying security.

Interest Rate Exchange Agreement
An agreement detailing the contractual exchange of interest payment streams between counterparties. Often the exchange of a fixed and a floating interest rate between two parties. Also called an interest rate swap.

Interest Rate Swap
An agreement detailing the contractual exchange of interest payment streams between counterparties. Often the exchange of a fixed and a floating interest rate between two parties. Also called an interest rate exchange agreement.

Liquidity Support:
An agreement by a bank to make payment on a variable rate security to assure investors that the security can be sold.

LIBOR
London Interbank Offered Rate. Often used as an index to compute the variable rate paid on an interest rate swap.

Maximum Net Termination Exposure
The aggregate termination payment for all existing and projected swap transactions that would be paid by an individual counterparty. For purposes of this calculation, the aggregate termination payment is equal to: (i) the termination payment based on the market value of all existing swaps, plus (ii) the expected worst-case termination payment of the proposed transaction. The expected worst-case termination payment shall be calculated assuming interest rates, as measured by the appropriate index (typically the Bond Buyer Revenue Bond Index or Bond Market Association), increase (or decrease) by two standard deviations from the sample mean over a period of time corresponding to the term of the swap.

Notional Amount
The amount used to determine the interest payments on a swap.

Termination Payment
A payment made by a counterparty that is required to terminate the swap. The payment is commonly based on the market value of the swap, which is computed using the rate of the initial swap and the rate on a replacement swap.
SAN DIEGO COUNTY REGIONAL TRANSPORTATION COMMISSION
DEBT POLICY

The purpose of the Debt Policy for the San Diego County Regional Transportation Commission (SANDAG) is to establish guidelines for the issuance and management of SANDAG’s current and future debt. The Debt Policy is designed to inform decision making and provide transparency to SANDAG’s financial market participants and the general public. The Debt Policy confirms the commitment of the Board of Directors, management, staff, and other decision makers to adhere to sound financial management practices. Objectives of the Debt Policy are as follows:

• Effectively manage and mitigate financial risk
• Preserve future program flexibility
• Maintain strong credit ratings and good investor relations
• Maintain ready and cost-effective access to the capital markets

1. Scope and Authority

This Debt Policy will govern, except as otherwise covered by the SANDAG Investment Policy (SANDAG Board Policy No. 003) and Interest Rate Swap Policy (SANDAG Board Policy No. 032), the issuance and management of all debt funded through the capital markets.

Section 10 of the TransNet Extension and Ordinance (Ordinance 04-01) specifies:

Upon voter approval of the ballot proposition to approve the extension of the tax and the issuance of bonds payable from the proceeds of the tax, bonds may be issued by SANDAG pursuant to Division 12.7 of the Public Utilities Code, at any time, and from time to time, payable from the proceeds of the existing tax and its extension and secured by a pledge of revenues from the proceeds of the tax, in order to finance and refinance improvements authorized by Ordinance 87-1 and this Ordinance. SANDAG, in allocating the annual revenues from the measure, shall meet all debt service requirements prior to allocating funds for other projects.

Day-to-day responsibility for managing the SANDAG debt and finance program will reside with the Executive Director. This Debt Policy requires that the Board specifically authorize each debt financing.

Board of Directors Responsibly:

1.1 Before making a decision regarding any bond issuance, the Board should review all of the documents to become familiar with their contents. Board members should pay particular attention to the information contained in the Official Statement to ensure there are no inaccuracies concerning SANDAG.
1.2 The Board members also should ensure that to the best of their knowledge all of the factual statements are true and correct in all material respects and that the information does not contain any untrue or misleading statement of a material fact or omit to state any material fact that would make the information in any of the documents regarding SANDAG misleading. It is the SANDAG Board of Directors, in its role as the San Diego County Regional Transportation Commission, that has responsibility for approving the transaction.

1.3 When carrying out their fiduciary responsibilities, public officials may rely upon employees, bond counsel, disclosure counsel, and other professionals to assure that they are in compliance with the antifraud provisions of the federal securities laws, as long as the reliance is reasonable. In order for the reliance to be considered reasonable, the public official must: (1) make complete disclosure to the appropriate professional of any potentially material mistake or omission in the documents; (2) request the professional's advice as to what disclosure is proper; (3) receive advice regarding the appropriate disclosure; and (4) rely in good faith on that advice.

2. **Capital Budgeting and Planning for Debt Issuance**

Borrowing needs will be identified and examined within the capital planning and budgetary framework of SANDAG. The primary elements of SANDAG capital planning and budgetary framework are described below.

2.1 **Annual SANDAG Program Budget:** The annual SANDAG Program budget is a Board-approved document that identifies current-year expenditures and funding sources. The Capital Program chapter is a multi-year budget updated on an annual basis that is developed within the context of the SANDAG long-range Transportation Plan, and serves to as a basis for the annual update to the TransNet Plan of Finance.

2.2 **Transportation Sales Tax: TransNet:**

2.1.1 **TransNet Plan of Finance:** In 2004, SANDAG adopted the San Diego County Transportation Improvement Program TransNet Ordinance and Expenditure Plan (Ordinance 04-01), which provides for an extension of the retail transactions and use tax for a 40-year period commencing on April 1, 2008, through March 31, 2048. The Ordinance outlines eight specific sub-programs that are funded with sales tax revenues. In accordance with the Ordinance, SANDAG may borrow for eligible projects within the sub-programs outlined in the Ordinance, with the debt service to be paid from each respective sub-program funds.

2.1.2 **The Early Action Program:** is the major focus of the TransNet Plan of Finance and forms the basis for determining near to medium-term borrowing needs. The Early Action Program identifies projects within the Ordinance to advance for early delivery, based upon Board direction. Generally, projects included in the Early Action Program are candidates for delivery over the next 10 years. As such, the Early Action Program has a comparatively near-term horizon compared to the Plan of Finance, which extends through 2048.
2.1.3 Financial Feasibility Requirements: The Early Action Program includes projects that SANDAG is either currently delivering or will soon be entering the project delivery phase. As such, the Early Action Program demonstrates financial feasibility and accounts for all project funding and costs, including debt service.

2.3 Borrowing requirements are determined for each eligible sub-program and debt service is allocated to each sub-program based upon its pro rata share of bond proceeds. It is the general principal for the TransNet Plan of Finance that the annual debt service for each sub-program be less than the annual sales tax revenue allocated to a sub-program on an annual basis. This 1.0x program debt service coverage requirement ensures that no single sub-program incurs more debt than it can afford.

3. Standards For and Appropriate Use of Debt Financing

As borrowing needs are identified, SANDAG will evaluate the nature of the capital investment (e.g., the use and useful life of the asset) to ensure that long-term debt is the appropriate financing mechanism to meet the funding need. Standards for the appropriate use of debt financing will include those described below.

3.1 Long Term Capital Projects: Long-term debt should be used to finance essential capital projects where it is cost-effective and fiscally prudent. The weighted average maturity of the tax exempt bonds may not exceed 120 percent of the weighted average useful life of the capital assets being financed. The ability or need to expedite or maintain the programmed schedule of approved capital projects will be a factor in the decision to issue long-term debt. Inherent in its long-term debt policies, SANDAG recognizes that future taxpayers will benefit from the capital investment and that it is appropriate that they pay a share of the asset cost. Consistent with Internal Revenue Service code and tax law, long-term debt will not be used to fund operations.

3.2 Debt Financing Mechanism: SANDAG will evaluate the use of financial alternatives available including but not limited to long-term debt, short-term debt, and variable-rate debt. SANDAG will consider cost, risk to the portfolio, stability, and future flexibility when considering alternative borrowing alternatives.

3.3 Credit Quality: Credit quality is an important consideration for SANDAG. All SANDAG debt management activities for new debt issuances will be conducted in a manner conducive to receiving the highest credit ratings possible consistent with SANDAG debt management and project delivery objectives.

4. Purpose of Financing

The general purpose of bond financing falls into two general categories: (1) to finance new capital infrastructure or, (2) to refinance existing bonds to reduce financing costs, risk, or both. These two purposes are described in more detail below.

4.1 New Money Financing: New money issues are those financings that generate additional funding to be available for expenditure on capital projects. These funds will be used for acquisition, construction, and major rehabilitation of capital assets. New money bond proceeds may not be used to fund operational activities. New money issues will be
proposed in the context of the Plan of Finance, Early Action Program, and the annual Program Budget and will be consistent with the Expenditure Plan and Ordinance and SANDAG Board Policy No. 031, “TransNet Ordinance and Expenditure Plan Rules.”

4.2 **Refunding Bonds:** Refunding bonds are issued to retire all or a portion of an outstanding bond issue. Most typically this is done to refinance at a lower interest rate to reduce debt service. Alternatively, some refundings are executed for a reason other than to achieve cost savings, such as to restructure the repayment schedule of the debt, to change the type of debt instruments being used, or to retire a trust indenture in order to remove undesirable bond covenants that may excessively restrict SANDAG’s ability to issue additional bonds. In any event, a present value analysis must be prepared that identifies the economic effects of any refunding being proposed to the Board.

As a general guidelines, SANDAG will target a minimum debt service savings threshold goal of 3.0 percent of the refunded bond principal amount, on a maturity-by-maturity basis, unless there are other compelling reasons for defeasance.

5. **Types of Debt**

The market for municipal finance is well developed and provides numerous products or types of debt that SANDAG will evaluate on a case-by-case basis. The types of debt typically available to SANDAG are described in this section.

5.1 Long-Term Debt

5.1.1 **Current Coupon Bonds:** are bonds that pay interest periodically and principal at maturity. They may be used for both new money and refunding transactions.

5.1.2 **Transportation Infrastructure Finance Innovation Act (TIFIA) Loan:** is a loan provided by the United States Department of Transportation for certain transportation projects of regional importance. SANDAG may elect to apply for a TIFIA loan if it is determined that it is the most cost effective debt financing option or if the loan provides flexibility to the benefit of the larger TransNet Program.

5.1.3 **Federally Subsidized Taxable Bonds:** are municipal bonds whose interest cost is subsidized by the federal government. The subsidized interest cost creates a taxable bond that is cost-competitive with traditional tax-exempt bonds. SANDAG will consider the issuance of federally subsidized taxable bonds that may be available in the future and will compare the net cost to traditional tax-exempt options.

5.2 Short-Term Debt

5.2.1 **Commercial Paper Notes:** may be issued as an alternative to fixed rate debt, particularly when the timing of funding requirements is uncertain. SANDAG may maintain an ongoing commercial paper program to ensure flexibility and immediate access to capital funding when needed.
5.2.2 **Grant Anticipation Notes**: are short-term notes that are repaid with the proceeds of state or federal grants of any type.

5.2.3 **Lines of Credit**: will be considered as an alternative to or credit support for other short-term borrowing options.

5.3 **Variable Rate Debt**: It is sometimes appropriate to issue short-term or long-term variable rate debt to diversify the debt portfolio, reduce interest costs, provide interim funding for capital projects, and/or improve the match of variable rate assets to variable rate liabilities.

6. **Terms and Structure of Bonds**

The terms and structure of a specific bond issuance will be developed within a prudent legal framework (e.g., SANDAG existing bond indenture) and with the objective of maintaining strong credit ratings, addressing investor concerns, minimizing risk to SANDAG, and preserving future flexibility in a cost-effective manner. A primary, but not exhaustive list of some of the terms and structural considerations are discussed below.

6.1 **Term**: All capital improvements financed through the issuance of debt will be financed for a period not to exceed the expiration date of the sales tax measure. Further, the weighted average maturity of the tax exempt bonds may not exceed 120 percent of the weighted average useful life of the capital assets being financed.

6.2 **Lien Levels**: Senior and subordinate liens for each revenue source may be utilized in a manner that will maximize the most critical constraint - typically either cost or capacity - thus allowing for the most beneficial use of the revenue source securing the bond.

6.3 **Debt Service Structure**: SANDAG will examine debt service structures in the context of program needs. Combined principal and interest payments for any particular bond issue will first be examined as a level payment structure. Deferred principal can create increased program and project delivery capacity and also will be examined. The SANDAG debt service structure will be sized within conservative revenue constraints and with the objective of maintaining strong credit ratings.

6.4 **Additional Bonds Test**: Any new senior lien debt issuance must not cause the SANDAG debt service to exceed the level at which prior year revenues are less than two times (2.0x) the maximum annual principal and interest for the aggregate outstanding senior lien bonds, including the debt service for the new issuance.

6.5 **Call Provisions**: In general, fixed-rate, tax-exempt bonds will be issued with a provision that allows SANDAG to call outstanding bonds 10 years after the bond delivery date at par (i.e., no call premium).

6.6 **Derivative Products**: SANDAG will consider the use of derivative products only in instances where it has been demonstrated that the derivative product will either provide a hedge that reduces risk of fluctuations in expense or revenue, or alternatively, where the derivative product will reduce the total project cost. Interest rate swaps will be considered in the context of the SANDAG Interest Rate Swap Policy (SANDAG Board
7. **Credit Enhancement**

SANDAG will consider the cost and benefit of credit enhancement strategies on a case-by-case basis with each separate bond issuance.

7.1 **Bond Insurance**: SANDAG will have the authority to purchase bond insurance when such purchase is deemed prudent and advantageous. The predominant determination shall be based on such insurance being less costly than the present value of the difference in the interest expense on insured bonds versus uninsured bonds.

7.2 **Debt Service Reserves**: When beneficial to SANDAG from a bond pricing and credit perspective, a reserve fund may be established. SANDAG will have the authority to purchase reserve equivalents (i.e., the use of a reserve fund surety) when such purchase is deemed prudent and advantageous. Such equivalents will be evaluated in comparison to cash funding of reserves on a net present value basis.

7.3 **Letters of Credit**: SANDAG will have the authority to enter into a letter of credit agreement when such an agreement is deemed prudent and advantageous. The long-term and short-term credit ratings of those financial institutions offering letters of credit will be a critical consideration before procuring any letter of credit.

8. **Method of Bond Sale**

SANDAG will determine on a case-by-case basis which method to use to sell its bonds. Generally, there are three methods of sale: competitive, negotiated, and private placement. Each type of bond sale has advantages and the potential to provide the lowest cost given the right conditions. SANDAG will work with its financial advisor to determine the appropriate method of sale under specific market conditions.

9. **Market Relationships**

As a periodic issuer who values cost-effective market-access, SANDAG will actively provide requested information and maintain relationships with rating agencies, investors, and other market participants, as needed. Staff will provide relevant market updates to the Board on a quarterly basis.

9.1 **Rating Agencies**: The Director of Finance will be primarily responsible for maintaining our relationships with those rating agencies (i.e., Moody's Investors Service, Standard & Poor's, and Fitch Ratings) from whom SANDAG requests and holds ratings. SANDAG may, from time to time, choose to deal with only one or two of these agencies as circumstances dictate.

9.2 **Investor Relations**: Timely and accurate information will be provided in response to inquiries from investors in order to maintain positive, ongoing investor relations.
9.3 **Board Communication:** As a means of providing feedback from rating agencies and/or investors regarding our financial strengths and weaknesses as perceived by the marketplace, information will be provided to the Board as material information develops. SANDAG staff currently provides written quarterly reports to the Board, which include current market information, an update on the SANDAG debt portfolio, relevant financial metrics (e.g., debt service coverage ratios), and anticipated borrowing needs over the next one to two years.

10. **Continuing Disclosure**

   It is SANDAG policy to remain in compliance with SEC Rule 15c2-12 by filing annual financial statements and other financial and operating data for the benefit of bondholders within 210 days of the close of the fiscal year and file material event notices in a timely manner.

11. **Consultants**

   SANDAG will select its primary consultant(s) through a competitive process, as required by Board Policy No. 016, “Procurement of Services.”

12. **Post-Issuance Compliance Procedures**

   SANDAG will establish and document procedures to ensure that SANDAG is in compliance with requirements of the Internal Revenue Code of 1986, as amended (the “Code”), that must be satisfied with respect to tax-exempt bonds and other obligations after the bonds are issued so that interest on the bonds is, and will remain, tax-exempt. The Post-Issuance Compliance Procedures will be reviewed at least every three years.

Adopt __________ 2013
REVIEW OF OCTOBER 25, 2013, DRAFT BOARD BUSINESS AGENDA

ITEM #

+1. APPROVAL OF MEETING MINUTES

+1A. SEPTEMBER 13, 2013, BOARD POLICY MEETING MINUTES
+1B. SEPTEMBER 27, 2013, BOARD BUSINESS MEETING MINUTES

2. PUBLIC COMMENTS/COMMUNICATIONS/MEMBER COMMENTS

Public comments under this agenda item will be limited to five public speakers. 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. Other public comments will be heard during the items under the heading “Reports.” 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. Public speakers are limited to three minutes or less per person. Board members also may provide information and announcements under this agenda item.

3. ACTIONS FROM POLICY ADVISORY COMMITTEES (Kim Kawada)

This item summarizes the actions taken by the Transportation and Regional Planning Committees on October 4, the Executive Committee on October 11, and the Transportation and Public Safety Committees on October 18, 2013.

CONSENT (4 through xx)

+4. PROPOSED FY 2014 PROGRAM BUDGET AMENDMENT: SANTA MARGARITA RIVER BRIDGE AND SECOND TRACK PROJECT (Ramon Ruelas)

The Santa Margarita River Bridge and Second Track Project will add new double track in addition to replacing the existing single-track bridge with a new double-track bridge. Several unanticipated circumstances and events have resulted in impacts to the overall project schedule and cost, which cannot be absorbed by the existing project budget. The Transportation Committee recommends that the Board of Directors approve an amendment to the FY 2014 Program Budget to provide $3 million in additional funding to complete the project.
+5. PROPOSED FY 2014 BUDGET AMENDMENT: EAST COUNTY BUS MAINTENANCE FACILITY COMPRESSED NATURAL GAS STATION (John Dorow)  

The Transportation Committee recommends that the Board of Directors approve an amendment to the FY 2014 Program Budget to transfer $5 million from the SANDAG East County Bus Maintenance Facility (ECBMF) Project (CIP 1049600) to the Metropolitan Transit System for the construction of a compressed natural gas station at the ECBMF in El Cajon.

+6. ANNUAL MEETING CALENDAR (Kim Kawada)*  

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

+7. SERIES 13 REGIONAL GROWTH FORECAST (Clint Daniels and Kirby Brady)  

Over the past year, SANDAG staff and representatives and elected officials from each of the San Diego region’s 19 jurisdictions and stakeholders have worked together to develop a long-range growth forecast for the San Diego region and its neighborhoods. The Series 13 Regional Growth Forecast was presented to the Regional Planning Committee and the Board of Directors in September, and presentations have been made to the majority of the jurisdictions during the past two months. The Board of Directors is asked to accept the Series 13 Regional Growth Forecast for use in San Diego Forward: The Regional Plan and other planning efforts.

+8. REPORT SUMMARIZING DELEGATED ACTIONS TAKEN BY THE EXECUTIVE DIRECTOR (André Douzdjian)*  

In accordance with various SANDAG Board Policies, this report summarizes certain delegated actions taken by the Executive Director since the last Board of Directors meeting.

+9. REPORT 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.

10. REPORTS (11 through xx)

+11. APPROVAL OF PROPOSED SOLICITATIONS AND CONTRACTS (First Vice Chair Jim Janney; Laura Coté)*  

The Board of Directors is asked to review and approve the proposed solicitations and contract awards summarized in the attached reports:

A. Solicitations  
B. Contract Awards
12. SAN DIEGO FORWARD: THE REGIONAL PLAN: PROPOSED APPROVE
TRANSPORTATION PROJECT EVALUATION CRITERIA (San Diego Council President Todd Gloria, Transportation Committee Chair; Rachel Kennedy)*

The Transportation and Regional Planning Committees recommend that the Board of Directors approve the proposed transportation project evaluation criteria for use in the development of San Diego Forward: The Regional Plan.

13. 14. CONTINUED PUBLIC COMMENTS

If the five speaker limit for public comments was exceeded at the beginning of this agenda, other public comments will be taken at this time. Subjects of previous agenda items may not again be addressed under public comment.

15. UPCOMING MEETINGS INFORMATION

The next Board Policy meeting is scheduled for Friday, November 1, 2013, at 10 a.m. The next Board Business meeting is scheduled for Friday, November 15, 2013, at 9 a.m. (Note these meetings are scheduled for the first and third Fridays, respectively, due to the Thanksgiving Holiday).

16. ADJOURNMENT

+ next to an agenda item indicates an attachment
* next to an agenda item indicates a San Diego County Regional Transportation Commission item
SERVICE BUREAU FY 2013 YEAR-END REPORT  

**Introduction**

In accordance with SANDAG Board Policy No. 012: SANDAG Service Bureau, periodic progress reports on the project activities and financial status of the Service Bureau are provided to the Executive Committee. The Service Bureau provides services through SANDAG and its nonprofit public-benefit corporation, SourcePoint. The Executive Committee serves as the Service Bureau’s governing body and the Board of Directors of SourcePoint. This report summarizes the financial performance of the Service Bureau during FY 2013 and highlights some of the projects completed.

**Discussion**

The SANDAG Service Bureau is a fee-based operation that provides informational and technical services to member agencies, nonmember government agencies, private organizations, and individuals. The purpose of the Service Bureau is to offer products and services that meet the needs of decision-makers in the public and private sectors, while enhancing the quality and extent of demographic, economic, transportation, land use, criminal justice, and other information maintained in the SANDAG Regional Information System (RIS) and the technology used to support it. One of the main goals of the Service Bureau is to generate revenue to update and enhance the RIS.

**Financial Status**

As of June 30, 2013, the Service Bureau had revenues of $548,208 from projects begun during FY 2013 and projects carried over from previous fiscal years. Expenses related to performing these projects were $490,828, meaning that revenues exceeded expenses by $57,380, or 11.7 percent. Nonrecoverable costs related to management and business development are covered by these revenues. When those costs are taken into account, revenues exceeded expenses by $43,991, or 8.7 percent (see Table 1).
Table 1
SANDAG Service Bureau
Revenues and Expenses as of 6/30/2013 ¹

<table>
<thead>
<tr>
<th>Type of Project</th>
<th>Revenue</th>
<th>Expenses</th>
<th>Change in Net Assets</th>
<th>Percent Change ²</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strategic/Comprehensive Plans</td>
<td>$183,782</td>
<td>$160,202</td>
<td>$23,580</td>
<td>14.7%</td>
</tr>
<tr>
<td>Other Services</td>
<td>$183,015</td>
<td>$175,198</td>
<td>$7,817</td>
<td>4.5%</td>
</tr>
<tr>
<td>Transportation Modeling</td>
<td>$162,675</td>
<td>$142,202</td>
<td>$20,473</td>
<td>14.4%</td>
</tr>
<tr>
<td>Demographic/Economic/GIS Analysis</td>
<td>$18,733</td>
<td>$13,226</td>
<td>$5,507</td>
<td>41.6%</td>
</tr>
<tr>
<td><strong>Total All Projects</strong></td>
<td><strong>$548,205</strong></td>
<td><strong>$490,828</strong></td>
<td><strong>$57,377</strong></td>
<td><strong>11.7%</strong></td>
</tr>
<tr>
<td>Non-Project Expenses</td>
<td>–</td>
<td>$13,389</td>
<td>($13,389)</td>
<td>–</td>
</tr>
<tr>
<td><strong>Net Total</strong></td>
<td><strong>$548,205</strong></td>
<td><strong>$504,217</strong></td>
<td><strong>$43,988</strong></td>
<td><strong>8.7%</strong></td>
</tr>
</tbody>
</table>

Non-RIS-Generating Projects ³

- Construction Contract Management Services to Member Agencies
  - Revenue: $1,233,017
  - Expenses: $1,233,017
  - Change in Net Assets: $0
  - Percent Change: –

Use of Unrestricted Net Assets ⁴

- Equipment Procurement
  - Revenue: $4,927
  - Expenses: ($4,927)
  - Change in Net Assets: –

¹ Projects performed through SourcePoint are included.
² Percent change is calculated based on expenses.
³ In 2011, the City of Santee requested that SourcePoint enter into a contract with it to provide access to SANDAG on-call engineering contracts, conduct competitive procurements, and serve as the contract administrator for the construction of certain projects in Santee. The Executive Committee approved a waiver of the RIS fee.
⁴ Procurement of disc space and server to add needed transportation modeling capacity for San Diego Forward: The Regional Plan and Service Bureau projects (enhancement to the SANDAG RIS).

Overview of FY 2013 Projects

A total of 71 projects were started or carried over from the previous fiscal year. The services provided were concentrated in the areas of strategic plans; transportation modeling; and demographic, economic, and geographic information system (GIS) analyses.

The two largest revenue-generating categories are strategic and comprehensive plans and other services. The strategic and comprehensive plan category includes a multi-year project with Caltrans to prepare the California-Baja California 2014 Border Master Plan Update. This study focuses on planning efforts at the land ports of entry and the connecting transportation facilities. The other services category includes services for local jurisdictions to allow access to existing SANDAG agreements with consultants to expedite local project delivery. These services include access to job order contracting and on-call visual simulation consultants.
The next largest revenue-generating category is transportation modeling. Approximately two-thirds of the projects were concentrated in this category. In addition to a number of smaller requests for estimating traffic impacts due to development projects, the Service Bureau also is working on some larger projects that assist local jurisdictions with community and general plan updates.

The demographic, economic, and GIS category accounted for approximately one-quarter of all projects worked on this fiscal year. The Service Bureau provided a number of services tailored to meet clients’ needs. In addition to routine GIS and demographic requests, staff worked on a team with other local researchers to conduct an economic impact study for the region’s telecommunications industry.

**Planned Projects in FY 2014**

Requests for transportation modeling from various private and public agencies have started strong in FY 2014 and several miscellaneous requests for customized demographic and GIS services have been received. Staff will seek opportunities to partner with other organizations and researchers and continue to offer products and services that meet the needs of the community.

KURT KRONINGER
Director of Technical Services

Key Staff Contact: Cheryl Mason, (619) 699-1951, cheryl.mason@sandag.org