

AGENDA

Board of Directors Meeting

October 5, 2016

Start Time: 10:00 a.m.

LOCATION

**San Bernardino Associated Governments
Santa Fe Depot - SANBAG Lobby 1st Floor
1170 W. 3rd Street, San Bernardino, CA**

Board of Directors

President

Robert Lovingood, Supervisor
County of San Bernardino

Vice-President

Alan Wapner, Council Member
City of Ontario

Rich Kerr, Mayor
City of Adelanto

Curt Emick, Council Member
Town of Apple Valley

Julie McIntyre, Mayor
City of Barstow

Bill Jahn, Mayor Pro Tem
City of Big Bear Lake

Dennis Yates, Mayor
City of Chino

Ed Graham, Council Member
City of Chino Hills

Frank Navarro, Council Member
City of Colton

Michael Tahan, Council Member
City of Fontana

Darcy McNaboe, Mayor
City of Grand Terrace

Eric Schmidt, Council Member
City of Hesperia

Larry McCallon, Mayor
City of Highland

Rhodes "Dusty" Rigsby, Mayor
City of Loma Linda

Paul Eaton, Mayor
City of Montclair

Edward Paget, Mayor
City of Needles

L. Dennis Michael, Mayor
City of Rancho Cucamonga

Jon Harrison, Mayor Pro Tem
City of Redlands

Deborah Robertson, Mayor
City of Rialto

R. Carey Davis, Mayor
City of San Bernardino

Joel Klink, Council Member
City of Twentynine Palms

Ray Musser, Mayor
City of Upland

Ryan McEachron, Council Member
City of Victorville

Dick Riddell, Council Member
City of Yucaipa

George Huntington, Council Member
Town of Yucca Valley

Janice Rutherford, Supervisor
County of San Bernardino

James Ramos, Supervisor
County of San Bernardino

Curt Hagman, Supervisor
County of San Bernardino

Josie Gonzales, Supervisor
County of San Bernardino

John Bulinski, Caltrans
Ex-Officio Member

Ray Wolfe, *Executive Director*

Eileen Teichert, *SANBAG Counsel*

**San Bernardino Associated Governments
County Transportation Commission
County Transportation Authority
County Congestion Management Agency
Service Authority for Freeway Emergencies**

AGENDA

Board of Directors

October 5, 2016

10:00 a.m.

1170 W. 3rd Street, 1st Floor Lobby, San Bernardino, CA

To obtain additional information on any items, please contact the staff person listed under each item. You are encouraged to obtain any clarifying information prior to the meeting to allow the Board to move expeditiously in its deliberations. Additional *“Meeting Procedures”* and agenda explanations are attached to the end of this agenda.

CALL TO ORDER

(Meeting Chaired by Robert Lovingood)

- i. Pledge of Allegiance
- ii. Attendance
- iii. Announcements
 Calendar of Events
- iv. Agenda Notices/Modifications

Pg. 16

Possible Conflict of Interest Issues

Note agenda item contractors, subcontractors and agents which may require member abstentions due to conflict of interest and financial interests. Board Member abstentions shall be stated under this item for recordation on the appropriate item.

1. Information Relative to Possible Conflict of Interest

Pg. 17

Note agenda items and contractors/subcontractors, which may require member abstentions due to possible conflicts of interest.

This item is prepared monthly for review by SANBAG Board and Committee members.

CONSENT CALENDAR

Items listed on the Consent Calendar are expected to be routine and non-controversial. These items have been discussed at SANBAG Policy Committee meetings and made available for public review as noted in the agenda. The Consent Calendar will be acted upon as a single motion. Items on the Consent Calendar may be removed for discussion by Board Member Request. Items pulled from the consent calendar will be brought up immediately following the vote on the Consent Calendar.

Consent - Administrative Matters

- 2. July and August 2016 Procurement Report** Pg. 19
Receive the July and August 2016 Procurement Report.
Presenter: William Stawarski
This item was received by the General Policy Committee on September 14, 2016.
- 3. Budget to Actual Report for fourth quarter ending June 30, 2016** Pg. 27
Receive and file Budget to Actual Report for fourth quarter ending June 30, 2016.
Presenter: William Stawarski
This item was received by the General Policy Committee on September 14, 2016.
- 4. Biennial Review of SANBAG Conflict of Interest Code** Pg. 30
A. Perform the biennial review of SANBAG's Conflict of Interest Code, Appendix A, and find that no amendments are necessary.
B. Direct the SANBAG Clerk of the Board to submit to the San Bernardino County Board of Supervisors a finding that no amendments to SANBAG's Conflict of Interest Code are necessary.
Presenter: Vicki Watson
This item was reviewed and unanimously recommended for approval by the General Policy Committee on September 14, 2016. SANBAG General Counsel has reviewed this item.
- 5. San Bernardino Santa Fe Depot Request for Structural Evaluation and Repairs** Pg. 34
A. Approve a budget amendment to increase Task 0805 Building Operation by \$86,200 to address issues that pose an immediate threat to the safety of staff and to cover the costs of the full investigation of both the east and west basements as recommended by Degenkolb Engineers.
B. Review and ratify the procurement procedures used for the shoring of the east basement and the wall construction of office No. 19 and the break room.
Presenter: Duane Baker
This item was reviewed and unanimously recommended for approval by the General Policy Committee on September 14, 2016.

Consent - Air Quality/Traveler Services

- 6. Contract 16-1001521 Award for Freeway Service Patrol (FSP) Radio Services** Pg. 36
That the Board review and award Contract No. 16-1001521 between SANBAG and Mobile Relay Associates, LLC for radio services for the FSP Program for a three-year term, for a not-to-exceed amount of \$110,036, with two-option years for a total contract value not-to-exceed \$161,189 as outlined in the Financial Impact Section.
Presenter: Duane Baker
This item was reviewed and unanimously recommended for approval by the General Policy Committee on September 14, 2016. SANBAG General Counsel and Procurement Manager have reviewed and approved this item and the draft agreement.

7. Execution of Funding Agreement related to the Implementation of three Electric Vehicle Infrastructure locations Pg. 73

That the Board:

A. Approve Funding Agreement No. 17-1001594 with the South Coast Air Quality Management District (SCAQMD) in the amount of \$450,000 for the implementation of three (3) Electric Vehicle (EV) infrastructure locations which include the newly constructed San Bernardino Transit Center, SANBAG offices, and San Bernardino Metrolink Station.

B. Approve budget amendment for Fiscal Year 2016/2017 to Task 0101 Environment to incorporate the grant fund expenditures of \$450,000.

Presenter: Duane Baker

This item was reviewed and unanimously recommended for approval by the General Policy Committee on September 14, 2016. SANBAG General Counsel and Procurement Manager have reviewed and approved this item and the agreement.

Consent - Project Delivery

8. Interstate 10 Mountain View Interchange Pg. 88

That the Board, acting as the San Bernardino County Transportation Authority:

A. Approve Cooperative Agreement No. 16-1001528 with the City of Loma Linda and Inland Valley Development Agency (IVDA) for reimbursement of SANBAG Project Management and California Department of Transportation (Caltrans) Project Study Report/Project Development Support (PSR/PDS) services for the Interstate 10 (I-10) Mountain View Interchange Project for an amount not to exceed \$392,400.

B. Approve Cooperative Agreement No. 16-1001560 between SANBAG and Caltrans to develop the Project Study Report/Project Development Support (PSR/PDS) for the I-10 Mountain View Interchange Project for a not to exceed cost of \$378,400 utilizing \$264,880 from the City of Loma Linda and \$113,520 from IVDA.

C. Approve amendment to the current approved 2016/2017 Fiscal Year Budget to add \$212,000 to Task 0830 from the City of Loma Linda.

Presenter: Garry Cohoe

This item was reviewed and recommended for approval (12-0-1; Abstained: Tahan) without a quorum of the Board present at the Board of Directors Metro Valley Study Session on September 15, 2016. SANBAG General Counsel and Procurement Manager have reviewed this item and the draft cooperative agreements.

9. State Route 210 Base Line Interchange Project Pg. 114

That the Board, acting as the San Bernardino County Transportation Authority:

A. Approve Second Amended and Restated Cooperative Agreement No. C13027 (C13027-04) with the City of Highland for the delivery of the Planning, Environmental, Design and Right of Way phases of the State Route 210 (SR-210) Base Line Interchange Project, which adds in the Right of Way phase roles and responsibilities and increases project funding by \$2,864,000, including an additional \$1,663,984 in SANBAG Measure I Valley Freeway Interchange Program funds and an additional \$1,200,015 in City of Highland funds, for a new funding total of \$5,838,780.

That the Board, acting as the San Bernardino County Transportation Commission:

B. Approve Second Amended and Restated Cooperative Agreement No. C13027 (C13027-04) with the City of Highland for the delivery of the Planning, Environmental, Design and Right of Way phases of the State Route 210 (SR-210) Base Line Interchange Project, which adds in the Right of Way phase roles and responsibilities and increases project funding by \$2,864,000, including an additional \$1,663,984 in SANBAG Measure I Valley Freeway Interchange Program funds and an additional \$1,200,015 in City of Highland funds, for a new funding total of \$5,838,780.

Presenter: Garry Cohoe

This item was reviewed and recommended for approval (19-0-0) with a quorum of the Board present at the Board of Directors Metro Valley Study Session on August 11, 2016. SANBAG General Counsel and Procurement Manager have reviewed this item and a draft of the agreement.

10. I-15/I-215 Devore Interchange Right of Way

Pg. 129

That the Board, acting in its capacity as the San Bernardino County Transportation Authority:

A. Approve determination that APNs 0349-169-04, -06, -07, and -08; APN 0349-174-02; APN 0349-174-10; APNs 0349-173-19 and -20; APN 0349-173-31; APN 0349-173-38; APN 0349-172-01; APN 0349-174-03; APN 0349-174-01; APN 0349-143-18; and APN 0349-102-09 are surplus parcels for the Interstate 15/Interstate 215 (I-15/I-215) Devore Interchange Reconstruction Project and are no longer necessary for construction, staging, storage, or mitigation/exchange on the project or any other anticipated future use, and authorize disposition of said surplus parcels once necessary code compliance conditions are met.

B. Approve authorization of additional \$2 million in Measure I Cajon Pass fund expenditure authority for final right of way settlements for the I-15/I-215 Devore Interchange Project.

Presenter: Garry Cohoe

This item was reviewed and recommended for approval (13-0-0) without a quorum of the Board present at the Board of Directors Metro Valley Study Session on September 15, 2016. This item was reviewed and unanimously recommended for approval by the Mountain/Desert Policy Committee on September 16, 2016. SANBAG General Counsel has reviewed this agenda item.

Consent - Regional/Subregional Planning

11. Mojave Desert Air Quality Management District Update

Pg. 132

Receive and file the presentation from the Mojave Desert Air Quality Management District.

Presenter: Steve Smith

This item was received by the Mountain/Desert Policy Committee on September 16, 2016.

Consent - Transit/Rail

12. Downtown San Bernardino Passenger Rail Project Construction Contingency Increase

Pg. 139

That the Board, acting in its capacity as the San Bernardino County Transportation Commission, approve an increase in contingency for the Downtown San Bernardino Passenger Rail Project in the amount of \$2,981,464 for activities related to Contract No. C14001 with Shimmick Construction Company, Inc. to be funded with Valley Local Transportation Funds.

Presenter: Carrie Schindler

This item was reviewed by the Transit Committee on September 15, 2016, acting as a committee of the whole without a quorum present. Following discussion, the Committee recommended placement of this item on the Consent Calendar. SANBAG General Counsel and Procurement Manager have reviewed this item.

13. Downtown San Bernardino Passenger Rail Project Memorandum of Agreement (Noise Abatement) Pg. 141

That the Board, acting in its capacity as the San Bernardino County Transportation Commission:

A. Authorize the Executive Director or his designee to execute the Memorandum of Agreement (Noise Abatement), Contract No. 17-1001591, with Varp, Inc. providing funding for noise mitigation improvements as required by the Mitigation Monitoring and Reporting Program for the Downtown San Bernardino Passenger Rail Project for a not-to-exceed amount of \$25,000.00 subject to approval as to form by SANBAG legal counsel.

B. Approve a Fiscal Year 2016/2017 budget amendment to increase Task Transit Capital No. 0315, Sub-Task No. 0323 Downtown San Bernardino Passenger Rail Project, in the amount of \$25,000.00 to be funded by Local Transportation Funds-Rail.

Presenter: Carrie Schindler

This item was reviewed by the Transit Committee on September 15, 2016, acting as a committee of the whole without a quorum present. Following discussion, the Committee recommended placement of this item on the Consent Calendar. SANBAG General Counsel and Procurement Manager have reviewed this item and the agreement.

14. Project Development Cooperative Agreement with County Transit Operators Pg. 148

That the San Bernardino County Transportation Authority (SBCTA) approve the use of the attached templates for SBCTA to provide project development and construction management services for delivery of capital projects, real estate services, and transit related studies for Mountain Area Regional Transit Authority, Victor Valley Transit Authority and Morongo Basin Transit Authority.

Presenter: Carrie Schindler

This item was reviewed by the Transit Committee on September 15, 2016, acting as a committee of the whole without a quorum present. Following discussion, the Committee recommended placement of this item on the Consent Calendar. SANBAG General Counsel has reviewed this item and the draft templates.

15. Cooperative Agreement with Mountain Area Regional Transit Authority for Maintenance Facility Study Pg. 177

That the Board, acting as the San Bernardino County Transportation Authority, authorize the Executive Director or his designee to execute Cooperative Agreement No. 17-1001581 with the Mountain Area Regional Transit Authority to provide project development services for delivery of the Mountain Transit Facility Upgrade Study estimated at \$208,000.

Presenter: Carrie Schindler

This item was reviewed by the Transit Committee on September 15, 2016, acting as a committee of the whole without a quorum present. Following discussion, the Committee recommended placement of this item on the Consent Calendar. The template cooperative agreement used for Cooperative Agreement No. 17-1001581 was reviewed and approved by SANBAG General Counsel.

Consent - Council of Governments

16. Amendments to the Form of the Assessment Contract Used for the Residential HERO Program Pg. 197

Approve Resolution No. 17-006 that will approve the form of an amended Assessment Contract for the Residential HERO Program.

Presenter: Duane Baker

This item was reviewed and unanimously recommended for approval by the General Policy Committee on September 14, 2016. SANBAG General Counsel has reviewed this item and the draft resolution.

17. Authorize the Issuance of Bonds for Certain Solar Projects and Increase the Maximum Term to 25 Years Pg. 216

Approve Resolution No. 17-007 authorizing the issuance of bonds to finance the installation of solar systems and increasing the maximum term from 20 years to 25 years for improvements that have a useful life of 25 years or more.

Presenter: Duane Baker

This item was reviewed and unanimously recommended for approval by the General Policy Committee on September 14, 2016. General Counsel has reviewed this item and the draft resolution.

18. State and Federal Legislative Platform Update Pg. 226

Receive and file the current State and Federal Legislative Platforms as the foundation for the development of the 2017/2018 platforms and provide direction as necessary.

Presenter: Otis Greer

This item was presented to the General Policy Committee for review on September 14, 2016.

Consent - Transportation Programming and Fund Administration

19. National Trails Highway Resurfacing Project Funding Agreement Pg. 237

That the Board, acting in its capacity as the San Bernardino County Transportation Authority:

A. Allocate \$3,402,303 in North Desert Subarea Major Local Highway Program funds to the County of San Bernardino for the National Trails Highway Resurfacing Project.

B. Approve Contract 16-1001554 for the National Trails Highway Resurfacing Project.

C. Approve a Fiscal Year 2016/2017 budget amendment to increase Sub-task 0516 MSI Mt/Desert Apportionment and Allocation Fund in the amount of \$3,402,303 from Measure I North Desert Fund-Major Local Highway Program funds.

Presenter: Andrea Zureick

This item was reviewed and unanimously recommended for approval by the Mountain/Desert Policy Committee on September 16, 2016. SANBAG General Counsel and Procurement Manager have reviewed this item and draft contract.

20. Ten-Year Delivery Plan Proposed Project List - Mountain/Desert Subareas Pg. 248

That the Board review the Mountain/Desert subareas proposed project lists for the 2016 Update to the Ten-Year Delivery Plan as listed in Attachments 1 and 2.

Presenter: Andrea Zureick

This item was reviewed and unanimously recommended for approval by the Mountain/Desert Policy Committee on September 16, 2016.

21. SR210/Base Line Avenue Term Loan Agreement with the City of Highland Pg. 260

That the Board, acting in its capacity as the San Bernardino County Transportation Authority:

Approve Contract No. 16-1001555, a term loan agreement in amount not to exceed \$800,010 with the City of Highland for the Right of Way Phase of the State Route 210/Base Line Interchange Project which contains a provision that a \$2,750 loan fee for Lender's additional costs of administering the Term Loan will be paid by the City upon execution of the agreement.

Presenter: Andrea Zureick

The item was reviewed and recommended for approval (19-0-0) with a quorum of the Board present at the Board of Directors Metro Valley Study Session on August 11, 2016. SANBAG General Counsel and Procurement Manager have reviewed this item and the draft agreement.

22. California Transit Security Grant Program Applications Pg. 279

That the Board:

A. Rescind the SANBAG Board of Directors' prior authorization to submit the Fiscal Year 2014/2015 California Transit Security Grant Program Grant Application for the Southern California Regional Rail Authority Passenger Car Refurbishment Project.

B. Authorize staff to submit a Modification Request to the California Office of Emergency Services for the Fiscal Year 2013/2014 California Transit Security Grant Program Grant, transferring \$154,560 from the Southern California Regional Rail Authority Passenger Car Refurbishment Project to the Redlands Passenger Rail Project.

C. Authorize staff to submit the Fiscal Year 2014/2015, Fiscal Year 2015/2016, and Fiscal Year 2016/2017 California Transit Security Grant Program Grant Applications for an amount up to \$5,256,993 for the Redlands Passenger Rail Project.

D. Acting in its capacity as the San Bernardino County Transportation Commission, adopt Resolution No. 17-005 authorizing the Executive Director and/or his designee to execute such documentation and take such actions as necessary for the Commission to obtain California Transit Security Grant Program Funds and comply with the terms of the California Transit Security Grant Program administered by the California Office of Emergency Services.

Presenter: Andrea Zureick

This item was reviewed by the Transit Committee on September 15, 2016, acting as a committee of the whole without a quorum present. Following discussion, the Committee recommended placement of this item on the Consent Calendar. This item and the draft resolution were reviewed by SANBAG General Counsel.

23. Green Tree Boulevard Loan Agreement with the City of Victorville

Pg. 283

That the Board, acting in its capacity as the San Bernardino County Transportation Authority:

Approve Contract No. 16-1001481, a term loan agreement in an amount not to exceed \$12,511,320 with the City of Victorville for the Green Tree Boulevard Extension Project, pursuant to Victor Valley Policy 40013 VVMLH-32 which contains a provision that a \$2,750 loan fee for Lender's additional costs of administering the Term Loan will be paid by the City upon execution of the agreement.

Presenter: Andrea Zureick

This item was reviewed and unanimously recommended for approval by the Mountain/Desert Policy Committee on September 16, 2016. This item and the draft loan agreement have been reviewed by SANBAG General Counsel and Procurement Manager.

Consent Calendar Items Pulled for Discussion

Items removed from the Consent Calendar shall be taken under this item in the order they were presented on the agenda.

DISCUSSION ITEMS

Discussion - Transit/Rail

24. Memorandum of Understanding with City of San Bernardino for Shortway Subdivision Quiet Zones Pg. 302

That the Board acting as the San Bernardino County Transportation Commission, authorize the Executive Director or his designee to execute Memorandum of Understanding No. 17-1001586 with the City of San Bernardino for the establishment of a Quiet Zone on the Shortway Subdivision.

Presenter: Justin Fornelli

This item was reviewed by the Transit Committee on September 15, 2016, acting as a committee of the whole without a quorum present. SANBAG General Counsel and Procurement Manager have reviewed this item and the MOU.

25. Upland Surplus Property Update and Revised Resolution

Pg. 321

That the Board acting as the San Bernardino County Transportation Commission adopt Resolution No. 17-008 which declares certain Upland properties as surplus, authorizes the sale of the properties, and repeals the previously approved Resolution No. 16-035.

Presenter: Carrie Schindler

This item was reviewed by the Transit Committee on September 15, 2016, acting as a committee of the whole without a quorum present. SANBAG General Counsel has reviewed and approved Resolution No. 17-008.

Discussion - Project Delivery

26. Interstate 215 (I-215) Landscape Replacement Projects - Segments 1 and 3

Pg. 326

That the Board, acting in its capacity as the San Bernardino County Transportation Authority:

A. Approve Amendment No. 1 to Agreement C14120 with the State of California Department of Transportation (Caltrans) for construction of the I-215 Segment 3 Landscaping Replacement Project to increase project funding by a not to exceed amount of \$637,036 which consists of \$312,145 in Projects of National and Regional Significance (PNRS) funds and \$324,891 in Measure I 1990-2010 funds.

B. Approve the Plans, Specifications, and Estimate (PS&E) for the I-215 Segment 3 Landscaping Replacement Project.

That the Board, acting in its capacity as the San Bernardino County Transportation Commission:

C. Approve Cooperative Agreement No. 15-1001216 with the State of California Department of Transportation for construction of the I-215 Segment 1 Landscaping Replacement Project. This Agreement commits a not to exceed amount of \$4,466,853 for Construction Capital and support costs, which consists of \$3,677,633 in PNRS funds and \$789,220 in Measure I 1990-2010 funds and designates SANBAG as the lead agency for construction.

D. Approve the Plans, Specifications, and Estimate for the I-215 Segment 1 Landscaping Replacement Project.

E. Authorize advertising Invitation for Bids 15-1001236 for the construction of the combined I-215 Segments 1 and 3 Landscaping Replacement Projects.

F. Approve taking the recommendation for award of the construction contract directly to the Board without prior Board Metro Valley Study Session review.

Presenter: Dennis Saylor

This item was reviewed and recommended for approval (11-2-0; Opposed: McCallon and Jahn) without a quorum of the Board present at the Board of Directors Metro Valley Study Session on September 15, 2016. SANBAG General Counsel and Procurement Manager have reviewed this item, the draft cooperative agreement amendment, draft cooperative agreement and IFB.

Discussion - Council of Governments

27. Inland Southern California Economic Strategy and Plan Development with the Brookings Institution

Pg. 362

Receive presentation by UCR Director Ronald Loveridge. **Presenter: Duane Baker**

This item has not received prior policy committee or technical advisory committee review.

Comments from Board Members

Brief Comments from Board Members

Executive Director's Comments

Brief Comments from the Executive Director

Public Comment

Brief Comments from the General Public

ADJOURNMENT

Additional Information

Attendance	Pg. 365
SANBAG Entities	Pg. 367
Acronym List	Pg. 368

Agency Reports

No Reports this Month

Committee Membership

Representatives on SCAG Committees	Pg. 371
SANBAG Appointments to External Agencies	Pg. 372
SANBAG Committee Membership	Pg. 374

Mission Statement

Mission Statement	Pg. 379
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Meeting Procedures and Rules of Conduct

Meeting Procedures - The Ralph M. Brown Act is the state law which guarantees the public's right to attend and participate in meetings of local legislative bodies. These rules have been adopted by the Board of Directors in accordance with the Brown Act, Government Code 54950 et seq., and shall apply at all meetings of the Board of Directors and Policy Committees.

Accessibility - The SANBAG meeting facility is accessible to persons with disabilities. If assistive listening devices or other auxiliary aids or services are needed in order to participate in the public meeting, requests should be made through the Clerk of the Board at least three (3) business days prior to the Board meeting. The Clerk's telephone number is (909) 884-8276 and office is located at 1170 W. 3rd Street, 2nd Floor, San Bernardino, CA.

Agendas – All agendas are posted at 1170 W. 3rd Street, 1st Floor, San Bernardino at least 72 hours in advance of the meeting. Staff reports related to agenda items may be reviewed at the SANBAG offices located at 1170 W. 3rd Street, 2nd Floor, San Bernardino and our website: www.sanbag.ca.gov.

Agenda Actions – Items listed on both the “Consent Calendar” and “Discussion” contain recommended actions. The Board of Directors will generally consider items in the order listed on the agenda. However, items may be considered in any order. New agenda items can be added and action taken by two-thirds vote of the Board of Directors or unanimous vote of members present as provided in the Ralph M. Brown Act Government Code Sec. 54954.2(b).

Closed Session Agenda Items – Consideration of closed session items excludes members of the public. These items include issues related to personnel, pending litigation, labor negotiations and real estate negotiations. Prior to each closed session, the Chair will announce the subject matter of the closed session. If action is taken in closed session, the Chair may report the action to the public at the conclusion of the closed session.

Public Testimony on an Item – Members of the public are afforded an opportunity to speak on any listed item. Individuals wishing to address the Board of Directors or Policy Committee Members should complete a “Request to Speak” form, provided at the rear of the meeting room, and present it to the Clerk prior to the Board's consideration of the item. A "Request to Speak" form must be completed for each item an individual wishes to speak on. When recognized by the Chair, speakers should be prepared to step forward and announce their name and address for the record. In the interest of facilitating the business of the Board, speakers are limited to three (3) minutes on each item. Additionally, a twelve (12) minute limitation is established for the total amount of time any one individual may address the Board at any one meeting. The Chair or a majority of the Board may establish a different time limit as appropriate, and parties to agenda items shall not be subject to the time limitations. Members of the public requesting information be distributed to the Board of Directors must provide 40 copies of such information in advance of the meeting, except for noticed public hearings. Information provided as public testimony is not read into the record by the Clerk.

The Consent Calendar is considered a single item, thus the three (3) minute rule applies. Consent Calendar items can be pulled at Board member request and will be brought up individually at the specified time in the agenda allowing further public comment on those items.

Agenda Times – The Board is concerned that discussion take place in a timely and efficient manner. Agendas may be prepared with estimated times for categorical areas and certain topics to be discussed. These times may vary according to the length of presentation and amount of resulting discussion on agenda items.

Public Comment – At the end of the agenda, an opportunity is also provided for members of the public to speak on any subject within the Board’s authority. Matters raised under “Public Comment” may not be acted upon at that meeting. “Public Testimony on any Item” still applies.

Disruptive or Prohibited Conduct – If any meeting of the Board is willfully disrupted by a person or by a group of persons so as to render the orderly conduct of the meeting impossible, the Chair may recess the meeting or order the person, group or groups of person willfully disrupting the meeting to leave the meeting or to be removed from the meeting. Disruptive or prohibited conduct includes without limitation addressing the Board without first being recognized, not addressing the subject before the Board, repetitiously addressing the same subject, failing to relinquish the podium when requested to do so, bringing into the meeting any type of object that could be used as a weapon, including without limitation sticks affixed to signs, or otherwise preventing the Board from conducting its meeting in an orderly manner. Your cooperation is appreciated!

**SANBAG General Practices for Conducting Meetings
of
Board of Directors and Policy Committees**

Attendance.

- The Chair of the Board or a Policy Committee (Chair) has the option of taking attendance by Roll Call or Self-Introductions. If attendance is taken by Roll Call, the Clerk of the Board will call out by jurisdiction or supervisorial district. The Member or Alternate will respond by stating his/her name. If attendance is by Self-Introduction, the Member or Alternate will state his/her name and jurisdiction or supervisorial district.
- A Member/Alternate, who arrives after attendance is taken, shall announce his/her name prior to voting on any item.
- A Member/Alternate, who wishes to leave the meeting after attendance is taken but before remaining items are voted on, shall announce his/her name and that he/she is leaving the meeting.

Basic Agenda Item Discussion.

- The Chair announces the agenda item number and states the subject.
- The Chair calls upon the appropriate staff member or Board Member to report on the item.
- The Chair asks members of the Board/Committee if they have any questions or comments on the item. General discussion ensues.
- The Chair calls for public comment based on “Request to Speak” forms which may be submitted.
- Following public comment, the Chair announces that public comment is closed and asks if there is any further discussion by members of the Board/Committee.
- The Chair calls for a motion from members of the Board/Committee.
- Upon a motion, the Chair announces the name of the member who makes the motion. Motions require a second by a member of the Board/Committee. Upon a second, the Chair announces the name of the Member who made the second, and the vote is taken.
- The “aye” votes in favor of the motion shall be made collectively. Any Member who wishes to oppose or abstain from voting on the motion, shall individually and orally state the Member’s “nay” vote or abstention. Members present who do not individually and orally state their “nay” vote or abstention shall be deemed, and reported to the public, to have voted “aye” on the motion.

The Vote as specified in the SANBAG Bylaws.

- Each Member of the Board of Directors shall have one vote. In the absence of the official representative, the alternate shall be entitled to vote. (Board of Directors only.)
- Voting may be either by voice or roll call vote. A roll call vote shall be conducted upon the demand of five official representatives present, or at the discretion of the presiding officer.

Amendment or Substitute Motion.

- Occasionally a Board Member offers a substitute motion before the vote on a previous motion. In instances where there is a motion and a second, the maker of the original motion is asked if he or she would like to amend his or her motion to include the substitution or withdraw the motion on the floor. If the maker of the original motion does not want to amend or withdraw, the substitute motion is voted upon first, and if it fails, then the original motion is considered.
- Occasionally, a motion dies for lack of a second.

Call for the Question.

- At times, a Member of the Board/Committee may “Call for the Question.”
- Upon a “Call for the Question,” the Chair may order that the debate stop or may allow for limited further comment to provide clarity on the proceedings.
- Alternatively and at the Chair’s discretion, the Chair may call for a vote of the Board/Committee to determine whether or not debate is stopped.
- The Chair re-states the motion before the Board/Committee and calls for the vote on the item.

The Chair.

- At all times, meetings are conducted in accordance with the Chair’s direction.
- These general practices provide guidelines for orderly conduct.
- From time-to-time circumstances require deviation from general practice.
- Deviation from general practice is at the discretion of the Chair.

Courtesy and Decorum.

- These general practices provide for business of the Board/Committee to be conducted efficiently, fairly and with full participation.
- It is the responsibility of the Chair and Members to maintain common courtesy and decorum.

*Adopted By SANBAG Board of Directors January 2008
Revised March 2014
Revised May 4, 2016*



Important Dates to Remember...

October 2016

SANBAG Meetings – Scheduled:			
General Policy Committee (Cancelled)	Oct 19	9:00 am	SANBAG Lobby, 1 st Floor
Commuter Rail/Transit Committee	Oct 13	9:00 am	SANBAG Lobby, 1 st Floor
Metro Valley Study Session	Oct 13	9:30 am	SANBAG Lobby, 1 st Floor
I-10/I-15 Corridor Joint Sub-Committee	Oct 13	10:30 am	SANBAG Lobby, 1 st Floor
Mountain/Desert Committee	Oct 14	9:30 am	Mojave Desert AQMD

Other Meetings/Events:			
High Desert Opportunity	Oct 20	8am-noon	Rancho Cucamonga, CA
Mobility 21 Summit	Oct 21	8am-4pm	Anaheim, CA

Communication: Calendar of Events (Announcements)

For additional information, please call SANBAG at (909) 884-8276.

Minute Action

AGENDA ITEM: 1

Date: *October 5, 2016*

Subject:

Information Relative to Possible Conflict of Interest

Recommendation:

Note agenda items and contractors/subcontractors, which may require member abstentions due to possible conflicts of interest.

Background:

In accordance with California Government Code 84308, members of the SANBAG Board may not participate in any action concerning a contract where they have received a campaign contribution of more than \$250 in the prior twelve months from an entity or individual, except for the initial award of a competitively bid public works contract. This agenda contains recommendations for action relative to the following contractors:

Item No.	Contract No.	Principals & Agents	Subcontractors
6	16-1001521	Mobile Relay Associates, LLC <i>Mark J. Abrahams</i>	
8	16-1001528	Inland Valley Development Agency <i>Michael Burrows</i>	None
12	C14001	Shimmick Construction Company Inc. <i>Paul Camaur</i>	Allied Steel Co., Inc. Marina Landscape, Inc. Innovative Concrete & Engineering Giroux Glass Winegardner Masonry Excelsior Elevator Fencecorp Inc. Ellis Excavating Gerdau Eberhard EMC Rutherford Co., Inc. M.B. Herzog Electric Hardy & Harper, Inc.
13	17-1001591	Varp, Inc <i>Bobby Cope</i>	None

Financial Impact:

This item has no direct impact on the SANBAG budget.

Entity: CMA, COG, CTA, CTC, JPA, SAFE

Board of Directors Agenda Item

October 5, 2016

Page 2

Reviewed By:

This item is prepared monthly for review by SANBAG Board and Committee members.

Responsible Staff:

Approved
Board of Directors
Date: October 5, 2016

Witnessed By:

Minute Action

AGENDA ITEM: 2

Date: *October 5, 2016*

Subject:

July and August 2016 Procurement Report

Recommendation:

Receive the July and August 2016 Procurement Report.

Background:

The Board of Directors adopted the Contracting and Procurement Policy (Policy No. 11000) on January 3, 1997, and approved the last revision on March 12, 2014. On February 6, 2013, the Board of Directors authorized the Executive Director, or designee, to approve: a) contracts and purchase orders up to \$100,000 and for purchase orders originally \$100,000 or more, increasing the purchase order amount up to 10% of the original purchase order value, not-to-exceed \$25,000; b) amendments with a zero dollar value; c) amendments to exercise the option term if the option term was approved by the Board of Directors in the original contract; and d) amendments that cumulatively do not exceed 50% of the original contract value or \$100,000, whichever is less and to release Request for Proposal (RFP), Request for Quote (RFQ) and Invitation for Bid (IFB) for proposed contracts from which funding has been approved in San Bernardino Associated Governments (SANBAG's) Annual Budget, and which are estimated not-to-exceed \$1,000,000. SANBAG staff has compiled this report that summarizes all contract actions approved by the Executive Director, or designee.

On July 11, 2012, the Board of Directors authorized SANBAG's General Counsel to award and execute legal services contracts up to \$50,000 with outside counsel as needed on behalf of SANBAG and its authorities organized under the umbrella of the Council of Governments. Also, periodically notify the Board after exercising such authority. A list of all Contracts and Purchase Orders that were executed by the Executive Director and/or General Counsel during the months of July and August is presented herein as Attachment A, and all RFPs and IFBs are presented in Attachment B.

Financial Impact:

This item imposes no impact on the Fiscal Year 2016/2017 budget. Presentation of the monthly procurement report demonstrates compliance with the Contracting and Procurement Policy.

Reviewed By:

This item was received by the General Policy Committee on September 14, 2016.

Responsible Staff:

William Stawarski, Chief Financial Officer

Board of Directors Agenda Item
October 5, 2016
Page 2

Approved
Board of Directors
Date: October 5, 2016
Witnessed By:

Attachment A July & August Contract Actions

New Contracts Executed:

Contract No.	Description of Specific Services	Vendor Name	Dollar Amount	Description of Overall Program

*None to Report

Attachment: Attachment A (3130 : Procurement Report)

Attachment A

July & August Amendment Actions

Contract Amendments Executed:

Contract No. & Amendment No.	Reason for Amendment (include a description of the amendment)	Vendor Name	Previous Amendments & Dollar Values	Dollar Amount of Amendment	Amended Contract Total
15-1001069 Amendment 1	Amendment 1 extends the contract completion date to August 31, 2017. Project: Laurel Street Grade Separation funding.	Caltrans	Original \$5,000,000.00	\$0.00	\$5,000,000.00
15-1001195 Amendment 1	Amendment 1 modifies Sub-Consultant Insurance Language. Project: Program Project Management and Other Technical Services for SANBAG.	Parsons Transportation Group	Original \$29,681,835.00	\$0.00	\$29,681,835.00
C11167 Amendment 3	Amendment 3 extends the contract completion date to June 30, 2019 to allow time to handle loss of goodwill claims & reconcile ROW costs. Project: Right of Way Services for the South Milliken Avenue and Union Pacific Railroad Grade Separation Project.	City of Ontario	Original \$4,176,800.00 Amendment 1 \$800,000.00 Amendment 2 \$1,660,800.00	\$0.00	\$6,637,600.00

Attachment: Attachment A (3130 : Procurement Report)

Attachment A

July & August Contract Task Order Actions

Contract Task Order (CTO) Executed:

Contract No. & CTO No.	Description of CTO	Vendor Name	Contract Amount	Previously Issued CTOs	Dollar Amount of CTO
15-1001226 CTO 6	Pre-award audit to conform to LAPM requirements for the Metro ATP project.	Conrad LLP	\$500,000.00 (Shared with Macia Gini & O'Connell, 15-1001061)	CTO 1 \$33,569.00 CTO 2 \$11,800.00 CTO 3 \$40,120.00 CTO 4 \$1,840.00 CTO 5 \$10,480.00	\$6,240.00
15-1001226 CTO 7	Pre-award audit for the I-10 Mount Vernon Avenue Interchange.	Conrad LLP	\$500,000.00 (Shared with Macia Gini & O'Connell, 15-1001061)	CTO 1 \$33,569.00 CTO 2 \$11,800.00 CTO 3 \$40,120.00 CTO 4 \$1,840.00 CTO 5 \$10,480.00	\$5,520.00

Attachment: Attachment A (3130 : Procurement Report)

Attachment A

July & August Purchase Order Actions

Purchase Orders:

PO No.	PO Issue Date	Vendor Name	Description of Services	PO Dollar Amount
4001488	07/14/2016	Southern Computer Warehouse Inc.	Purchase thirty-one (31) ipad minis with case and charging center to enable Board members to vote electronically.	\$15,533.86
4001489	07/20/2016	TransTrack Systems	Data room hardware to accommodate for office expansion into SCRRA office space.	\$12,783.00
4001490	07/01/2016	Southern California Edison	Data research on community choice aggregation.	\$22,277.88

Attachment: Attachment A (3130 : Procurement Report)

Attachment A

July & August Purchase Order Amendment Actions

Purchase Order Amendments Executed:

Purchase Order No. & Amendment No.	Description of Services and Reason for Amendment	Vendor Name	Previous Amendments & Dollar Values	Dollar Amount of Amendment	Amended PO Total
None					

Attachment: Attachment A (3130 : Procurement Report)

Attachment B July & August RFP's and IFB's

Release of RFP's and IFB's

Release Date	RFP/IFB No.	Description of Services	Anticipated Dollar Amount	Anticipated Award Date	Description of Overall Program and Program Budget

*None to report

Attachment: Attachment B (3130 : Procurement Report)

-
- San Bernardino County Transportation Commission •San Bernardino County Transportation Authority
 - San Bernardino County Congestion Management Agency •Service Authority for Freeway Emergencies
-

Minute Action

AGENDA ITEM: 3

Date: *October 5, 2016*

Subject:

Budget to Actual Report for fourth quarter ending June 30, 2016

Recommendation:

Receive and file Budget to Actual Report for fourth quarter ending June 30, 2016.

Background:

SANBAG's Budget for Fiscal Year 2015/2016 for new activity was adopted by the Board of Directors on June 3, 2015. This report provides a summary of program activity and task activity compared to Budget based on the new string structure implemented in Fiscal Year 2015/2016. Budgetary information includes the original and revised budgets, and unaudited year-to-date expenditures as of June 30, 2016.

Financial Impact:

This item reports the status of expenditures against budget and imposes no financial impact on the Fiscal Year 2015/2016 Budget.

Reviewed By:

This item was received by the General Policy Committee on September 14, 2016.

Responsible Staff:

William Stawarski, Chief Financial Officer

Approved
Board of Directors
Date: October 5, 2016

Witnessed By:

Entity: CMA, COG, CTA, CTC, SAFE

**San Bernardino Associated Governments
Budget to Actual Report: July 2015 - June 2016
Fiscal Year 2015/2016 (Unaudited)**

ENVIRONMENTAL AND ENERGY CONSERVATION

TASK#	TASK DESCRIPTION	ORIGINAL			REVISED		TASK BALANCE	% OF BUDGET EXPENDED
		BUDGET	AMENDMENTS	ENCUMBRANCES	BUDGET	EXPENDITURES		
0101	Environment	436,137	207,490	-	643,627	295,421	348,206	45.90%
0111	Energy Conservation	1,230,490	87,689	-	1,318,179	1,064,252	253,927	80.74%
TOTAL ENVIRONMENTAL AND ENERGY CONSERVATION		1,666,627	295,179	-	1,961,806	1,359,673	602,133	69.31%

COMMUTER AND MOTORIST ASSISTANCE

TASK#	TASK DESCRIPTION	ORIGINAL			REVISED		TASK BALANCE	% OF BUDGET EXPENDED
		BUDGET	AMENDMENTS	ENCUMBRANCES	BUDGET	EXPENDITURES		
0406	Traveler Services	2,371,345	54,281	2,202	2,423,424	1,603,801	819,623	66.18%
0702	Call Box System	2,426,632	(3,600)	64,787	2,358,245	1,548,469	809,776	65.66%
0704	Freeway Service Patrol/State	2,780,734	-	-	2,780,734	2,129,671	651,063	76.59%
TOTAL COMMUTER AND MOTORIST ASSISTANCE		7,578,711	50,681	66,989	7,562,403	5,281,941	2,280,462	69.84%

REGIONAL AND SUBREGIONAL PLANNING

TASK#	TASK DESCRIPTION	ORIGINAL			REVISED		TASK BALANCE	% OF BUDGET EXPENDED
		BUDGET	AMENDMENTS	ENCUMBRANCES	BUDGET	EXPENDITURES		
0110	Regional Planning	489,052	29,520	-	518,572	518,572	-	100.00%
0203	Congestion Management	222,614	11,026	-	233,640	171,817	61,823	73.54%
0404	Subregional Planning	5,379,793	616,022	-	5,995,815	1,524,871	4,470,944	25.43%
0941	Mt./Desert Planning & Project Development	229,786	(22,637)	-	207,149	87,131	120,018	42.06%
TOTAL REGIONAL AND SUBREGIONAL PLANNING		6,321,245	633,931	-	6,955,176	2,302,390	4,652,786	33.10%

GENERAL GOVERNMENT

TASK#	TASK DESCRIPTION	ORIGINAL			REVISED		TASK BALANCE	% OF BUDGET EXPENDED
		BUDGET	AMENDMENTS	ENCUMBRANCES	BUDGET	EXPENDITURES		
0100	Board of Directors	232,000	24,436	14,014	242,422	137,975	104,447	56.92%
0200	Executive Administration and Support	871,961	(13,381)	-	858,580	690,409	168,171	80.41%
0350	General Counsel	592,674	(109,361)	-	483,313	341,243	142,070	70.60%
0400	Financial Management	1,309,179	45,949	-	1,355,128	1,266,279	88,849	93.44%
0501	Intergovernmental Relations	588,535	12,093	-	600,628	361,105	239,523	60.12%
0503	Legislation	519,967	34,425	-	554,392	514,030	40,362	92.72%
0605	Public Affairs	1,145,929	(265,656)	-	880,273	720,086	160,187	81.80%
0805	Building Operation	14,201	86,827	-	101,028	97,869	3,159	96.87%
TOTAL GENERAL GOVERNMENT		5,274,446	(184,668)	14,014	5,075,764	4,128,995	946,769	81.35%

TRANSIT AND PASSENGER RAIL

TASK#	TASK DESCRIPTION	ORIGINAL			REVISED		TASK BALANCE	% OF BUDGET EXPENDED
		BUDGET	AMENDMENTS	ENCUMBRANCES	BUDGET	EXPENDITURES		
0309	General Transit	605,277	76,274	16,728	664,823	570,260	94,563	85.78%
0310	Transit Operating	9,479,921	1,020,773	8,250	10,492,445	10,492,440	5	100.00%
0311	Transit Capital	345,965	2,629,039	977,581	1,997,423	1,068,808	928,615	53.51%
0322	San Bernardino Transit Center	3,319,941	696,734	27,512	3,989,163	2,203,089	1,786,074	55.23%
0323	Downtown San Bernardino Passenger Rail	53,504,351	(2,447,357)	111,551	50,945,443	30,985,163	19,960,280	60.82%
0324	Redlands Passenger Rail	25,946,323	1,016,989	152,260	26,811,052	8,186,041	18,625,011	30.53%
0325	San Gabriel Subdivision Line Improvements	4,337,870	(1,279,303)	270,360	2,788,207	492,859	2,295,348	17.68%
0326	Goldline Extension	-	50,001	-	50,001	18,670	31,331	37.34%

Attachment: 2016 4th qtr (3131 : Budget to Actual Report for fourth quarter ending June 30, 2016)

0327	Shortway Subdivision	-	4,065,560	300,358	3,765,202	3,327,715	437,487	88.38%
0352	General Commuter Rail	1,037,831	1,215,967	-	2,253,798	1,479,460	774,338	65.64%
0377	Commuter Rail Operating	16,993,375	162,501	-	17,155,876	15,910,495	1,245,381	92.74%
0379	Commuter Rail Capital	3,819,933	6,648,623	6,776	10,461,780	842,554	9,619,226	8.05%
0383	Vanpool Program	1,450,128	8,992	-	1,459,120	47,682	1,411,438	3.27%
TOTAL TRANSIT AND PASSENGER RAIL		120,840,915	13,864,793	1,871,377	132,834,331	75,625,235	57,209,096	56.93%

MAJOR PROJECT DELIVERY

TASK#	TASK DESCRIPTION	ORIGINAL BUDGET	AMENDMENTS	ENCUMBRANCES	REVISED BUDGET	EXPENDITURES	TASK BALANCE	% OF BUDGET EXPENDED
0815	Measure I Program Management	4,769,944	280,386	-	5,050,330	4,079,099	971,231	80.77%
0820	Freeway Projects	66,780,171	(1,762,543)	-	65,017,628	24,410,455	40,607,173	37.54%
0830	Interchange Projects	77,386,270	914,875	-	78,301,145	38,271,845	40,029,300	48.88%
0840	Grade Separation Projects	48,146,598	6,326,943	-	54,473,541	32,591,280	21,882,261	59.83%
0860	Arterial Projects	429,881	200,000	-	629,881	196,925	432,956	31.26%
TOTAL MAJOR PROJECT DELIVERY		197,512,864	5,959,661	-	203,472,525	99,549,604	103,922,921	48.93%

FUND ADMINISTRATION AND PROGRAMMING

TASK#	TASK DESCRIPTION	ORIGINAL BUDGET	AMENDMENTS	ENCUMBRANCES	REVISED BUDGET	EXPENDITURES	TASK BALANCE	% OF BUDGET EXPENDED
0500	Fund Administration	1,095,350	235,339	-	1,330,689	1,330,689	-	100.00%
0550	Programming	152,835,442	28,801,966	953,322	180,684,086	167,955,659	12,728,427	92.96%
TOTAL FUND ADMINISTRATION AND PROGRAMMING		153,930,792	29,037,305	953,322	182,014,775	169,286,348	12,728,427	93.01%

DEBT SERVICE

TASK#	TASK DESCRIPTION	ORIGINAL BUDGET	AMENDMENTS	ENCUMBRANCES	REVISED BUDGET	EXPENDITURES	TASK BALANCE	% OF BUDGET EXPENDED
0965	2012 A Sales Tax Revenue Bond	6,080,438	-	-	6,080,438	6,079,228	1,211	99.98%
0966	2014 A Sales Tax Revenue Bond	5,138,613	-	-	5,138,613	5,137,488	1,126	99.98%
TOTAL DEBT SERVICE PROGRAM		11,219,051	-	-	11,219,051	11,216,715	2,336	99.98%

GRAND TOTAL ALL PROGRAMS	504,344,651	49,656,882	2,905,702	551,095,831	368,750,902	182,344,930	66.91%
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CONSOLIDATED BY PROGRAM

PROGRAM DESCRIPTION	ORIGINAL BUDGET	AMENDMENTS	ENCUMBRANCES	REVISED BUDGET	EXPENDITURES	PROGRAM BALANCE	% OF BUDGET EXPENDED
ENVIRONMENTAL AND ENERGY CONSERVATION	1,666,627	295,179	-	1,961,806	1,359,673	602,133	69.31%
COMMUTER AND MOTORIST ASSISTANCE	7,578,711	50,681	66,989	7,562,403	5,281,941	2,280,462	69.84%
REGIONAL AND SUBREGIONAL PLANNING	6,321,245	633,931	-	6,955,176	2,302,390	4,652,786	33.10%
GENERAL GOVERNMENT	5,274,446	(184,668)	14,014	5,075,764	4,128,995	946,769	81.35%
TRANSIT AND PASSENGER RAIL	120,840,915	13,864,793	1,871,377	132,834,331	75,625,235	57,209,096	56.93%
MAJOR PROJECT DELIVERY	197,512,864	5,959,661	-	203,472,525	99,549,604	103,922,921	48.93%
FUND ADMINISTRATION AND PROGRAMMING	153,930,792	29,037,305	953,322	182,014,775	169,286,348	12,728,427	93.01%
DEBT SERVICE	11,219,051	-	-	11,219,051	11,216,715	2,336	99.98%
GRAND TOTAL ALL PROGRAMS	504,344,651	49,656,882	2,905,702	551,095,831	368,750,902	182,344,930	66.91%

NOTES: Certain budget appropriations represent timing of capital expenditures and can be expended over several years.
 Measure I Local pass through includes reversal of prior Fiscal Year accruals.
 Encumbrances reduce revised budget amount.

Attachment: 2016 4th qtr (3131 : Budget to Actual Report for fourth quarter ending June 30, 2016)

Minute Action

AGENDA ITEM: 4

Date: *October 5, 2016*

Subject:

Biennial Review of SANBAG Conflict of Interest Code

Recommendation:

A. Perform the biennial review of SANBAG’s Conflict of Interest Code, Appendix A, and find that no amendments are necessary.

B. Direct the SANBAG Clerk of the Board to submit to the San Bernardino County Board of Supervisors a finding that no amendments to SANBAG’s Conflict of Interest Code are necessary.

Background:

The Political Reform Act (Act) requires every local government agency that takes actions that foreseeably may materially affect economic interests to adopt a Conflict of Interest Code for its employees and officials. SANBAG has adopted a Conflict of Interest Code and it is set forth in SANBAG Policy No. 10102. The Conflict of Interest Code lists those employees or officers who are required to file a statement of economic interests (“designated employees”) and prescribes the types of interests which must be disclosed by such officials (“disclosure categories”).

In order to ensure the agency’s designated employees and disclosure categories are reflective of the current organization and ability to affect economic interests, the Act requires agencies to review their conflict of interest codes at least biennially. In January 2016, SANBAG amended Appendix A (attached) of the code to reflect current job titles and appropriate filing categories based on job duties. Since that time there have not been any changes to job titles or duties. Based on this recent review staff is not recommending any changes to Appendix A of the code.

The Act provides that where a multi-jurisdictional governmental agency is wholly within a county, the board of supervisors is the code reviewing body for that agency. Accordingly, after the SANBAG Board review and determination the finding must be submitted to the San Bernardino County Board of Supervisors for their review.

Financial Impact:

This item does not have an impact on the SANBAG Fiscal Year 2016/2017 budget.

Reviewed By:

This item was reviewed and unanimously recommended for approval by the General Policy Committee on September 14, 2016. SANBAG General Counsel has reviewed this item.

Responsible Staff:

Vicki Watson, Clerk of the Board

Entity: CMA, COG, CTA, CTC, SAFE

Board of Directors Agenda Item
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Approved
Board of Directors
Date: October 5, 2016
Witnessed By:

Conflict of Interest Code – Designated Employees**Policy****10102 Appendix A**

Designated Employees	Categories
1. Board of Directors (County designees)	1
2. Board of Directors (City designees)	1
3. Board of Directors Alternates (City designees)	1
4. Executive Director	1
5. Deputy Executive Director	1
6. General Counsel	1
7. Chief Financial Officer	1
8. Director of Transit/Rail Programs	1
9. Director of Planning	1
10. Director of Fund Administration and Programming	1
11. Director of Project Delivery	1
12. Director of Legislative and Public Affairs	1
13. Chief of Fiscal Resources	2
14. Chief of Legislative and Public Affairs	2
15. Chief of Air Quality/Mobility Programs	2
16. Chief of Planning	2
17. Chief of Fund Administration and Programming	2
18. Chief of Transit/Rail Programs	2
19. Construction Manager	2
20. Project Delivery Manager	2
21. Human Resources/Information Services Administrator	2
22. Procurement Manager	2
23. Procurement Analyst	2
24. Management Analyst II*	1
25. Management Analyst III*	1
26. Senior Planner	2
27. Clerk of the Board/Administrative Supervisor	2
28. Consultant **	2

*** Only Management Analysts who perform Right of Way activities must file.**

**** Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:**

The Executive Director may determine in writing that a particular consultant, although a "designated employee," is hired to perform a range of duties that is limited in scope and, thus, is not required to fully comply with the disclosure requirements in this Code. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Executive Director's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

Form 700s filed by the Board of Directors (County designees) are filed with the Clerk of the County Board of Supervisors, not with SANBAG.

Attachment: Conflict of Interest Code Appendix A (3144 : Conflict of Interest Code Biennial Review)

Disclosure Categories

CATEGORY I

Designated employees in this category shall disclose all sources of income, interests in real property, investments and business positions in business entities. Designated employees in this category shall complete all schedules of Form 700, if applicable.

CATEGORY 2

Designated employees in this category shall disclose sources of income, investments, and business positions in business entities which provide services, supplies, materials, machinery or equipment of the type purchased or utilized by the department in which the designated employee is employed. Designated employees in this category shall complete all schedules of Form 700 except schedule B, if applicable.

Minute Action

AGENDA ITEM: 5

Date: *October 5, 2016*

Subject:

San Bernardino Santa Fe Depot Request for Structural Evaluation and Repairs

Recommendation:

A. Approve a budget amendment to increase Task 0805 Building Operation by \$86,200 to address issues that pose an immediate threat to the safety of staff and to cover the costs of the full investigation of both the east and west basements as recommended by Degenkolb Engineers.

B. Review and ratify the procurement procedures used for the shoring of the east basement and the wall construction of office No. 19 and the break room.

Background:

Staff observed several large cracks along interior walls of the Depot which seemed to be worsening over time. In an effort to determine if these cracks were structural in nature or merely cosmetic, staff worked with Degenkolb Engineers, which is the same engineering firm that worked on the original Depot Renovation. Degenkolb Engineers examined the cracks in question and also walked the entire building, to include the attic and basements, in an effort to identify any additional areas of concern. While most of the areas were determined not to be structurally significant, they found other areas which required immediate action.

Degenkolb Engineers became immediately concerned with their findings in the east basement and recommended immediate shoring be added to this area as a precaution and advised a full investigation of the basement area be conducted in the near future. SANBAG had Independent Solutions, the contractor used by Degenkolb Engineers, place the recommended shoring materials. The cost associated with the shoring project was \$8,200. The anticipated costs to conduct a full investigation of both the east and west basements is estimated to be \$55,000, which includes a 20% contingency.

Additionally, as part of Degenkolb Engineers initial findings, they identified concerns with the large cracks forming on the east wall of office No.19, which also happens to be the west wall of the break room. Since this wall is a historic wall, though determined to be a partition wall which means it is not load bearing, it was recommended that we authorize Independent Solutions to build a wall on each side of the existing wall thereby fully encapsulating the historic wall to protect staff should the historic wall ever fail. The cost to fully encapsulate this historic wall is estimated to be \$23,000, which includes a 20% contingency.

Staff authorized the shoring in the east basement and the recommended remedy to the east wall of office No.19 and the west wall of the break room to address the immediate safety concern. Staff is requesting the Board's approval to move forward with the full investigation

Entity: CTA, CTC

Board of Directors Agenda Item

October 5, 2016

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recommended by Degenkolb Engineers. Staff is also requesting the Board approve a budget amendment to increase Task 0805 Building Operation by \$86,200 to cover the full investigation and the costs already incurred for shoring and wall construction.

Due to the urgent nature of the work performed, this report also requests that the Board ratify the procurement procedures used for the shoring of the east basement and the wall construction of office No. 19 and break room.

Financial Impact:

Approval of this item would result in a budget amendment to increase Task 0805 Building Operation by \$86,200.

Reviewed By:

This item was reviewed and unanimously recommended for approval by the General Policy Committee on September 14, 2016.

Responsible Staff:

Duane Baker, Deputy Executive Director

Approved
Board of Directors
Date: October 5, 2016

Witnessed By:

Minute Action

AGENDA ITEM: 6

Date: *October 5, 2016*

Subject:

Contract 16-1001521 Award for Freeway Service Patrol (FSP) Radio Services

Recommendation:

That the Board review and award Contract No. 16-1001521 between SANBAG and Mobile Relay Associates, LLC for radio services for the FSP Program for a three-year term, for a not-to-exceed amount of \$110,036, with two-option years for a total contract value not-to-exceed \$161,189 as outlined in the Financial Impact Section.

Background:

The Freeway Service Patrol (FSP) consists of a fleet of tow trucks patrolling urban freeways for the purpose of assisting motorists with their disabled vehicles during peak periods of congestion. The specific stretch of highway that the tow truck patrols is referred to as a “Beat.” FSP programs are extremely beneficial to the motoring public by reducing the amount of time a motorist is in an unsafe condition in traffic lanes, reducing traffic delays, as well as decreasing fuel consumption, vehicular emissions and secondary incidents. A key component to the success of the operations of the program is the use of a radio system to transmit communications between CHP dispatch and all FSP tow operators. The current agreement between existing radio services provider, Lucky's Two-Way Radios, is set to expire October 31, 2016.

On June 14, 2016 the Executive Director authorized the release of the RFP (Request for Proposals) 16-1001521 for a joint RFP release with the Riverside County Transportation Commission (RCTC) for FSP program digital radio system and equipment. The purpose of the RFP was to seek proposals from qualified firms to provide reliable communications between FSP drivers and California Highway Patrol (CHP) dispatch in the field operations within the counties of San Bernardino and Riverside.

The RFP was released via PlanetBids, where a total of 59 vendors were notified, with 13 vendors downloading the RFP. A pre-bid conference took place at SANBAG on June 21, 2016, to allow for potential vendors to ask questions about the operations and the radio needs of the program before the July 7, 2016, submittal deadline. A total of three proposals were received in response to this RFP. The proposals were from:

- Bearcom Wireless Worldwide
- Lucky's Two-Way Radios
- Mobile Relay Associates LLC

Entity: CMA, CTC, SAFE

Board of Directors Agenda Item

October 5, 2016

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An evaluation committee consisting of two SANBAG staff members, one RCTC staff member and one CHP Officer reviewed all of the proposals and selected all three firms to interview based on the following criteria:

- Qualifications of the Firm – experience in providing radio communications coverage in the areas specified by the Scope of Work.
- Staffing and Project Organization – The experience of staff assigned, depth and availability of staff , processes for controlling work and for insuring quality control.
- Work Plan – depth of firm’s understanding of SANBAG’s needs and demonstration of ability to respond to each part of the Scope of Work.
- Price Proposal – reasonableness of the total price and competitiveness in the marketplace for similar services.

The same evaluation committee interviewed these firms to determine their qualifications for performing the scope of work. After the interviews, each of the firms submitted testing equipment for one (1) week testing of their radio system. The demonstrations determined if the firm(s) had the coverage necessary to meet the scope of work. The testing of the radio systems was conducted by the CHP. At the conclusion of the testing, CHP met with the Evaluation Committee to provide feedback. The end result was that Mobile Relay Associates, LLC, had minimal gaps in radio coverage, whereas the other two proposers’ systems indicated significant gaps to the FSP program service areas that were identified in the scope of work. The Evaluation Committee then compiled their interview/testing scores and completed the evaluation process.

After deliberation by the evaluation committee, Mobile Relay Associates, LLC was the top ranked firm for negotiation of a contract. The decision was based on their experience in the industry, reliability of their system coverage and price. Therefore, staff recommends the Board approve Agreement No. 16-1001521 with Mobile Relay Associates, LLC, for a three-year term and two one-year options.

Financial Impact:

The funds for the first year of this contract is included in the approved Fiscal Year 2016/2017 Budget. Funding for future years of the contract will be included in those respective budgets.

Reviewed By:

This item was reviewed and unanimously recommended for approval by the General Policy Committee on September 14, 2016. SANBAG General Counsel and Procurement Manager have reviewed and approved this item and the draft agreement.

Responsible Staff:

Duane Baker, Deputy Executive Director

Approved
Board of Directors
Date: October 5, 2016

Witnessed By:

Contract Summary Sheet

General Contract Information

Contract No: 16-1001521 Amendment No.: _____ Vendor No.: PEND
 Vendor/Customer Name: Mobile Relay Associates, LLC Sole Source? Yes No
 Description: FSP Program Digital Radio Frequency lease and equipment
 Start Date: 10/05/2016 Expiration Date: 09/30/2019 Revised Expiration Date: _____
 Has Contract Term Been Amended? No Yes - Please Explain _____
 List Any Related Contracts Nos.: _____

Dollar Amount			
Original Contract	\$ 110,036.00	Original Contingency	\$ -
Revised Contract (Inclusive of Prior Amendments)	\$ -	Revised Contingency (Inclusive of Prior Amendments)	\$ -
Current Amendment	\$ -	Contingency Amendment	\$ -
TOTAL CONTRACT VALUE	\$ 110,036.00	TOTAL CONTINGENCY VALUE	\$ -
		TOTAL DOLLAR AUTHORITY (Contract Value and Contingency)	\$ 110,036.00

Contract Authorization

Executive Director Date: _____
 Executive Director Action: _____
 Board of Directors Date: 10/05/2016
 Board of Directors Action: Approve agreement

Contract Management: Payable/Miscellaneous

Invoice Warning: 20% Renewals: _____ Type: Capital PAA Other
 Retention: % Maximum Retention: \$ -
 Services: Construction Intrgrnt/MOU/COOP A & E Services Other Professional Services
 Disadvantaged Business Enterprise (DBE) Goal _____ %

Contract Management: Receivable

E-76 and/or CTC Date _____ (Attach Copy) Program Supplement No.: _____
 Finance Letter Reversion Date: _____ EA No.: _____

All of the above MUST be submitted to FINANCE including originals, amendments and miscellaneous transaction changes

Additional Information

Project Manager: JENNY HERRERA

Attachment: MRA CSS (3126 : FSP Radio Procurement)

CONTRACT NO. 15-1001521**BY AND BETWEEN****SANBAG****AND****MOBILE RELAY ASSOCIATES, LLC****FOR****FREEWAY SERVICE PATROL (FSP) PROGRAM DIGITAL RADIO SYSTEM AND EQUIPMENT SERVICES**

This contract (referred to as “Contract”), is made and entered into by and between San Bernardino County Transportation Commission (“SANBAG”), whose address is: 1170 W. 3rd Street, 2nd Floor, San Bernardino, California 92410-1715; and Mobile Relay Associates, LLC (“CONSULTANT”) whose address is: 15330 Vermont Avenue, P.O. Box 19, Paramount, CA 90723. SANBAG and CONSULTANT are each a “Party” and collectively the “Parties”.

RECITALS:

WHEREAS, SANBAG requires certain work services as described in Exhibit “A” of this Contract and;

WHEREAS, CONSULTANT has confirmed that CONSULTANT has the requisite professional qualifications, personnel and experience and is fully capable and qualified to perform the services identified herein; and

WHEREAS, CONSULTANT desires to perform all Work identified herein and to do so for the compensation and in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, the Parties agree as follows:

ARTICLE 1. PROJECT DESCRIPTION/SCOPE OF WORK

- 1.1 CONSULTANT agrees to perform the work and services set forth in Exhibit A “Scope of Work” (“Work”), in accordance with all applicable professional standards which are generally accepted in the State of California, in accordance with the terms and conditions expressed herein and in the sequence, time, and manner defined herein. The word “Work” includes without limitation, the performance, fulfillment and discharge by CONSULTANT of all obligations, duties, tasks, and services imposed upon or assumed by CONSULTANT hereunder; and the Work performed hereunder shall be completed to

the satisfaction of SANBAG, with SANBAG's satisfaction being based on prevailing applicable professional standards.

- 1.2 The Project Manager for this Contract is Jenny Herrera, or such other designee as shall be designated in written notice to CONSULTANT from time to time by the Executive Director of SANBAG or his or her designee. The Project Manager shall have authority to act on behalf of SANBAG in administering this Contract, including giving notices (including without limitation, notices of default and/or termination), technical directions and approvals; issuing; demanding performance and accepting work performed, but is not authorized to receive or issue payments or execute amendments to the Contract itself.

ARTICLE 2. CONTRACT TERM

The Contract term shall commence upon issuance of a written Notice To Proceed (NTP) issued by SANBAG's Procurement Analyst, and shall continue in full force and effect through September 30, 2019 until otherwise terminated, or unless extended as hereinafter provided by written amendment. Except that all indemnity and defense obligations hereunder shall survive termination of this Contract. CONSULTANT shall not be compensated for any Work performed or costs incurred prior to issuance of the NTP.

SANBAG at its sole discretion may extend the original term of the Contract for two (2) one-year option terms. The maximum term of this Contract, including the Option Term(s), if exercised, will not exceed September 30, 2021.

ARTICLE 3. COMPENSATION

- 3.1 Total compensation to CONSULTANT for full and complete performance of the Scope of Work, identified herein and, in compliance with all the terms and conditions of this Contract, shall be on a Time & Materials basis for all obligations incurred in, or application to, CONSULTANT's performance of Work, and for which CONSULTANT shall furnish all personnel, facilities, equipment, materials, supplies, and Services (except as may be explicitly set forth in this Contract as furnished by SANBAG) shall not exceed the amount set forth in section 3.2 below.
- 3.2 The total Contract Not-To-Exceed Amount is One Hundred Ten Thousand, Thirty-Six Dollars (\$110,036.00). All Work provided under this Contract is to be performed as set forth in Exhibit A "Scope of Work", and shall be reimbursed pursuant to Exhibit B "Price Form". The hourly labor rates identified in Exhibit B shall remain fixed for the term of this Contract and include CONSULTANT's direct labor costs, indirect costs, and profit. All expenses shall be reimbursed for the amounts identified in Exhibit B. Any travel expenses must be pre-approved by SANBAG and shall be reimbursed for per diem expenses at a rate not to exceed the currently authorized rates for state employees under the State Department of Personnel Administration rules. SANBAG will not reimburse CONSULTANT for any expenses not shown in Exhibit B or agreed to and approved by SANBAG as required under this Contract.
- 3.3 For personnel subject to prevailing wage rates as described in the California Labor Code, all wage increases that are the direct result of changes in the prevailing wage rates, are reimbursable.

- 3.4 The Cost Principles and Procedures set forth in 48 CFR, Ch. 1, subch. E, Part 31, as constituted on the effective date of this Contract shall be utilized to determine allowability of costs under this Contract and may be modified from time to time by written amendment of the Contract.
- 3.4.1 CONSULTANT agrees to comply with Federal Department of Transportation procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
- 3.4.2 Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR, Ch. 1, subch. E, Part 31, or 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments shall be repaid by CONSULTANT to SANBAG.
- 3.5 Any Work provided by CONSULTANT not specifically covered by the Scope of Work shall not be compensated without prior written authorization from SANBAG. It shall be CONSULTANT's responsibility to recognize and notify SANBAG in writing when services not covered by the Scope of Work have been requested or are required. All changes and/or modifications to the Scope of Work shall be made in accordance with the "CHANGES" Article in this Contract. Any additional services agreed to in accordance with this Contract shall become part of the Work.
- 3.6 All subcontracts in excess of \$25,000 shall contain the above provisions.

ARTICLE 4. INVOICING

- 4.1 Payment to CONSULTANT as provided herein shall be payable in monthly billing payments, forty-five (45) calendar days after receipt of an acceptable invoice by SANBAG of an invoice prepared in accordance with instructions below. Payment shall not be construed to be an acceptance of Work.
- 4.2 CONSULTANT shall prepare invoices in a form satisfactory to and approved by SANBAG, and it shall be accompanied by documentation supporting each element of measurement and/or cost. Each invoice will be for a monthly billing period and will be marked with SANBAG'S contract number, description and task order number, if applicable. Invoices shall be submitted within fifteen (15) calendar days for the period covered by the invoice. Invoices shall include request for payment for Work (including additional services authorized by SANBAG) completed by CONSULTANT during each billing period and shall include back-up information sufficient to establish the validity of the invoice. Any invoice submitted which fails to comply with the terms of this Contract, including the requirements of form and documentation, may be returned to CONSULTANT. Any costs incurred by CONSULTANT in connection with the resubmission of a proper invoice shall be at CONSULTANT's sole expense. The final invoice shall be marked "FINAL" and will be submitted within 60 calendar days after SANBAG has received and approved all Work and deliverables. Invoices should be e-mailed to SANBAG at the following address:

ap@sanbag.ca.gov

- 4.3 CONSULTANT shall include a statement and release with each invoice, satisfactory to SANBAG, that CONSULTANT has fully performed the Work invoiced, pursuant to the Contract for the period covered, that all information included with the invoice is true and correct and that all payments to and claims of CONSULTANT and its subconsultants for Work during the period will be satisfied upon making of such payment. SANBAG shall not be obligated to make payments to CONSULTANT until CONSULTANT furnishes such statement and release.
- 4.4 Intentionally Omitted
- 4.5 No payment will be made prior to approval of any Work, nor for any Work performed prior to the NTP or the issuance of an applicable CTO, nor for any Work under any amendment to the Contract until SANBAG's Awarding Authority takes action.
- 4.6 CONSULTANT agrees to promptly pay each subconsultant for the satisfactory completion of all Work performed under this Contract, no later than ten (10) calendar days from the receipt of payment from SANBAG. CONSULTANT also agrees to return any retainage payments to each subconsultant within ten (10) calendar days after the subconsultants work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval by SANBAG. SANBAG reserves the right to request documentation from CONSULTANT showing payment has been made to its subconsultants. SANBAG also reserves the right, at its own sole discretion, to issue joint checks to CONSULTANT and any subconsultant(s), which shall constitute payment to CONSULTANT in compliance with the terms of this Contract. This clause applies to both DBE and non-DBE subconsultants.
- 4.7 Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR, Ch. 1, subch. E, Part 31 are subject to repayment by CONSULTANT to SANBAG.

ARTICLE 5. TAXES, DUTIES AND FEES

Except to the extent expressly provided elsewhere in this Contract, CONSULTANT shall pay when due, and the compensation set forth herein, shall be inclusive of all: a) local, municipal, State, and federal sales and use taxes; b) excise taxes; c) taxes on personal property owned by CONSULTANT; and d) other governmental fees and taxes or charges of whatever nature applicable to CONSULTANT to enable it to conduct business.

ARTICLE 6. AVAILABILITY OF FUNDS

The award and performance of this Contract is contingent on the availability of funds. If funds are not appropriated and/or allocated and available to SANBAG for the continuance of Work performed by CONSULTANT, Work directly or indirectly involved may be suspended or terminated by SANBAG at the end of the period for which funds are available. When SANBAG becomes aware that any portion of Work, which will or may be affected by a shortage of funds, it will promptly notify CONSULTANT. Nothing herein shall relieve SANBAG from its obligation

to compensate CONSULTANT for work already performed pursuant to this Contract. No penalty shall accrue to SANBAG in the event this provision is exercised.

ARTICLE 7. PERMITS AND LICENSES

CONSULTANT shall, without additional compensation, keep current all governmental permits, certificates and licenses (including professional licenses) and required registrations necessary for CONSULTANT to perform Work identified herein.

ARTICLE 8. DOCUMENTATION AND RIGHT TO AUDIT

- 8.1 CONSULTANT shall maintain all records related to this Contract in an organized way in the original format, electronic and hard copy, conducive to professional review and audit, for a period of three (3) years from the date of final payment by SANBAG, or until the conclusion of all litigation, appeals or claims related to this Contract, whichever is longer. CONSULTANT shall provide SANBAG, and the California State Auditor, or other authorized representatives of SANBAG, access to Consultants' records which are directly related to this Contract for the purpose of inspection, auditing or copying during the entirety of the records maintenance period above. CONSULTANT further agrees to maintain separate records for costs of Work performed by amendment. CONSULTANT shall allow SANBAG, and its representatives or agents to reproduce any materials as reasonably necessary.
- 8.2 The cost proposal and/or invoices for this Contract are subject to audit by SANBAG and/or any state or federal agency funding this Project at any time. After CONSULTANT receives any audit recommendations, the cost or price proposal shall be adjusted by CONSULTANT and approved by SANBAG's Project Manager to conform to the audit recommendations. CONSULTANT agrees that individual items of cost identified in the audit report may be incorporated into the Contract at SANBAG's sole discretion. Refusal by CONSULTANT to incorporate the audit or post award recommendations will be considered a breach of the Contract and cause for termination of the Contract. Any dispute concerning the audit findings of this Contract shall be reviewed by SANBAG's Chief Financial Officer. CONSULTANT may request a review by submitting the request in writing to SANBAG within thirty (30) calendar days after issuance of the audit report
- 8.3 Subcontracts in excess of \$25,000 shall contain this provision.

ARTICLE 9. RESPONSIBILITY OF CONSULTANT

- 9.1 CONSULTANT shall be responsible for the professional quality, technical accuracy, and assurance of compliance with all applicable federal, State and local laws and regulations and other Work furnished by CONSULTANT under the Contract. The Contract includes reference to the appropriate standards for Work performance stipulated in the Contract.
- 9.2 In addition to any other requirements of this Contract or duties and obligations imposed on CONSULTANT by law, CONSULTANT shall, as an integral part of its Work, employ quality control procedures that identify potential risks and uncertainties related to scope, schedule, cost, quality and safety of the Project and the Work performed by CONSULTANT within the areas of CONSULTANT's expertise. At any time during

performance of the Scope of Work, should CONSULTANT observe, encounter, or identify any unusual circumstances or uncertainties, which could pose potential risk to SANBAG or the Project, CONSULTANT shall immediately document such matters and notify SANBAG in writing. CONSULTANT shall also similarly notify SANBAG in regard to the possibility of any natural catastrophe, or potential failure, or any situation that exceeds assumptions and could precipitate a failure of any part of the Project. Notifications under this paragraph shall be specific, clear and timely, and in a form which will enable SANBAG to understand and evaluate the magnitude and effect of the risk and/or uncertainties involved.

ARTICLE 10. REPORTING AND DELIVERABLES

All reports and deliverables shall be submitted in accordance with Exhibit A “Scope of Work”. At a minimum, CONSULTANT shall submit monthly progress reports with their monthly invoices. The report shall be sufficiently detailed for SANBAG to determine if CONSULTANT is performing to expectations, or is on schedule; to provide communication of interim findings, and to sufficiently address any difficulties or problems encountered, so remedies can be developed.

ARTICLE 11. TECHNICAL DIRECTION

11.1 Performance of Work under this Contract shall be subject to the technical direction of SANBAG’s Project Manager who will be identified in writing to the CONSULTANT, upon issuance of the NTP and/or subsequently by written notice during the Contract. The term “Technical Direction” is defined to include, without limitation:

11.1.1 Directions to CONSULTANT, which redirect the Contract effort, shift work emphasis between work areas or tasks, require pursuit of certain lines of inquiry, fill in details or otherwise serve to accomplish the Scope of Work.

11.1.2 Provision of written information to CONSULTANT, which assists in the interpretation of reports, or technical portions of the Scope of Work described herein.

11.1.3 Review and, where required by the Contract, approval of technical reports, and technical information to be delivered by CONSULTANT to SANBAG under the Contract.

11.1.4 SANBAG’s Project Manager may modify this Contract for certain administrative modifications without issuing a written amendment. Administrative modifications are limited to: substitutions of personnel identified in the Contract, including Key Personnel and subconsultants; modifications to classifications, hourly rates and names of personnel in Exhibit B; and modifications of the address of the CONSULTANT. All such modifications will be documented in writing between the Parties.

11.2 Technical Direction must be within the Scope of Work under this Contract. SANBAG’s Project Manager does not have the authority to, and may not, issue any Technical Direction which:

- 11.2.1 Increases or decreases the Scope of Work;
 - 11.2.2 Directs CONSULTANT to perform Work outside the original intent of the Scope of Work;
 - 11.2.3 Constitutes a change as defined in the “CHANGES” Article of the Contract;
 - 11.2.4 In any manner causes an increase or decrease in the Contract price as identified in the “COMPENSATION” Article or the time required for Contract performance;
 - 11.2.5 Changes any of the expressed terms, conditions or specifications of the Contract; unless identified herein;
 - 11.2.6 Interferes with CONSULTANT’s right to perform the terms and conditions of the Contract unless identified herein; or
 - 11.2.7 Approves any demand or claims for additional payment.
- 11.3 Failure of CONSULTANT and SANBAG’s Project Manager to agree that the Technical Direction is within the scope of the Contract, or a failure to agree upon the Contract action to be taken with respect thereto shall be subject to the provisions of “DISPUTES” Article herein.
- 11.4 All Technical Direction shall be issued in writing by SANBAG’s Project Manager.
- 11.5 CONSULTANT shall proceed promptly with the performance of Technical Direction issued by SANBAG’s Project Manager, in the manner prescribed by this Article and within their authority under the provisions of this Article. If, in the opinion of CONSULTANT, any instruction or direction by SANBAG’s Project Manager, falls within one of the categories defined in sections 11.2.1 through 11.2.7 above, CONSULTANT shall not proceed but shall notify SANBAG in writing within five (5) working days after receipt of any such instruction or direction and shall request SANBAG to modify the Contract accordingly. Upon receiving the notification from CONSULTANT, SANBAG shall:
- 11.5.1 Advise CONSULTANT in writing within thirty (30) calendar days after receipt of CONSULTANT’s letter that the Technical Direction is or is not within the scope of this Contract.
 - 11.5.2. Advise CONSULTANT within a reasonable time whether SANBAG will or will not issue a written amendment.

ARTICLE 12. CHANGES

- 12.1 The Work shall be subject to changes by additions, deletions, or revisions made by SANBAG. CONSULTANT will be advised of any such changes by written notification from SANBAG describing the change. This notification will not be binding on SANBAG until SANBAG’s Awarding Authority has approved an amendment to this Contract.

12.2 Promptly after such written notification of change is given to CONSULTANT by SANBAG, the Parties will attempt to negotiate a mutually agreeable adjustment to compensation or time of performance, and amend the Contract accordingly.

ARTICLE 13. EQUAL EMPLOYMENT OPPORTUNITY

During the term of this Contract, CONSULTANT shall not willfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, gender, marital status, sexual orientation, age, political affiliation or disability. CONSULTANT agrees to comply with the provisions of Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

ARTICLE 14. CONFLICT OF INTEREST

CONSULTANT agrees that it presently has no interest, financial or otherwise and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of Work required under this Contract or be contrary to the interests of SANBAG as to the Project. CONSULTANT further agrees that in the performance of this Contract no person having any such interest shall be employed. CONSULTANT is obligated to fully disclose to SANBAG, in writing, any conflict of interest issues as soon as they are known to CONSULTANT. CONSULTANT agrees that CONSULTANT’s staff designated by SANBAG’s Executive Director as “Consultants” under the Political Reform Act shall timely file Statements of Economic Interest with the SANBAG Clerk of the Board.

ARTICLE 15. KEY PERSONNEL

The personnel specified below are considered to be essential to the Work being performed under this Contract. Prior to diverting any of the specified individuals to other projects, or reallocation of any tasks or hours of Work that are the responsibility of key personnel to other personnel, CONSULTANT shall notify SANBAG in writing in advance and shall submit justifications (including proposed substitutions, resumes and payroll information to support any changes to the labor rates) in sufficient detail to permit evaluation of the impact on the Project. Diversion or reallocation of key personnel shall not be made without prior written consent of SANBAG’s PM. CONSULTANT shall not substitute any key personnel without the prior written consent of SANBAG. In the event that the Parties cannot agree as to the substitution of key personnel, SANBAG may terminate this Contract. Key Personnel are:

Name	Job Classification/Function
Mark Abrams	President

ARTICLE 16. REPRESENTATIONS

All Work supplied by CONSULTANT under this Contract shall be supplied by personnel who are qualified, careful, skilled, experienced and competent in their respective trades or professions. CONSULTANT agrees that they are supplying professional services, findings, and/or recommendations in the performance of this Contract and agrees with SANBAG that the

same shall conform to professional standards that are generally accepted in the profession in the State of California.

ARTICLE 17. PROPRIETARY RIGHTS/CONFIDENTIALITY

- 17.1 If, as a part of this Contract, CONSULTANT is required to produce materials, documents data, or information (“Products”), then CONSULTANT, if requested by SANBAG, shall deliver to SANBAG the original of all such Products which shall become the sole property of SANBAG.
- 17.2 All materials, documents, data or information obtained from SANBAG's data files or any SANBAG-owned medium furnished to CONSULTANT in the performance of this Contract will at all times remain the property of SANBAG. Such data or information may not be used or copied for direct or indirect use outside of this Project by CONSULTANT without the express written consent of SANBAG.
- 17.3 Except as reasonably necessary for the performance of the Work, CONSULTANT agrees that it, its employees, agents and subconsultants will hold in confidence and not divulge to third parties without prior written consent of SANBAG, any information obtained by CONSULTANT from or through SANBAG unless (a) the information was known to CONSULTANT prior to obtaining same from SANBAG pursuant to a prior contract; or (b) the information was at the time of disclosure to CONSULTANT, or thereafter becomes, part of the public domain, but not as a result of the fault or an unauthorized disclosure of CONSULTANT or its employees, agents, or subconsultants, or (c) the information was obtained by CONSULTANT from a third party who did not receive the same, directly or indirectly, from SANBAG and who had, to CONSULTANT's knowledge and belief, the right to disclose the same. Any materials and information referred to in this Article, which are produced by CONSULTANT, until released in writing by SANBAG, except to the extent such materials and information become subject to disclosure by SANBAG under the California Public Records Act, or other law, or otherwise become public information through no fault of CONSULTANT, or its employees or agents.
- 17.4 CONSULTANT shall not use SANBAG's name or photographs in any professional publication, magazine, trade paper, newspaper, seminar or other medium without first receiving the express written consent of SANBAG.
- 17.5 All press releases, or press inquiries relating to the Project or this Contract, including graphic display information to be published in newspapers, magazines, and other publications, are to be made only by SANBAG unless otherwise agreed to in writing by both Parties.

ARTICLE 18. TERMINATION

- 18.1 Termination for Convenience - SANBAG shall have the right at any time, with or without cause, to terminate further performance of Work by giving thirty (30) calendar days written notice to CONSULTANT specifying the date of termination. On the date of such termination stated in said notice, CONSULTANT shall promptly discontinue performance of Work and shall preserve Work in progress and completed Work, pending

SANBAG's instruction, and shall turn over such Work in accordance with SANBAG's instructions.

- 18.1.1 CONSULTANT shall deliver to SANBAG, all deliverables prepared by CONSULTANT or its subconsultants or furnished to CONSULTANT by SANBAG. Upon such delivery, CONSULTANT may then invoice SANBAG for payment in accordance with the terms herein.
- 18.1.2 If CONSULTANT has fully and completely performed all obligations under this Contract up to the date of termination, CONSULTANT shall be entitled to receive from SANBAG as complete and full settlement for such termination a pro rata share of the Contract cost based upon the percentage of all contracted Work satisfactorily executed to the date of termination.
- 18.1.3 CONSULTANT shall be entitled to receive the actual costs incurred by CONSULTANT to return CONSULTANT's tools and equipment, if any, to it or its suppliers' premises, or to turn over Work in progress in accordance with SANBAG's instructions plus the actual cost necessarily incurred in effecting the termination.
- 18.2 Termination for Cause - In the event CONSULTANT shall file a petition in bankruptcy court, or shall make a general assignment for the benefit of its creditors, or if a petition in bankruptcy court shall be filed against CONSULTANT or a receiver shall be appointed on account of its insolvency, or if CONSULTANT shall default in the performance of any express obligation to be performed by it under this Contract and shall fail to immediately correct (or if immediate correction is not possible, shall fail to commence and diligently continue action to correct) such default within ten (10) calendar days following written notice, SANBAG may, without prejudice to any other rights or remedies SANBAG may have, and in compliance with applicable Bankruptcy Laws; (a) hold in abeyance further payments to CONSULTANT; (b) stop any Work of CONSULTANT or its subconsultants related to such failure until such failure is remedied; and/or (c) terminate this Contract by written notice to CONSULTANT specifying the date of termination. In the event of such termination by SANBAG, SANBAG may take possession of the deliverables and finished Work by whatever method SANBAG may deem expedient. A waiver by SANBAG of one default of CONSULTANT shall not be considered to be a waiver of any subsequent default of CONSULTANT, of the same or any other provision, nor be deemed to waive, amend, or modify any term of this Contract.
- 18.2.1 CONSULTANT shall deliver to SANBAG all finished and unfinished deliverables under this Contract prepared by CONSULTANT or its subconsultants or furnished to CONSULTANT by SANBAG within ten (10) working days of said notice.
- 18.3 All claims for compensation or reimbursement of costs under any of the foregoing provisions shall be supported by documentation submitted to SANBAG, satisfactory in form and content to SANBAG and verified by SANBAG. In no event shall

CONSULTANT be entitled to any payment for prospective profits or any damages because of such termination.

ARTICLE 19. STOP WORK ORDER

Upon failure of CONSULTANT or its subconsultants to comply with any of the requirements of this Contract, SANBAG shall have the right to stop any or all Work affected by such failure until such failure is remedied or to terminate this Contract in accordance with section “Termination For Cause” above.

ARTICLE 20. CLAIMS

SANBAG shall not be bound to any adjustments in the Contract amount or schedule unless expressly agreed to by SANBAG in writing. SANBAG shall not be liable to CONSULTANT for any claim asserted by CONSULTANT after final payment has been made under this Contract.

ARTICLE 21. INSURANCE

21.1 Prior to commencing the Work, at all times during the performance of the Work and for such additional periods as required herein, CONSULTANT shall, at CONSULTANT’s sole expense, procure and maintain insurance coverage with the following minimum requirements, and shall require all subcontractors of every tier performing any of the Work to procure and maintain such insurance specified below:

21.1.1 Professional Liability – The policies must include the following:

- \$1,000,000 per claim limits
- \$3,000,000 in the aggregate for all claims.
- If Coverage is on a claims made basis:
 - Policy shall contain a retroactive date for coverage of prior acts, this date will be prior to the date the CONSULTANT begins to perform Work under this Contract.
 - CONSULTANT shall secure and maintain “tail” coverage for a minimum of (3) years after Contract completion.

21.1.2 Worker’s Compensation/Employer’s Liability Insurance – The policies must include the following:

- Coverage A. Statutory Benefits
- Coverage B. Employer’s Liability
- Bodily Injury by accident - \$1,000,000 per accident
- Bodily Injury by disease - \$1,000,000 policy limit/\$1,000,000 each employee

Such policies shall contain a waiver of subrogation in favor of the parties named as Indemnitees below. Such insurance shall be in strict accordance with the applicable workers’ compensation laws in effect during performance of the Work by CONSULTANT or any subconsultant of any tier. All subconsultants of any tier performing any portion of the Work for CONSULTANT shall also obtain and maintain the same insurance coverage as specified in this subparagraph, with a waiver of subrogation in favor of CONSULTANT and all parties named as Indemnitees below.

SANBAG and CONSULTANT must be certificate holders and must be provided at least 30 days advance notice of cancellation, unless the cancellation is for non-payment, then at least 10 days advance notice of cancellation shall be provided. Where coverage is provided through the California State Compensation Insurance Fund, the requirement for a minimum A.M. Best rating does not apply.

21.1.3 Commercial General Liability Insurance – The policy must include the following:

- \$2,000,000 per occurrence limit/\$4,000,000 in the aggregate for property damage or bodily injury
- \$1,000,000 per occurrence limit/\$2,000,000 in the aggregate for personal injury and advertising injury
- \$2,000,000 per occurrence limit for products/completed operations coverage. CONSULTANT shall maintain products and completed operations coverage for 10 years following the acceptance of Work or until all applicable statutes of limitations expire, whichever length of time is longer. Coverage is to be on an “occurrence” form. “Claims made” and “modified occurrence” forms are not acceptable.
- An endorsement stating that any aggregate limits apply on a “per project” and on a “per location” basis.
- The project name must be indicated under “Description of Operations/Locations.”
- The policy shall be endorsed to provide: “This insurance will be primary and noncontributory with any other insurance of the additional insureds.”

All commercial general liability insurance policies shall also include premises-operations (including explosion, collapse and underground coverage) and products-completed operations coverage; severability of interests (full separation of insureds); contractual liability coverage (including coverage to the maximum extent possible for the indemnifications contained in this Contract); broad form property damage coverage (including completed operations); and a duty to defend in addition to (without reducing) the limits of the policy(ies). All subconsultants of any tier performing any portion of the Work for CONSULTANT shall also obtain and maintain the commercial general liability insurance coverage with limits not less than:

- Each occurrence limit: \$1,000,000
- General aggregate limit: \$2,000,000
- Personal injury and advertising limit \$1,000,000
- Products-completed operations aggregate limit \$2,000,000

All subconsultants’ and sub-subconsultants’ deductibles or self-insured retentions must be acceptable to SANBAG’s Risk Manager.

21.1.4 Umbrella/Excess CGL Insurance – The policy must include the following:

- \$5,000,000 umbrella or excess liability for any project with a Contract value of \$25,000,000 or less.
- Combined total for Commercial General Liability and Excess Liability limits of \$25,000,000 will be required for projects with a Contract value in excess of \$25,000,000.

- The umbrella or excess policy shall follow form over the CONSULTANT's primary general liability coverage and shall provide a separate aggregate limit for products and completed operations coverage.
- The umbrella or excess policy shall not contain any restrictions or exclusions beyond what is contained in the primary policy.
- The umbrella or excess policy shall contain a clause stating that it takes effect (drops down) in the event the primary limits are impaired or exhausted.

21.1.5 Commercial Auto Insurance The policy must include the following:

- Auto Liability limits of not less than \$5,000,000 each accident
- Combined Bodily Injury and Property Damage Liability insurance
- Coverage must include owned autos, hired or non-owned autos

The commercial automobile liability insurance shall be written on the most recent edition of ISO form CA 00 01 or equivalent acceptable to SANBAG and shall include, without limitation, contractual liability coverage and additional insured status for the Additional Insureds named below. CONSULTANT waives all rights of subrogation against the Additional Insureds named below, for recovery of loss, injury and/or damages to the extent such loss, injury and/or damages are covered by the commercial automobile liability insurance required herein. All subconsultants of any tier performing any portion of the Work for CONSULTANT shall also obtain and maintain the same insurance coverage as specified in this subparagraph, with the same waiver of subrogation in favor of all parties named as Additional Insureds below, and CONSULTANT.

21.2 General Provisions

21.2.1 Qualifications of Insurance Carriers. All policies written by insurance carriers shall be authorized and admitted to do business in the state of California with a current A.M. Best rating of A-VIII or better. Professional Liability policy may be from non-admitted carriers provided they are authorized and licensed in the state of California and meet the current A.M. Best rating of A: VIII or better.

21.2.2 Additional Insurance Coverage. All policies, except those for Workers' Compensation and Professional Liability insurance, shall name San Bernardino Associated Governments, San Bernardino County Transportation Commission, San Bernardino County Transportation Authority, San Bernardino County Service Authority for Freeway Emergencies and San Bernardino Congestion Management Agency, and their officers, directors, members, employees, agents and volunteers, as additional insureds ("Additional Insureds"). With respect to general liability arising out of or connected with work or operations performed by or on behalf of the CONSULTANT under this Contract, coverage for such Additional Insureds shall not extend to liability to the extent prohibited by section 11580.04 of the Insurance Code. The additional insured endorsements shall not limit the scope of coverage for SANBAG to vicarious liability but shall allow coverage for SANBAG to the full extent provided by the policy.

- 21.2.3 Proof of Coverage. Evidence of insurance in a form acceptable to SANBAG's Risk Manager, including certificates of insurance and the required additional insured endorsements, shall be provided to SANBAG's Procurement Analyst prior to issuance of the NTP or prior to commencing any Work, as SANBAG specifies. Certificate(s) of insurance, as evidence of the required insurance shall: be executed by a duly authorized representative of each insurer; show compliance with the insurance requirements set forth in this Article; set forth deductible amounts applicable to each policy; list all exclusions which are added by endorsement to each policy; and also include the Contract Number and the SANBAG Project Manager's name on the face of the certificate. If requested in writing by SANBAG, CONSULTANT shall submit complete copies of all required insurance policies within ten (10) business days of a written request by SANBAG.
- 21.2.4 Deductibles. Regardless of the allowance of exclusions or deductibles by SANBAG, CONSULTANT shall be responsible for any deductible amount and shall warrant that the coverage provided to SANBAG is consistent with the requirements of this Article. CONSULTANT will pay, and shall require its subconsultants to pay, all deductibles, self-insured retentions, co-pay obligations, premiums and any other sums due under the insurance required in this Article. All deductibles and self-insured retentions will be in amounts acceptable to SANBAG's Risk Manager. CONSULTANT will advise SANBAG in writing as to the amounts of any deductible or self-insured retention, or as to any increase in any insurance deductible or self-insured retention under any insurance required above. There will be no deductibles in excess of \$250,000 per occurrence, loss or claim under the insurance required of CONSULTANT or any subconsultants. There shall be no Self-insured retention. SANBAG will have the right, but not the obligation, to pay any deductible or self-insured retention due under any insurance policy. If SANBAG pays any sums due under any insurance required above, SANBAG may withhold said sums from any amounts due CONSULTANT. The policies shall not provide that any deductible, self-insured retention or other payment required under the policy can be paid only by the named insured, and not by an additional insured.
- 21.2.5 CONSULTANT's and Subconsultants' Insurance will be Primary. All policies required to be maintained by the CONSULTANT or any subconsultant with the exception of Professional Liability and Worker's Compensation shall be endorsed to be primary coverage, and any coverage carried by any of the Additional Insureds named herein shall be excess and non-contributory. Further, none of CONSULTANT's or subconsultants' pollution, automobile, general liability or other liability policies (primary or excess) will contain any cross-liability exclusion barring coverage for claims by an additional insured against a named insured.
- 21.2.6 Waiver of Subrogation Rights. To the fullest extent permitted by law, CONSULTANT hereby waives all rights of recovery under subrogation against the Additional Insureds named herein, and any other consultant, subconsultant or sub-subconsultant performing work or rendering services on behalf of SANBAG, in connection with the planning, development and construction of the Project. To the fullest extent permitted by law, CONSULTANT shall require similar written express

- waivers and insurance clauses from each of its subconsultants of every tier. CONSULTANT shall require all of the policies and coverages required in this Article to waive all rights of subrogation against the Additional Insureds. Such insurance and coverages provided shall not prohibit CONSULTANT from waiving the right of subrogation prior to a loss or claim.
- 21.2.7 Cancellation. If any insurance company elects to cancel or non-renew coverage for any reason, CONSULTANT will provide SANBAG thirty (30) days prior written notice of such cancellation or nonrenewal. If the policy is cancelled for nonpayment of premium, CONSULTANT will provide SANBAG ten (10) days prior written notice. In any event, CONSULTANT will provide SANBAG with a copy of any notice of termination or notice of any other change to any insurance coverage required herein which CONSULTANT receives within one business day after CONSULTANT receives it by submitting it to SANBAG at procurement@sanbag.ca.gov to the attention of SANBAG's Procurement Analyst, and by depositing a copy of the notice in the U.S. Mail in accordance with the notice provisions of this Contract.
- 21.2.8 Enforcement. SANBAG may take any steps as are necessary to assure CONSULTANT's compliance with its insurance obligations as identified within this Article. Failure to continuously maintain insurance coverage as provided herein is a material breach of contract. In the event the CONSULTANT fails to obtain or maintain any insurance coverage required, SANBAG may, but is not required to, maintain this coverage and charge the expense to the CONSULTANT or withhold such expense from amounts owed CONSULTANT, or terminate this Contract. The insurance required or provided shall in no way limit or relieve CONSULTANT of its duties and responsibility under the Contract, including but not limited to obligation to indemnify, defend and hold harmless the Indemnitees named below. Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve CONSULTANT for liability in excess of such coverage, nor shall it preclude SANBAG from taking other actions as available to it under any other provision of the Contract or law. Nothing contained herein shall relieve CONSULTANT, or any subconsultant of any tier of their obligations to exercise due care in the performance of their duties in connection with the Work, and to complete the Work in strict compliance with the Contract.
- 21.2.9 No Waiver. Failure of SANBAG to enforce in a timely manner any of the provisions of this Article shall not act as a waiver to enforcement of any of these provisions at a later date.
- 21.2.10 Subconsultant Insurance. Insurance required of the CONSULTANT shall be also provided by subconsultants or by CONSULTANT on behalf of all sub-consultants to cover their services performed under this Contract. CONSULTANT may reduce the amounts of insurance limits provided by sub-consultants to be proportionate to the amount of the sub-consultant's contract and the level of liability exposure for the specific type of work performed by the sub-consultant. CONSULTANT shall be held responsible for all modifications, deviations, or omissions in these insurance requirements as they apply to subconsultant.

21.2.11 Higher limits. If CONSULTANT maintains higher limits than the minimums shown above, SANBAG shall be entitled to coverage for the higher limits maintained by CONSULTANT. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to SANBAG.

21.2.12 Special Risks or Circumstances. SANBAG reserves the right to modify any or all of the above insurance requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

ARTICLE 22. INDEMNITY

22.1 To the extent, but only to the extent, that CONSULTANT's Work falls within the scope of Civil Code Section 2782.8, the following indemnification is applicable:

CONSULTANT shall indemnify and defend (with legal counsel reasonably approved by SANBAG) SANBAG, the SANBAG's Entities and their authorized officers, employees, agents and volunteers (collectively "Indemnitees"), from any and all losses, damages, liability, actions, and/or costs for claims that arise out of, pertain to, or are related to the negligence, recklessness, or willful misconduct of the professional.

22.2 For all other Work, CONSULTANT agrees to indemnify, defend (with legal counsel reasonably approved by SANBAG) and hold harmless SANBAG, SANBAG's Entities and their authorized officers, employees, agents and volunteers ("Indemnitees"), from any and all claims, actions, losses, damages and/or liability (Claims) arising out of this Contract from any cause whatsoever, including acts, errors, or omissions of any person and for any costs or expenses incurred by SANBAG on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of Indemnitees. CONSULTANT's indemnification obligation applies to SANBAG's "active" as well as "passive" negligence but does not apply to SANBAG's "sole negligence" or "willful misconduct" within the meaning of Civil Code section 2782.

ARTICLE 23. ERRORS AND OMISSIONS

CONSULTANT shall be responsible for the professional quality, technical accuracy, and coordination of all Work required under this Contract. CONSULTANT shall be liable for SANBAG costs resulting from errors or deficiencies, in Work furnished under this Contract, including, but not limited to any fines, penalties, damages, and costs required because of an error or deficiency in the Work provided by CONSULTANT under this Contract.

ARTICLE 24. OWNERSHIP OF DOCUMENTS

All deliverables, including but not limited to, drawings, reports, worksheets, and other data developed by CONSULTANT under this Contract shall become the sole property of SANBAG when prepared, whether delivered to SANBAG or not.

ARTICLE 25. SUBCONTRACTS

- 25.1 CONSULTANT shall not subcontract performance of all or any portion of Work under this Contract, except to those subconsultants listed in CONSULTANT's proposal, without first notifying SANBAG in writing of the intended subcontracting and obtaining SANBAG's written approval of the subcontracting and the subconsultant. The definition of subconsultant and the requirements for subconsultants hereunder shall include all subcontracts at any tier.
- 25.2 CONSULTANT agrees that any and all subconsultants of CONSULTANT performing Work under this Contract will comply with the terms and conditions of this Contract applicable to the portion of Work performed by them. CONSULTANT shall incorporate all applicable provisions of this Contract into their subcontracts regardless of the tier. If requested by SANBAG, CONSULTANT shall furnish SANBAG a copy of the proposed subcontract for SANBAG's approval of the terms and conditions thereof and shall not execute such subcontract until SANBAG has approved such terms and conditions. SANBAG approval shall not be unreasonably withheld.
- 25.3 Approval by SANBAG of any Work to be subcontracted and the subconsultant to perform said Work will not relieve CONSULTANT of any responsibility or liability in regard to the acceptable and complete performance of said Work. Any substitution of subconsultants must be approved in writing by SANBAG. CONSULTANT shall have sole responsibility for managing all of their subconsultants, including resolution of any disputes between CONSULTANT and its subconsultants.

ARTICLE 26. RECORD INSPECTION AND AUDITING

SANBAG, or any of its designees, representatives or agents shall at all times have access during normal business hours to CONSULTANT's operations and products wherever they are in preparation or progress, and CONSULTANT shall provide sufficient, safe, and proper facilities for such access and inspection thereof. Inspection or lack of inspection by SANBAG shall not be deemed to be a waiver of any of their rights to require CONSULTANT to comply with the Contract or to subsequently reject unsatisfactory Work or products.

ARTICLE 27. INDEPENDENT CONTRACTOR

CONSULTANT is and shall be at all times an independent contractor. Accordingly, all Work provided by CONSULTANT shall be done and performed by CONSULTANT under the sole supervision, direction and control of CONSULTANT. SANBAG shall rely on CONSULTANT for results only, and shall have no right at any time to direct or supervise CONSULTANT or CONSULTANT's employees in the performance of Work or as to the manner, means and methods by which Work is performed. All personnel furnished by CONSULTANT pursuant to this Contract, and all representatives of CONSULTANT, shall be and remain the employees or agents of CONSULTANT or of CONSULTANT's subconsultant(s) at all times, and shall not at any time or for any purpose whatsoever be considered employees or agents of SANBAG.

ARTICLE 28. ATTORNEY’S FEES

If any legal action is instituted to enforce or declare any Party’s rights under the Contract, each Party, including the prevailing Party, must bear its own costs and attorneys’ fees. This Article shall not apply to those costs and attorneys’ fees directly arising from any third party legal action against a Party hereto and payable under the “Indemnity” provision of the Contract.

ARTICLE 29. GOVERNING LAW AND VENUE

This Contract shall be subject to the law and jurisdiction of the State of California. The Parties acknowledge and agree that this Contract was entered into and intended to be performed in whole or substantial part in San Bernardino County, California. The Parties agree that the venue for any action or claim brought by any Party to this Contract will be the Superior Court of California, San Bernardino County. Each Party hereby waives any law or rule of court, which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third party, the Parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, San Bernardino County.

ARTICLE 30. FEDERAL, STATE AND LOCAL LAWS

CONSULTANT warrants that in the performance of this Contract, it shall comply with all applicable federal, State and local laws, ordinances, rules and regulations.

ARTICLE 31. PRECEDENCE

- 31.1 The Contract consists of this Contract Articles, Exhibit A “Scope of Work”, and Exhibit B “Price Form”, SANBAG’s Request for Proposal and CONSULTANT’s proposal, all of which are incorporated into this Contract by this reference.
- 31.2 The following order of precedence shall apply: first, the Contract Articles; second Exhibits A and B; third, SANBAG’s Request for Proposal; and last, CONSULTANT’s proposal. In the event of a conflict between the Contract Articles and the Scope of Work, the Contract Articles will prevail.
- 31.3 In the event of an express conflict between the documents listed in this Article, or between any other documents, which are a part of the Contract, CONSULTANT shall notify SANBAG in writing within three (3) business days of its discovery of the conflict and shall comply with SANBAG's resolution of the conflict.

ARTICLE 32. COMMUNICATIONS AND NOTICES

Notices sent by mail shall be by United States Mail, postage paid, certified mail (return receipt requested). Any and all notices permitted or required to be given hereunder shall be deemed duly given and received: (a) upon actual delivery, if delivery is personally made or if made by fax during regular business hours; (b) the first business day following delivery by fax when not made during regular business hours; or (c) on the fourth business day after deposit of such notice into the United States Mail. Each such notice shall be sent to the respective Party at the address indicated below or to any other address as the respective Parties may designate from time to time

by a notice given in accordance with this Article. CONSULTANT shall notify SANBAG of any contact information changes within ten (10) business days of the change.

To CONSULTANT	To SANBAG
15330 Vermont Avenue, P.O. Box 19	1170 W. 3rd Street, 2nd Floor
Paramount, CA 90723	San Bernardino, CA 92410-1715
Attn: Mark Abrams	Attn: Jenny Herrera
	cc: Procurement Manager
Phone:562-531-4640	Phone: (909) 884-8276

ARTICLE 33. DISPUTES

33.1 In the event any dispute, other than an audit, arises between the Parties in connection with this Contract (including but not limited to disputes over payments, reimbursements, costs, expenses, Work to be performed, Scope of Work and/or time of performance), the dispute shall be decided by SANBAG’s Procurement Manager within thirty (30) calendar days after notice thereof in writing which shall include a particular statement of the grounds of the dispute. If CONSULTANT does not agree with the decision, then CONSULTANT shall have ten (10) calendar days after receipt of the decision in which to file a written appeal thereto with SANBAG’s Executive Director. If the Executive Director fails to resolve the dispute in a manner acceptable to CONSULTANT, then such dispute is appealable to a court of competent jurisdiction.

33.2 During resolution of the dispute, CONSULTANT shall proceed with performance of this Contract with due diligence.

ARTICLE 34. GRATUITIES

CONSULTANT, its employees, agents, or representatives shall not offer or give to any officer, official, agent or employee of SANBAG, any gift, entertainment, payment, loan, or other gratuity.

ARTICLE 35. REVIEW AND ACCEPTANCE

All Work performed by CONSULTANT shall be subject to periodic review and approval by SANBAG at any and all places where such performance may be carried on. Failure of SANBAG to make such review, or to discover defective work, shall not prejudice the rights of SANBAG at the time of final acceptance. All Work performed by CONSULTANT shall be subject to periodic and final review and acceptance by SANBAG upon completion of all Work.

ARTICLE 36. CONFIDENTIALITY

Any SANBAG communications or materials to which CONSULTANT or its subconsultants or agents have access, or materials prepared by CONSULTANT under the terms of this Contract, shall be held in confidence by CONSULTANT, who shall exercise reasonable precautions to prevent the disclosure of confidential information to anyone except as expressly authorized by SANBAG. Any communications with or work product of SANBAG’s legal counsel to which CONSULTANT or its subconsultants or agents have access in performing work under this Contract shall be subject to the attorney-client privilege and attorney work product doctrine, and

shall be confidential. CONSULTANT shall not release any reports, information or promotional material or allow for the use of any photos related to this Contract for any purpose without prior written approval of SANBAG.

ARTICLE 37. EVALUATION OF CONSULTANT

CONSULTANT's performance may be evaluated by SANBAG periodically throughout the Contract performance period, such as at the completion of certain milestones as identified in Scope of Work and/or at the completion of the Contract. A copy of the evaluation will be given to CONSULTANT for their information. The evaluation information shall be retained as part of the Contract file and may be used to evaluate CONSULTANT if they submit a proposal on a future RFP issued by SANBAG.

ARTICLE 38. SAFETY

CONSULTANT shall strictly comply with OSHA regulations and local, municipal, state, and federal safety and health laws, orders and regulations applicable to CONSULTANT's operations in the performance of Work under this Contract. CONSULTANT shall comply with all safety instructions issued by SANBAG or their representatives.

ARTICLE 39. DRUG FREE WORKPLACE

CONSULTANT agrees to comply with the Drug Free Workplace Act of 1990 per Government Code section 8350 et seq.

ARTICLE 40. ASSIGNMENT

CONSULTANT shall not assign this Contract in whole or in part, voluntarily, by operation of law, or otherwise without first obtaining the written consent of SANBAG. SANBAG's exercise of consent shall be within its sole discretion. Any purported assignment without SANBAG's prior written consent shall be void and of no effect, and shall constitute a material breach of this Contract. Subject to the foregoing, the provisions of this Contract shall extend to the benefit of and be binding upon the successors and assigns of the Parties.

ARTICLE 41. AMENDMENTS

The Contract may only be changed by a written amendment duly executed by the Parties. Work authorized under an amendment shall not commence until the amendment has been duly executed.

ARTICLE 42. PREVAILING WAGES

42.1 The State of California's General Prevailing Wage Rates are not applicable to this Contract.

ARTICLE 43. CONTINGENT FEE

CONSULTANT warrants, by execution of this Contract, that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or

bona fide established commercial or selling agencies maintained by CONSULTANT for the purpose of securing business. For breach or violation of this warranty, SANBAG has the right to terminate this Contract without liability, pay only for the value of the Work actually performed, or in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE 44. FORCE MAJEURE

CONSULTANT shall not be in default under this Contract in the event that the Work performed by CONSULTANT is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, acts of terrorism, civil disturbances, insurrection, explosion, pandemics, quarantines, acts of God, acts of government or governmental restraint, and natural disasters such as floods, earthquakes, landslides, and fires, or other catastrophic events which are beyond the reasonable control of CONSULTANT and which CONSULTANT could not reasonably be expected to have prevented or controlled. "Other catastrophic events" does not include the financial inability of CONSULTANT to perform or failure of CONSULTANT to obtain either any necessary permits or licenses from other governmental agencies or the right to use the facilities of any public utility where such failure is due solely to the acts or omissions of CONSULTANT.

ARTICLE 45. WARRANTY

CONSULTANT warrants that all Work performed shall be in accordance with the Contract and all applicable professional standards. In the event of a breach of this provision, CONSULTANT shall take the necessary actions to correct the breach at CONSULTANT's sole expense. If CONSULTANT does not take the necessary action to correct the breach, SANBAG, without waiving any other rights or remedies it may have, may take the necessary steps to correct the breach, and the CONSULTANT shall promptly reimburse SANBAG for all expenses and costs incurred.

ARTICLE 46. ENTIRE DOCUMENT

- 46.1 This Contract constitutes the sole and only agreement governing the Work and supersedes any prior understandings, written or oral, between the Parties respecting the Project. All previous proposals, offers, and other communications, written or oral, relative to this Contract, are superseded except to the extent that they have been expressly incorporated into this Contract.
- 46.2 No agent, official, employee or representative of SANBAG has any authority to bind SANBAG to any affirmation, representation or warranty outside of, or in conflict with, the stated terms of this Contract, and CONSULTANT hereby stipulates that it has not relied, and will not rely, on same.
- 46.3 Both Parties have been represented or had the full opportunity to be represented by legal counsel of their own choosing in the negotiation and preparation of this Contract. Therefore, the language in all parts of this Contract will be construed, in all cases, according to its fair meaning, and not for or against either Party.

ARTICLE 47. COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT

CONSULTANT shall comply with all applicable provisions of the Americans with Disabilities Act in performing Work under this Contract.

ARTICLE 48. EFFECTIVE DATE

The date that this Contract is executed by SANBAG shall be the Effective Date of the Contract.

-----SIGNATURES ARE ON THE FOLLOWING PAGE-----

Attachment: 16-1001521 [Revision 1] (3126 : FSP Radio Procurement)

IN WITNESS WHEREOF, the Parties hereto have executed this Contract below.

CONSULTANT

SANBAG

By: _____
Mark Abrams
President

By: _____
Robert A. Lovingood
President, Board of Directors

Date: _____

Date: _____

APPROVED AS TO FORM

By: _____
Eileen Monaghan Teichert
General Counsel

CONCURRENCE

By: _____
Jeffery Hill
Procurement Manager

Attachment: 16-1001521 [Revision 1] (3126 : FSP Radio Procurement)

EXHIBIT A – “SCOPE OF WORK”

PURPOSE:

San Bernardino Associated Governments (SANBAG) in conjunction with the Riverside County Transportation Commission (RCTC), collectively the “AGENCIES” and each an “AGENCY”, are seeking an experienced and qualified firm (“CONSULTANT”) to provide the lease of an Ultra High Frequency (UHF) mobile relay station(s). The mobile relay station(s) shall provide the proper radio communications equipment for the AGENCIES Inland Empire Freeway Service Patrol Program. The service and equipment is to be used by the AGENCIES’ Freeway Service Patrol Program tow truck contractors and the California Highway Patrol (CHP). The mobile relay station equipment consists of each site, its frequencies, repeaters, wiring, back-up generator, battery system, and power sources to keep the site online in a power outage; and any other required equipment parts related to each site. CONSULTANT guarantees that said mobile relay station equipment provides the radio coverage needed as identified in Section G of this Scope of Work. CONSULTANT shall also provide the compatible equipment (mobile and portable) radio devices and install them into the FSP Trucks and CHP vehicles as outlined in the scope of work.

Current equipment being utilized in each of the tow trucks includes the Kenwood Nexedge VHF/UHF Digital & FM Mobile Radio model NX-800H. Portable radios being utilized are Kenwood Nexedge VHF/UHF Digital & FM Portable Radio model NX-300. Contractor is to provide both mobile and portable radios with similar specifications. Currently six (6) channels are in use and all radios in both counties must have access to all channels:

1. RCTC – SANTIAGO
2. RCTC – SUNSET
3. RCTC – SIERRA
4. SANBAG – SUNSET
5. SANBAG – SANTIAGO
6. SANBAG - CAJON

In the trunking system, AGENCIES require the highest queue of any user of the mobile relay station, so that AGENCIES shall have priority access at all times.

“Busy-out” is defined in this scope of work as a situation where a catastrophic event or any other event occurs that causes all radio channels to become extremely busy, and busy signal is reached. Due to the fact that this service shall be used by law enforcement (California Highway Patrol) for a safety program (Freeway Service Patrol), it is essential that the AGENCIES not

reach a “busy-out” signal. CONSULTANT shall provide the highest queue priority on the NEXEDGE Digital Trunking system. CONSULTANT has advised AGENCIES that they are currently the only Level 2 client on CONSULTANT radio system. CONSULTANT shall keep AGENCIES on the Level 2 priority and notify AGENCIES immediately in writing if there are plans that would impact the AGENCIES exclusive Level 2 priority. CONSULTANT to provide AGENCIES a minimum fifteen (15 days) notice in writing prior to the addition of another Level 2 priority customer coming on board the system. CONSULTANT shall monitor channel utilization and evaluate when AGENCIES require additional channels. CONSULTANT shall add more channels upon notification from AGENCIES of interference. If AGENCIES notify MRA of "interference" or "Call Blocking" MRA will investigate and discuss findings with AGENCIES before any action is agreed upon.

CONSULTANT and AGENCIES will communicate about radio operations, number of channels, any possible communication access delays experienced by FSP Drivers and/or CHP no less than on a quarterly basis. If the FREQUENCY OF RADIO ACCESS DELAYS EXPERIENCED BY THE FSP PROGRAM (DRIVERS/CHP BEING ABLE TO ACCESS THE SYSTEM) IMPACTS THE PROGRAM NEGATIVELY, THEN CONSULTANT WILL ADDRESS AND ADD ADDITIONAL CHANNELS TO RESOLVE THE CONCERN WITHIN THREE (3) MONTHS OF THE NEGATIVE IMPACT BEING IDENTIFIED BY AGENCIES and MRA. The agencies will give formal notice of the need of additional channel(s) for improved connectivity. Should CONSULTANT not have made improvement within 90 days from the date of the formal notice, AGENCIES shall follow their formal procedures for the termination clause of the agreement.

CONSULTANT shall:

A. Initial Testing of the system

A.1.1. Provide testing equipment for AGENCIES to utilize for the testing period to ensure quality of radio coverage meeting the areas identified in section G. CONSULTANT shall be prepared to provide AGENCIES equipment to test coverage starting July 8, 2016 through August 5th. AGENCIES shall provide 4 portable and 2 mobile radios for testing.

B. Configure/Setup base station/ Tow Truck and CHP vehicle installations

B.1.1. CONSULTANT contract start date is expected to be awarded on October 6, 2016; the start of use of the radio frequency(s) is expected to be on 10/26/2016.

- B.1.2. CONSULTANT shall review the Inland Empire Transportation Management Center (IE TMC) base station. CONSULTANT shall ensure that proposed radios are compatible with the current base station and the existing tone remote adapter.
- B.1.3. CONSULTANT shall conduct a site visit at each of the AGENCIES tow operator's location to evaluate existing vehicles in order to determine equipment, parts and materials that may be needed for installation. The evaluation will take place at 5 different locations and shall be conducted between October 3, 2016 and October 8, 2016. Tow Truck evaluations shall take place between the hours of 8:00 a.m. and 2:00 p.m. Monday through Friday. AGENCIES designated program manager for this contract shall set up official dates and times with CONSULTANT.
- B.1.4. CONSULTANT shall determine if NEXEDGE or Motorola MOTOTURBO or other radios are used. If NEXEDGE, CONSULTANT shall conduct installation between October 15, 2015 and October 25, 2016 between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday. AGENCIES designated program manager for this contract shall set up official dates and times with CONSULTANT. Installed radios shall be programmed to current existing frequency and will be re-programmed on October 26, 2016, as described in section B.1.4.1. If consultant uses Motorola MOTOTURBO or other radio brand, CONSULTANT will need to have all radios pre-programmed and ready for radio swapped as described in section B.1.4.2.
- B.1.4.1. If CONSULTANT has deemed that all tow truck wiring is acceptable; on October 26, 2016 between 7:00 a.m. and 2:00 p.m. CONSULTANT shall be responsible for re-programming new mobile radios in sixty (60) tow trucks, (5) CHP vehicles and two (2) radios at Inland Empire Transportation Management Center (TMC) located at 13892 Victoria Street, Fontana, CA 92336 (if using NEXEDGE). Primary FSP tow trucks shall be programmed on this day at a minimum. All back-up units not programmed shall be done Thursday, October 27, 2016 at a time and place designated by AGENCIES program managers.
- B.1.4.2. If CONSULTANT is using Motorola MOTOTURBO or other type of radio which shall require replacement of wiring, CONSULTANT shall be prepared to install all radios on October 26, 2016 between the hours of 7:00 a.m. and 2:00 p.m. CONSULTANT shall be responsible for installing new mobile radios in sixty (60) tow trucks, (5) CHP vehicles and two (2)

radios at Inland Empire Transportation Management Center (TMC) located at 13892 Victoria Street, Fontana, CA 92336 (if using NEXEDGE). Primary FSP tow trucks shall be programmed on this day at a minimum. All back-up units not programmed shall be done Thursday, October 27, 2016 at a time and place designated by AGENCIES program managers.

B.1.5. CONSULTANT shall be responsible for providing and programming sixty (60) tow truck mobile radios, five (5) CHP vehicle mobile radios, six (6) portable radios for CHP, and two (2) mobile radios for CHP TMC base station. The breakdown of radio units needed per county is as follows:

1. RCTC: 24 primary tow truck mobile radios, 10 back up tow truck mobile radios, 2.5 CHP vehicle mobile radios, and 1 base station mobile radio for a total of 37.5 mobile radio units needed.
2. RCTC will also purchase three (3) of the portable radios for CHP
3. SANBAG: 17 primary tow truck mobile radios, 9 back up tow truck mobile radios, 2.5 CHP vehicle mobile radios, and 1 base station mobile radio for a total of 29.5 mobile radio units needed.
4. SANBAG will also purchase three (3) of the portable radios for CHP

C. Maintenance to System and written correspondence

C.1.1. Notification Procedures regarding Maintenance during the Operations of the FSP Program, CONSUTLANT shall provide AGENCIES email correspondence of any planned or scheduled maintenance to be performed that will impact FSP radio operations. Notification shall be at least one (1) business day prior to the scheduled maintenance. CONSULTANT shall notify the AGENCIES via text and/or email (list to be provided) any time a technician visits a site or is doing behind the scenes maintenance activity. Even though the expectation is that there will be no impact on FSP radio operations (maintenance tasks being performed behind the scenes), the CONSULTANT will notify those on the email/text list provided prior to maintenance work being started. .

C.1.2.

C.1.3. CONSULTANT shall notify AGENCIES of unplanned maintenance via email correspondence, AND via text message within 30 minutes of knowledge of the outage. AGENCIES will provide a list of email addresses to email and list of phone numbers in which the CONSULTANT is to text.

C.1.4. CONSULTANT shall complete maintenance outside of FSP Hours of operations, as described in section F of this scope of work.

D. Equipment maintenance

D.1.1. CONSULTANT shall have at minimum two (2) technicians on-call that can assist with radio and equipment troubleshooting, repair on FSP tow trucks and CHP vehicles and base station and IETMC equipment Technicians shall be available during operational hours of FSP, including construction and toll road FSP hours.

D.1.2. CONSULTANT technicians shall be qualified to perform radio installations and repair radio set-up equipment (outside speakers, mics, brackets, wiring, etc.) as necessary. The radios themselves will be sent to the shop by AGENCIES for repairs when necessary.

D.1.3. CONSULTANT shall provide technicians or staff qualified to repair any mobile relay station failures, and IE TMC base station related issues. Response time shall be four (4) hours and repair must be done within twenty-four (24) hours from the moment AGENCIES contact CONSULTANT about issue.

D.1.4. CONSULTANT shall provide technicians or staff qualified to repair any IE TMC base station related issues. If the issue lies with the base station connections, CONSULTANT shall work with Inland Empire Transportation Management Center staff to determine which party will make the repairs. Response time shall be four (4) hours or less and repair must be done within twenty-four (24) hours from the moment AGENCIES contact CONSULTANT about issue. If the issue lies with the base station radio, AGENCIES will send the radio to the CONSULTANT'S shop for repairs.

D.1.5. CONSULTANT shall provide contact information for their technicians to be reached on an immediate basis during the hours described in section D1.1.

CONSULTANT shall provide routine check of the radio units, IE TMC base station, and all mobile relay station equipment (antennas, backup generators, etc.) on a bi-annual basis. Agencies will arrange dates with the CONTRACTOR.

E. Additions and Enhancements

Provide AGENCIES requested additions and enhancements to the system. If this work constitutes an additional fee, a written estimate from the CONSULTANT and written approval by the contract administrator from the requesting AGENCY is required prior to any work taking place.

F. FSP Program hours of operation – NO MAINTENANCE IS TO OCCUR DURING THESE HOURS WITH EXCEPTION OF EMERGENCY REPAIRS TO THE SYSTEM.

F.1.1. SANBAG & RCTC Regular FSP Hours of operation

Monday through Thursday: AM SHIFT: 5:30a.m. – 9:00a.m.

PM SHIFT: 2:30p.m. - 7:00p.m.

Friday AM SHIFT: 5:30a.m. – 9:00a.m.

PM SHIFT: 12:30p.m. – 7:00p.m.

F.1.2. Construction FSP – From time to time the AGENCIES may participate in providing FSP services within a construction zone. Section G of the scope of work includes those potential areas; however, the hours of operation may vary from project to project. AGENCIES shall notify CONSULTANT of project details as needed.

G. Distances at which usable signals shall be transmitted and received by the radio equipment and mobile relay station.

At minimum, the following highway segments and a 2-mile radius around the length of these segments shall be covered:

Riverside (each segment in both directions):

Beat #1 - SR-91 from Orange County line to Lincoln Avenue

Beat #2 –SR-91 from Lincoln Avenue to Magnolia Ave and I-15 from Hidden Valley Parkway to Magnolia Avenue

Beat #4 –SR-91 from Magnolia Avenue to 60/91/215 Interchange

Beat #7 –SR-60 from Milliken Avenue to Main St.

Beat #8 –SR-60 from Central Avenue to I-215 at Alessandro Blvd. to SR-60 at Theodore St.

Beat #18 –I-215 from Riverside County line to Central Avenue & SR-60 from Main St. to 60/91/215 Interchange

Beat #19 –I-215 from Alessandro to Ethanac Rd.

Beat #25 –I-15 from Hidden Valley Pkwy. to San Bernardino County line

Beat #26 –I-15 from Magnolia Avenue to Indian Truck Trail

Potential future segments needed, CONTRACT must have the potential to provide service in this area:

- Segment 1: I-215 from Murrieta Hot Springs to Ethanac Road
- Segment 2: I-15 from Indian Truck Trail to California Oaks
- Segment 3: I-15 from California Oaks to San Diego County line
- Segment 4: I-10 from SR-60/I-10 Interchange to SR-86 at Avenue 50

San Bernardino (each segment in both directions):

Beat #9 – I-10 from Indian Hill (Los Angeles County line) to Haven Avenue.

Beat #10 –I-10 from Haven Avenue to Sierra Avenue.

Beat #11 –I-10 from Sierra Avenue to Waterman Avenue

Beat #5 –SR-60 from Reservoir Street (Los Angeles County line) to Milliken Avenue (Riverside County line)

Beat #23 –I-15 from Jurupa St. (Riverside County line) to Sierra Avenue.

Beat #14 –I-215 from Center St (Riverside County line) to 2nd St.

Beat #15 –I-215 from 2nd St. to Devore Rd.

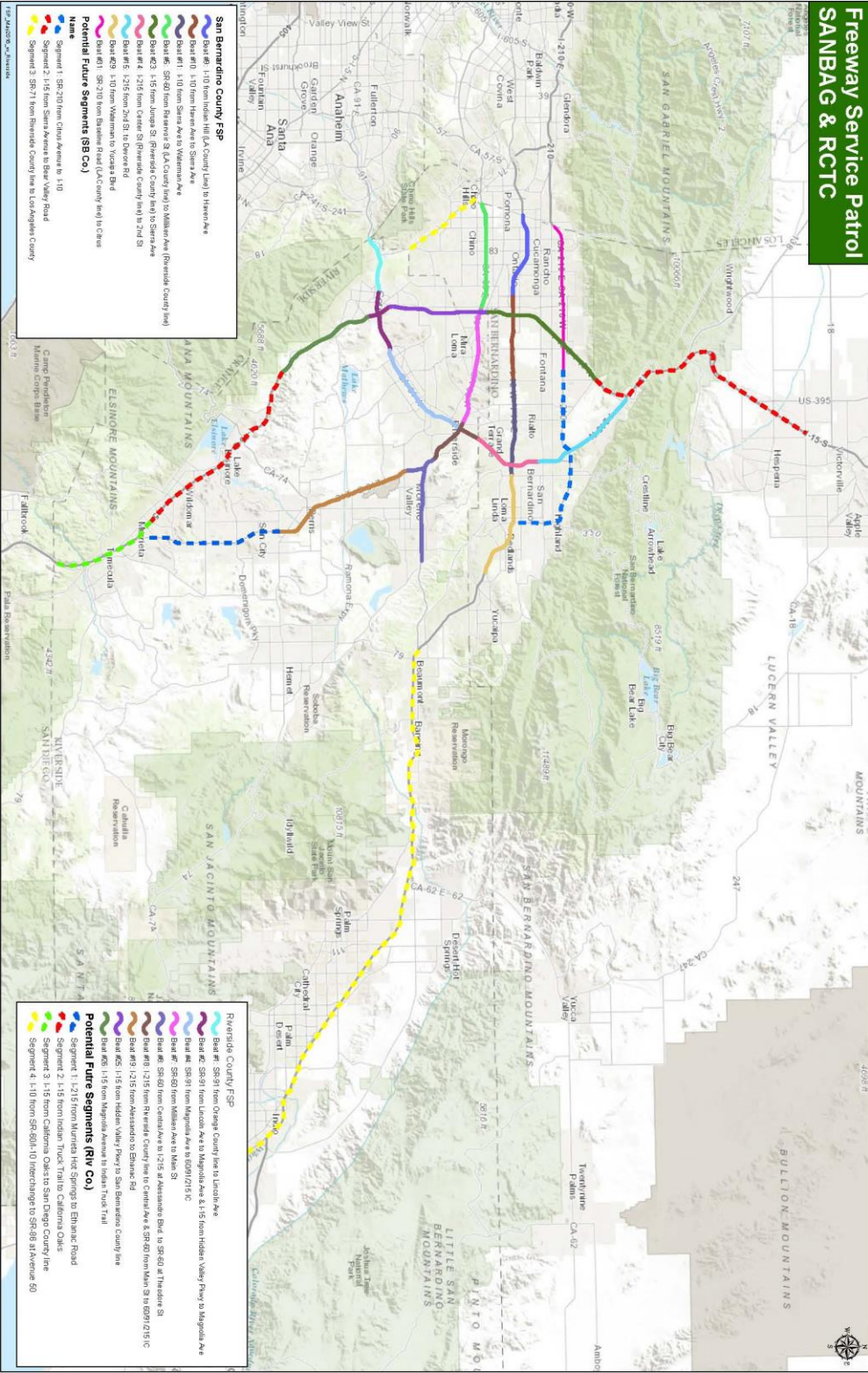
Beat #29–. I-10 from Waterman to Yucaipa Blvd.

Beat #31 –SR-210 from Baseline Road (LA County line) to Citrus Avenue

Potential future segments needed, CONTRACT must have the potential to provide service in this area:

- Segment 1: SR-210 from Citrus Avenue to I-10
- Segment 2: I-15 from Sierra Avenue to Bear Valley Road
- Segment 3: SR-71 from Riverside County line to Los Angeles County line

Freeway Service Patrol SANBAG & RCTC



Attachment: Exhibit A (3126 : FSP Radio Procurement)

Mobile Relay Associates 16-1001521

Initial Contract term: October 5, 2016 through September 30, 2019

Item	Monthly Lease Costs			Annual Lease Costs							Total Lease Cost
	# of Units	Rate	Total Monthly Cost	FY 16/17	FY 17/18	FY 18/19	FY 19/20	FY19/20	FY20/21	FY21/22	
Portable Radios	3	\$ 8.00	\$ 24.00	\$ 192.00	\$ 288.00	\$ 288.00	\$ 72.00	\$ 216.00	\$ 288.00	\$ 24.00	
Mobile Radios*	31.5	\$ 27.00	\$ 850.50	\$ 6,804.00	\$ 10,206.00	\$ 10,206.00	\$ 2,551.50	\$ 7,654.50	\$ 10,206.00	\$ 81.00	
Insurance	1	\$ 390.97	\$ 390.97	\$ 3,127.76	\$ 4,691.64	\$ 4,691.64	\$ 1,172.91	\$ 3,518.73	\$ 4,691.64	\$ 1,172.91	
* # of mobile units may increase/decrease as more FSP Beats are added and/or removed											
TOTAL			\$ 1,265.47	\$ 10,123.76	\$ 15,185.64	\$ 15,185.64	\$ 3,796.41	\$ 11,389.23	\$ 15,185.64	\$ 1,277.91	\$ 44,291.45

Years 4/5
\$ 27,852.78

Item	Unit Cost	Max # of Units	ESTIMATE for Future Equipment Costs							Total # of Units	Total Equipment Cost	Years 4/5
			FY 16/17	FY 17/18	FY 18/19	FY 19/20	FY19/20	FY20/21	FY21/22			
Portable Radio	\$ 507.70	5	0	1	1	1	1	1	1	8	\$ 4,061.60	\$ 1,523.10
Mobile Radio	\$ 494.70	40	9	1	1	1	1	1	1	52	\$ 25,724.40	\$ 1,484.10
External Speaker	\$ 31.00	40	4	7	7	2	7	7	7	60	\$ 1,860.00	\$ 651.00
Antenna	\$ 30.68	40	4	7	7	2	7	7	7	60	\$ 1,840.80	\$ 644.28
Power Cord	\$ 18.33	40	2	7	7	2	7	7	7	58	\$ 1,063.14	\$ 384.93
Internal Speaker	\$ 35.70	40	2	7	7	2	7	7	7	58	\$ 2,070.60	\$ 749.70
Double Throw Switch	\$ 3.00	40	2	7	7	2	7	7	7	58	\$ 174.00	\$ 63.00
TOTAL											\$ 36,794.54	\$ 5,500.11

Item	Cost	Est. # of Hours years 1-3	Est. # of Hours years 4-5	Labor Costs		Total Labor Cost	Years 4/5
Tow Truck/CHP Car	\$ 100.00	71	50			\$ 7,100.00	\$ 5,000.00
CHP Base Station	\$ 100.00	6	3			\$ 600.00	\$ 300.00
In-field Maintenance	\$ 125.00	130	100			\$ 16,250.00	\$ 12,500.00
TOTAL						\$ 23,950.00	\$ 17,800.00
CONTRACT CONTINGENCY						\$ 5,000.01	
GRAND TOTAL						\$ 110,036.00	

Total not-to-exceed including option years 1 and 2 **\$ 161,189.00**

*Mobile Radios
Inventory
CHP 2.5
Primary Trucks 16
Backup Trucks 8
back up radios 4

Attachment: Exhibit B (3126 : FSP Radio Procurement)

Minute Action

AGENDA ITEM: 7

Date: *October 5, 2016*

Subject:

Execution of Funding Agreement related to the Implementation of three Electric Vehicle Infrastructure locations

Recommendation:

That the Board:

A. Approve Funding Agreement No. 17-1001594 with the South Coast Air Quality Management District (SCAQMD) in the amount of \$450,000 for the implementation of three (3) Electric Vehicle (EV) infrastructure locations which include the newly constructed San Bernardino Transit Center, SANBAG offices, and San Bernardino Metrolink Station.

B. Approve budget amendment for Fiscal Year 2016/2017 to Task 0101 Environment to incorporate the grant fund expenditures of \$450,000.

Background:

SANBAG represents the entire region of San Bernardino County, serving as the council of governments and transportation planning agency. SANBAG is responsible for cooperative regional planning and furthering an efficient multi-modal transportation system countywide. Zero emission vehicles have increased in popularity and are the forefront of the State's goal to have 1.5 million zero emission vehicles in California by 2025. To encourage the use of zero emission vehicles and to provide the infrastructure needed, SANBAG is requesting funding for electric vehicle (EV) infrastructure at three locations within the City of San Bernardino.

In February 2016, SANBAG submitted a grant proposal for electric EV charging infrastructure to the Mobile Source Air Pollution Reduction Review Committee (MSRC) under the Transportation Control Measure County Transportation Commission Partnership Program. In June 2016, SANBAG was notified of the grant award in the amount of \$450,000.

The funds from the South Coast Air Quality Management District/MSRC will be used to construct EV charging infrastructure at three locations, including: the newly constructed San Bernardino Transit Center, SANBAG offices, and San Bernardino Metrolink Station. The EV infrastructure funding will provide a mix of Level 2 electric vehicle chargers and the DC fast chargers, depending on the site, to be installed at the three high priority locations in San Bernardino County as summarized in *Table 1*.

Entity: COG

Table 1

Location	Dual Level 2 Units	Single ADA Level 2 Units	DC Fast Chargers
San Bernardino Transit Center	3	1	0
SANBAG East Parking Lot	2	1	2
San Bernardino Metrolink Station	2	0	0

San Bernardino Transit Center

SANBAG will install three dual load share Level 2 chargers and one single Level 2 Americans with Disabilities Act (ADA) accessible charger at the San Bernardino Transit Center. The three dual Level 2 chargers would provide six charging ports and the ADA Level 2 charger would provide one port for a total of seven charge ports. The chargers would be housed in the parking lot for the Metrolink/Redlands Passenger Rail additions currently under construction.

As part of the construction for the Transit Center, preparation for EV infrastructure will be funded and installed by SANBAG, including conduit, wire, electrical panels, breakers, pull boxes, and concrete pads. MSRC funding will be used to add an additional transformer, electrical panel, breakers and housekeeping pad for upgrading the power to accommodate Level 2 chargers. The funding will also be used to add additional wire, conduit, and concrete pad for the ADA accessible charger, and encompasses all EV charging equipment, engineering services, permitting, signage, safety bollards, network service plan, installation of all equipment, and utility drop coordination and final connection. This project would require a Memorandum of Understanding (MOU) with the City of San Bernardino upon approval for maintaining the EV equipment.

SANBAG East Parking Lot

As part of SANBAG's renovation of the entrance and parking areas at the Santa Fe Depot, SANBAG will install two dual Level 2 chargers, one Level 2 ADA accessible charger, and two DC fast chargers in SANBAG's parking lot east of the Santa Fe Depot. The two dual Level 2 chargers would provide four charge ports and the ADA Level 2 charger would provide one port for a total of five Level 2 charge ports. Both DC fast chargers would have a SAE Combo and connector, allowing flexibility for EV owners.

Several staff members, Board Members, and regular visitors already own electric vehicles and there is an abundance of interest from staff members interested in purchasing and supporting electric vehicles, pending the availability of chargers. In addition, board members and representatives from outside agencies often visit SANBAG offices for monthly and ad-hoc meetings, supporting the need for DC fast chargers.

As part of the renovation of the main entrance and parking lot area, preparation for some of the EV infrastructure was funded and installed by SANBAG, including conduit, initial wire, electrical panels, breakers, pull boxes, and concrete bases. MSRC funding will be used to add additional wire, conduit, and concrete pad for the ADA accessible charger, all EV charging equipment, signage, safety bollards, striping, network service plan, and installation of all equipment. Funding from the MSRC also encompasses any fees needed for engineering services, permitting, utility drop coordination and final connection.

Board of Directors Agenda Item

October 5, 2016

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San Bernardino Metrolink Station

The San Bernardino Metrolink Station located just West of SANBAG offices and the Santa Fe Depot is the busiest Metrolink line, offering 19 inbound and 19 outbound weekday trains. As part of SANBAG's renovation, the San Bernardino Metrolink station platforms will be relocated to the main entrance of the Santa Fe Depot. The Santa Fe Depot is also home to the Amtrak San Bernardino station. SANBAG will install two dual Level 2 chargers for a total of four charge ports just West of the Santa Fe Depot main entrance near the new platforms with all equipment and installation fully funded by the MSRC. The availability of electric vehicle chargers would allow Metrolink riders the ability to charge while on their commute and also for Metrolink and Amtrak passenger pick-ups and drop-offs. This project would require an MOU with the City of San Bernardino upon approval for maintaining the EV equipment.

The estimated time of completion for the three projects is between 1-2 years from the execution of this agreement.

Financial Impact:

This item is not consistent with the adopted Fiscal Year 2016/2017 budget. A budget amendment is recommended in Recommendation B.

Reviewed By:

This item was reviewed and unanimously recommended for approval by the General Policy Committee on September 14, 2016. SANBAG General Counsel and Procurement Manager have reviewed and approved this item and the agreement.

Responsible Staff:

Duane Baker, Deputy Executive Director

Approved
Board of Directors
Date: October 5, 2016

Witnessed By:

Contract Summary Sheet

General Contract Information

Contract No: 17-1001594 Amendment No.: _____ Vendor No.: 1965
 Vendor/Customer Name: South Coast Air Quality Management District Sole Source? Yes No
 Description: Funding agreement for EV infrastructure in SB
 Start Date: 08/16/2016 Expiration Date: 12/31/2019 Revised Expiration Date: _____
 Has Contract Term Been Amended? No Yes - Please Explain _____
 List Any Related Contracts Nos.: _____

Dollar Amount			
Original Contract	\$ 450,000.00	Original Contingency	\$ -
Revised Contract (Inclusive of Prior Amendments)	\$ -	Revised Contingency (Inclusive of Prior Amendments)	\$ -
Current Amendment	\$ -	Contingency Amendment	\$ -
TOTAL CONTRACT VALUE	\$ 450,000.00	TOTAL CONTINGENCY VALUE	\$ -
		TOTAL DOLLAR AUTHORITY (Contract Value and Contingency)	\$ 450,000.00

Contract Authorization

Executive Director Date: _____
 Executive Director Action: _____
 Board of Directors Date: 10/05/2016
 Board of Directors Action: Approve funding agreement.

Contract Management: Payable/Miscellaneous

Invoice Warning: 20% Renewals: _____ Type: Capital PAA Other
 Retention: % Maximum Retention: \$ -
 Services: Construction Intrgrnt/MOU/COOP A & E Services Other Professional Services
 Disadvantaged Business Enterprise (DBE) Goal _____ %

Contract Management: Receivable

E-76 and/or CTC Date _____ (Attach Copy) Program Supplement No.: _____
 Finance Letter Reversion Date: _____ EA No.: _____

All of the above MUST be submitted to FINANCE including originals, amendments and miscellaneous transaction changes

Additional Information

Project Manager: Nicole Soto

Attachment: Contract Summary Sheet (3146 : SANBAG EV MSRC Grant)



AB 2766/MSRC TRANSPORTATION CONTROL MEASURE PARTNERSHIP PROGRAM CONTRACT

1. **PARTIES** - The parties to this Contract are the South Coast Air Quality Management District (hereinafter referred to as "SCAQMD") whose address is 21865 Copley Drive, Diamond Bar, California 91765-4178, and the San Bernardino Associated Governments (hereinafter referred to as "CONTRACTOR") whose address is 1170 West Third Street 2nd Floor, San Bernardino, California 92410.

2. **RECITALS**
 - A. SCAQMD is the local agency with primary responsibility for regulating stationary source air pollution within the geographical boundaries of the South Coast Air Quality Management District in the State of California (State). SCAQMD is authorized under State Health & Safety Code Section 44225 (AB 2766) to levy a fee on motor vehicles for the purpose of reducing air pollution from such vehicles and to implement the California Clean Air Act.
 - B. Under AB 2766, SCAQMD's Governing Board has authorized the imposition of the statutorily set motor vehicle fee. By taking such action, the State's Department of Motor Vehicles (DMV) is required to collect such fee and remit it periodically to SCAQMD.
 - C. AB 2766 further mandates that thirty (30) percent of such vehicle registration fees be placed by SCAQMD into a separate account for the sole purpose of implementing and monitoring programs to reduce air pollution from motor vehicles.
 - D. AB 2766 creates a regional Mobile Source Air Pollution Reduction Review Committee (MSRC) to develop a work program to fund projects from the separate account. Pursuant to approval of the work program by SCAQMD's Governing Board, SCAQMD authorized this Contract with CONTRACTOR for equipment or services described in Attachment 1 - Statement of Work, expressly incorporated herein by this reference and made a part hereof of this Contract.
 - E. CONTRACTOR has met the requirements for receipt of AB 2766 Discretionary Funds as set forth in CONTRACTOR's Transportation Control Partnership Program Proposal dated March 1, 2016.
 - F. CONTRACTOR is authorized to do business in the State of California and attests that it is in good tax standing with the California Franchise Tax Board.
 - G. All parties to this Contract have had the opportunity to have this Contract reviewed by their attorney.

3. **DMV FEES** - CONTRACTOR acknowledges that SCAQMD cannot guarantee that the amount of fees to be collected under AB 2766 will be sufficient to fund this Contract. CONTRACTOR further acknowledges that payment under this Contract is contingent upon SCAQMD receiving sufficient funds from the DMV, and that SCAQMD assumes no responsibility for the collection and remittance of motor vehicle registration fees.

4. **AUDIT AND RECORDS RETENTION**
 - A. CONTRACTOR shall, at least once every two years, or within two years of the termination of the Contract if the term is less than two years, be subject to an audit by SCAQMD or its authorized representative to determine if the revenues received by CONTRACTOR were spent for the reduction of pollution from motor vehicles pursuant to the Clean Air Act of 1988.
 - B. CONTRACTOR agrees to maintain records related to this Contract during the Contract term and continue to retain these records for a period of two years beyond the Contract term, except that in no case shall CONTRACTOR be required to retain more than the most recent five years' records. SCAQMD shall coordinate such audit through CONTRACTOR'S audit staff.

- C. If an amount is found to be inappropriately expended, SCAQMD may withhold funding, or seek reimbursement, from CONTRACTOR in the amount equal to the amount that was inappropriately expended. Such withholding shall not be construed as SCAQMD's sole remedy and shall not relieve CONTRACTOR of its obligation to perform under the terms of this Contract.
5. TERM - The term of this Contract is for thirty eight (38) months from the date of execution by both parties, unless terminated earlier as provided for in the TERMINATION clause of this Contract, or the term is extended by amendment of this Contract in writing. No work shall commence prior to the Contract start date, except at CONTRACTOR's cost and risk, and no charges are authorized until this Contract is fully executed, subject to the provisions stated in the PRE-CONTRACT COSTS clause of this Contract.
6. SUCCESSORS-IN-INTEREST - This Contract, and the obligations arising under the Contract, shall be binding on and inure to the benefit of CONTRACTOR and their executors, administrators, successors, and assigns.
7. REPORTING - CONTRACTOR shall submit reports to SCAQMD as outlined in Attachment 1 - Statement of Work. SCAQMD reserves the right to review, comment, and request changes to any report produced as a result of this Contract.
8. TERMINATION
- A. In the event any party fails to comply with any term or condition of this Contract, or fails to provide services in the manner agreed upon by the parties, including, but not limited to, the requirements of Attachment 1 – Statement of Work, this failure shall constitute a breach of this Contract. The non-breaching party shall notify the breaching party that it must cure this breach or provide written notification of its intention to terminate this contract. Notification shall be provided in the manner set forth in the NOTICES clause of this Contract. The non-breaching party reserves all rights under law and equity to enforce this Contract and recover damages.
- B. SCAQMD reserves the right to terminate this Contract, in whole or in part, without cause, upon thirty (30) days' written notice. Once such notice has been given, CONTRACTOR shall, except as and to the extent or directed otherwise by SCAQMD, discontinue any Work being performed under this Contract and cancel any of CONTRACTOR's orders for materials, facilities, and supplies in connection with such Work, and shall use its best efforts to procure termination of existing subcontracts upon terms satisfactory to SCAQMD. Thereafter, CONTRACTOR shall perform only such services as may be necessary to preserve and protect any Work already in progress and to dispose of any property as requested by SCAQMD.
- C. CONTRACTOR shall be paid in accordance with this Contract for all Work performed before the effective date of termination under section B of the TERMINATION clause of this Contract. Before expiration of the thirty (30) days' written notice, CONTRACTOR shall promptly deliver to SCAQMD all copies of documents and other information and data prepared or developed by CONTRACTOR under this Contract with the exception of a record copy of such materials, which may be retained by CONTRACTOR.
9. STOP WORK - SCAQMD may, at any time, by written notice to CONTRACTOR, require CONTRACTOR to stop all or any part of the Statement of Work tasks in this Contract. A stop work order may be issued for reasons including, but not limited to, the project exceeding the budget, out of scope work, delay in project schedule, or misrepresentations. Upon receipt of the stop work order, CONTRACTOR shall immediately take all necessary steps to comply with the order. CONTRACTOR shall resume the work only upon receipt of written instructions from SCAQMD cancelling the stop work order. CONTRACTOR agrees and understands that CONTRACTOR will not be paid for performing work while the stop work order is in effect, unless SCAQMD agrees to do so in its written cancellation of the stop work order.

10. INSURANCE

- A. CONTRACTOR shall furnish evidence to SCAQMD of workers' compensation insurance for each of its employees, in accordance with either California or other states' applicable statutory requirements prior to commencement of any work on this Contract.
- B. CONTRACTOR shall furnish evidence to SCAQMD of general liability insurance with a limit of at least \$1,000,000 per occurrence, and \$2,000,000 in a general aggregate prior to commencement of any work on this Contract. SCAQMD shall be named as an additional insured on any such liability policy, and thirty (30) days written notice prior to cancellation of any such insurance shall be given by CONTRACTOR to SCAQMD.
- C. CONTRACTOR shall furnish evidence to SCAQMD of automobile liability insurance with limits of at least \$100,000 per person and \$300,000 per accident for bodily injuries, and \$50,000 in property damage, or \$1,000,000 combined single limit for bodily injury or property damage, prior to commencement of any work on this Contract. SCAQMD shall be named as an additional insured on any such liability policy, and thirty (30) days written notice prior to cancellation of any such insurance shall be given by CONTRACTOR to SCAQMD.
- D. If CONTRACTOR fails to maintain the required insurance coverage set forth above, SCAQMD reserves the right either to purchase such additional insurance and to deduct the cost thereof from any payments owed to CONTRACTOR or terminate this Contract for breach.
- E. All insurance certificates shall be mailed to: SCAQMD, 21865 Copley Drive, Diamond Bar, CA 91765-4178, Attention: Cynthia Ravenstein, MSRC Contracts Administrator. **The SCAQMD Contract Number must be included on the face of the certificate.**
- F. CONTRACTOR must provide updates on the insurance coverage throughout the term of the Contract to ensure that there is no break in coverage during the period of contract performance. Failure to provide evidence of current coverage shall be grounds for termination for breach of Contract.

11. INDEMNIFICATION - CONTRACTOR agrees to hold harmless, defend and indemnify SCAQMD, its officers, employees, agents, representatives, and successors-in-interest against any and all loss, damage, costs, lawsuits, claims, demands, causes of action, judgments, attorney's fees, or any other expenses arising from or related to any third party claim against SCAQMD, its officers, employees, agents, representatives, or successors in interest that arise or result in whole or in part, from any actual or alleged act or omission of CONTRACTOR, its employees, subcontractors, agents or representatives in the performance of this Contract. This Indemnification Clause shall survive the expiration or termination (for any reason) of the Contract and shall remain in full force and effect.

12. PAYMENT

- A. SCAQMD shall reimburse CONTRACTOR up to a total amount of Four Hundred Fifty Thousand Dollars (\$450,000) in accordance with Attachment 2 – Payment Schedule expressly incorporated herein by this reference and made a part hereof of the Contract.
- B. A withhold amount or percentage (if any) shall be identified in the Payment Schedule, and such amount shall be withheld from each invoice. Upon satisfactory completion of project and final acceptance of work and the final report, CONTRACTOR's invoice for the withheld amount shall be released. Proof of project completion shall include a Final Report detailing the project goals and accomplishments, data collected during project performance, if any, documentation of significant results, and emissions reduction input data needed for calculation of emissions reductions.
- C. Any funds not expended upon early Contract termination or Contract completion shall revert to the AB 2766 Discretionary Fund. Payment of charges shall be made by SCAQMD to CONTRACTOR within thirty (30) days after approval by SCAQMD of an itemized invoice prepared and furnished by CONTRACTOR.

- D. An invoice submitted to SCAQMD for payment must be prepared in duplicate, on company letterhead, and list SCAQMD's contract number, period covered by invoice, and CONTRACTOR's social security number or Employer Identification Number and submitted to:

South Coast Air Quality Management District
 21865 Copley Drive
 Diamond Bar, CA 91765-4178
 Attn: Cynthia Ravenstein, MSRC Contracts Administrator

1. Charges for equipment, material, and supply costs, travel expenses, subcontractors, and other charges, as applicable, must be itemized by CONTRACTOR. Reimbursement for equipment, material, supplies, subcontractors, and other charges, as applicable, shall be made at actual cost. Supporting documentation must be provided for all individual charges (with the exception of direct labor charges provided by CONTRACTOR).
 2. SCAQMD shall pay CONTRACTOR for travel-related expenses only if such travel is expressly set forth in Attachment 2 – Payment Schedule of this Contract or pre-authorized by SCAQMD in writing.
 3. CONTRACTOR's failure to provide receipts shall be grounds for SCAQMD's non-reimbursement of such charges. CONTRACTOR may reduce payments on invoices by those charges for which receipts were not provided.
 4. CONTRACTOR must submit final invoice no later than ninety (90) days after the termination date of this Contract or invoice may not be paid.
13. COMPLIANCE WITH APPLICABLE LAWS - CONTRACTOR agrees to comply with all federal, state, and local laws, ordinances, codes and regulations and orders of public authorities in the performance of this Contract. CONTRACTOR must also ensure that the vehicles and/or equipment to be purchased, leased or installed is in compliance with all applicable federal, state, and local air quality rules and regulations, and that it will maintain compliance for the full Contract term. CONTRACTOR shall ensure that the provisions of this clause are included in all subcontracts.
14. MOBILE SOURCE EMISSION REDUCTION CREDITS (MSERCs)
- A. The MSRC has adopted a policy that no MSERCs resulting from AB 2766 Discretionary Funds may be generated and/or sold.
 - B. CONTRACTOR has the opportunity to generate MSERCs as a by-product of the project if a portion of the air quality benefits attributable to the project resulted from funding sources other than AB2766. These MSERCs, which are issued by SCAQMD, are based upon the quantified vehicle miles traveled (VMT) by project vehicles or other activity data as appropriate. Therefore, a portion of prospective MSERCs, generated as a result of AB 2766 Funds, must be retired. The portion of prospective credits funded by the AB 2766 program, and which are subject to retirement, shall be referred to as "AB 2766-MSERCs."
 - C. The determination of AB 2766-MSERC's is to be prorated based upon the AB 2766 program's contribution to the cost associated with the air quality benefits. In the case where AB 2766 Discretionary Funds are used to pay for the full differential cost of a new alternative fuel vehicle or for the retrofitting or repowering of an existing vehicle, all MSERCs attributable to AB 2766 Discretionary Funds must be retired. The determination of AB 2766-MSERCs for infrastructure and other ancillary items is to be prorated based upon the AB 2766 program's contribution to the associated air quality benefits. Determination of the project's overall cost will be on a case-by-case basis at the time an MSERC application is submitted. SCAQMD staff, at the time an MSERC application is submitted, will calculate total MSERCs and retire the AB 2766-MSERCs. CONTRACTOR would then receive the balance of the MSERCs not associated with AB 2766 funding.

15. NOTICES - All notices that are required under this Contract shall be provided in the manner set forth herein, unless specified otherwise. Notice to a party shall be delivered to the attention of the person listed below, or to such other person or persons as may hereafter be designated by that party in writing. Notice shall be in writing sent by email, U.S. Mail, express, certified, return receipt requested, or a nationally recognized overnight courier service. In the case of email communications, valid notice shall be deemed to have been delivered upon sending, provided the sender obtained an electronic confirmation of delivery. Email communications shall be deemed to have been received on the date of such transmission, provided such date was a business day (Tuesday-Friday) and delivered prior to 5:30pm Pacific Standard Time. Otherwise, receipt of email communications shall be deemed to have occurred on the following business day. In the case of U.S. Mail notice, notice shall be deemed to be received when delivered or five (5) business days after deposit in the U. S. Mail. In the case of a nationally recognized overnight courier service, notice shall be deemed received when delivered (written receipt of delivery).

SCAQMD:
 South Coast Air Quality Management District
 21865 Copley Drive
 Diamond Bar, CA 91765-4178
 Attn: Cynthia Ravenstein, MSRC Contracts Administrator, email: cravenstein@aqmd.gov

CONTRACTOR:
 San Bernardino Associated Governments
 1170 West Third Street – 2nd Floor
 San Bernardino, CA 92410
 Attn: Nicole Soto, email: nsoto@sanbag.ca.gov

16. INDEPENDENT CONTRACTOR - CONTRACTOR is an independent contractor. CONTRACTOR, its officers, employees, agents, representatives, or subcontractors shall in no sense be considered employees or agents of SCAQMD, nor shall CONTRACTOR, its officers, employees, agents, representatives, or subcontractors be entitled to or eligible to participate in any benefits, privileges, or plans, given or extended by SCAQMD to its employees. SCAQMD will not supervise, direct, or have control over, or be responsible for, CONTRACTOR's or subcontractor's means, methods, techniques, work sequences or procedures, or for the safety precautions and programs incident thereto, or for any failure by them to comply with any local, state, or federal laws, or rules or regulations, including state minimum wage laws and OSHA requirements.
17. SUBCONTRACTOR APPROVAL - If CONTRACTOR intends to subcontract all or a portion of the work under this Contract, then CONTRACTOR must first obtain written approval from SCAQMD's Executive Officer or designee prior to subcontracting any work. Any material changes to the subcontract(s) that affect the scope of work, deliverable schedule, and/or payment/cost schedule shall also require the prior written approval of the SCAQMD Executive Officer or designee. No subcontract charges will be reimbursed unless the required approvals have been obtained from SCAQMD.
18. OWNERSHIP - Title and full ownership rights to any equipment purchased under this Contract shall at all times remain with CONTRACTOR.
19. NON-DISCRIMINATION - In the performance of this Contract, CONTRACTOR shall not discriminate in recruiting, hiring, promotion, demotion, or termination practices on the basis of race, religious creed, color,

national origin, ancestry, sex, age, or physical handicap and shall comply with the provisions of the California Fair Employment & Housing Act (Government Code Section 12900, *et seq.*), the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, Executive Order No. 11246 (30 Federal Register 12319), and all administrative rules and regulations issued pursuant to said Acts and Order. CONTRACTOR shall likewise require each subcontractor to comply with this clause and shall include in each such subcontract language similar to this clause.

20. CITIZENSHIP AND ALIEN STATUS

- A. CONTRACTOR warrants that it fully complies with all laws regarding the employment of aliens and others, and that its employees performing services hereunder meet the citizenship or alien status requirements contained in federal and state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986 (P.L. 99-603). CONTRACTOR shall obtain from all covered employees performing services hereunder all verification and other documentation of employees' eligibility status required by federal statutes and regulations as they currently exist and as they may be hereafter amended. CONTRACTOR shall have a continuing obligation to verify and document the continuing employment authorization and authorized alien status of employees performing services under this Contract to insure continued compliance with all federal statutes and regulations. Notwithstanding the above, CONTRACTOR, in the performance of this Contract, shall not discriminate against any person in violation of 8 USC Section 1324b.
- B. CONTRACTOR shall retain such documentation for all covered employees for the period described by law. CONTRACTOR shall indemnify, defend, and hold harmless SCAQMD, its officers and employees from employer sanctions and other liability which may be assessed against CONTRACTOR or SCAQMD, or both in connection with any alleged violation of federal statutes or regulations pertaining to the eligibility for employment of persons performing services under this Contract.

21. NON-EFFECT OF WAIVER - The failure of CONTRACTOR or SCAQMD to insist upon the performance of any or all of the terms, covenants, or conditions of this Contract, or failure to exercise any rights or remedies hereunder, shall not be construed as a waiver or relinquishment of the future performance of any such terms, covenants, or conditions, or of the future exercise of such rights or remedies, unless otherwise provided for herein.
22. TAX IMPLICATIONS FROM RECEIPT OF MSRC FUNDS - CONTRACTOR is advised to consult a tax attorney regarding potential tax implications from receipt of MSRC funds.
23. ATTORNEYS' FEES - In the event any action is filed in connection with the enforcement or interpretation of this Contract, each party in said action shall pay its own attorneys' fees and costs.
24. FORCE MAJEURE - Neither SCAQMD nor CONTRACTOR shall be liable or deemed to be in default for any delay or failure in performance under this Contract or interruption of services resulting, directly or indirectly, from acts of God, civil or military authority, acts of public enemy, war, strikes, labor disputes, shortages of suitable parts, materials, labor or transportation, or any similar cause beyond the reasonable control of SCAQMD or CONTRACTOR.
25. SEVERABILITY - In the event that any one or more of the provisions contained in this Contract shall for any reason be held to be unenforceable in any respect by a court of competent jurisdiction, such holding shall not affect any other provisions of this Contract, and the Contract shall then be construed as if such unenforceable provisions are not a part hereof.

26. HEADINGS - Headings on the clauses of this Contract are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify, or aid in the interpretation, construction, or meaning of the provisions of this Contract.
27. DUPLICATE EXECUTION - This Contract is executed in duplicate. Each signed copy shall have the force and effect of an original.
28. GOVERNING LAW - This Contract shall be construed and interpreted and the legal relations created thereby shall be determined in accordance with the laws of the State of California. Venue for resolution of any disputes under this Contract shall be Los Angeles County, California.
29. PRE-CONTRACT COSTS - Any costs incurred by CONTRACTOR prior to CONTRACTOR receipt of a fully executed Contract shall be incurred solely at the risk of the CONTRACTOR. In the event that a formal Contract is not executed, neither the MSRC nor the SCAQMD shall be liable for any amounts expended in anticipation of a formal Contract. If a formal Contract does result, pre-contract cost expenditures authorized by the Contract will be reimbursed in accordance with the Payment Schedule and payment provision of the Contract.
30. CHANGE TERMS - Changes to any part of this Contract must be requested in writing by CONTRACTOR and approved by MSRC in accordance with MSRC policies and procedures. CONTRACTOR must make requests a minimum of 90 days prior to desired effective date of change. All modifications to this Contract shall be in writing and signed by the authorized representatives of the parties. Fueling station location changes shall not be approved under any circumstances.
31. PREVAILING WAGES – CONTRACTOR is alerted to the prevailing wage requirements of California Labor Code section 1770 et seq., and the compliance monitoring and enforcement of such requirements by the Department of Industrial Relations ("DIR"). CONTRACTOR and all of CONTRACTOR's subcontractors must comply with the California Public Works Contractor Registration Program and, where applicable, must be registered with the DIR to participate in public works projects. CONTRACTOR shall be responsible for determining the applicability of the provisions of California Labor Code and complying with the same, including, without limitation, obtaining from the Director of the Department of Industrial Relations the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work, making the same available to any interested party upon request, paying any applicable prevailing rates, posting copies thereof at the job site and flowing all applicable prevailing wage rate requirements to its subcontractors. Proof of compliance with these requirements must be provided to SCAQMD upon request. CONTRACTOR shall indemnify, defend and hold harmless the South Coast Air Quality Management District against any and all claims, demands, damages, defense costs or liabilities based on failure to adhere to the above referenced statutes.
32. ENTIRE CONTRACT - This Contract represents the entire agreement between CONTRACTOR and SCAQMD. There are no understandings, representations, or warranties of any kind except as expressly set forth herein. No waiver, alteration, or modification of any of the provisions herein shall be binding on any party unless in writing and signed by the authorized representative of the party against whom enforcement of such waiver, alteration, or modification is sought.
33. AUTHORITY - The signator hereto represents and warrants that he or she is authorized and empowered and has the legal capacity to execute this Contract and to legally bind CONTRACTOR both in an operational and financial capacity and that the requirements and obligations under this Contract are legally enforceable and binding on CONTRACTOR.

IN WITNESS WHEREOF, the parties to this Contract have caused this Contract to be duly executed on their behalf by their authorized representatives.

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

SAN BERNARDINO ASSOCIATED GOVERNMENTS

By: _____
Dr. William A. Burke, Chairman, Governing Board

By: _____
Name:
Title:

Date: _____

Date: _____

ATTEST:
Saundra McDaniel, Clerk of the Board

By: _____

APPROVED AS TO FORM:
Kurt R. Wiese, General Counsel

By: Barbara Bando

//MSRC Master Boilerplate
Revised January 27, 2016

Attachment: 17-1001594 (3146 : SANBAG EV MSRC Grant)

**Attachment 1
Statement of Work
San Bernardino Associated Governments
Contract Number MS16096**

1. Project

To encourage the use of zero emission vehicles and provide needed infrastructure, San Bernardino Associated Governments (hereinafter referred to as CONTRACTOR) has proposed to install electric vehicle (EV) charging infrastructure at three transit-related locations within the City of San Bernardino. The installation of EV charging at such locations helps to address first mile/last mile concerns and promote the use of transit to travel longer distances. Using funds provided by the South Coast Air Quality Management District (SCAQMD), on behalf of the Mobile Source Air Pollution Reduction Review Committee (MSRC), CONTRACTOR shall install a combination of Level 2 and DC fast chargers as specified below. All EV chargers shall be publicly accessible:

Location	Dual-Port Level 2 Units	Single-Port ADA Level 2 Units	DC Fast Chargers
San Bernardino Transit Center	3	1	0
CONTRACTOR Parking Lot	2	1	2
San Bernardino Metrolink Station	2	0	0

CONTRACTOR shall be reimbursed for charging station installations according to the costs stated in Attachment 2 – Payment Schedule.

2. Promotion

CONTRACTOR shall prepare and submit a proposed Public Outreach Plan to promote the MSRC's co-funding of the EV charger installations. Acceptable outreach may include, but is not limited to, notices in CONTRACTOR mailings to residents, newspaper notices, flyers, and information items at CONTRACTOR Board meetings and community events. The Public Outreach Plan shall automatically be deemed approved 30 days following receipt by SCAQMD staff, unless SCAQMD staff notify CONTRACTOR in writing of a Public Outreach Plan deficiency. CONTRACTOR shall implement the approved Public Outreach Plan in accordance with the Project Schedule below.

3. Reports

Quarterly Reports: Until EV charger installations are complete, CONTRACTOR shall provide quarterly progress reports that summarize the project results to date including, but not limited to: tasks completed, issues or problems encountered, resolutions implemented, and progress to date. Progress reports that do not comply will be returned to the CONTRACTOR as inadequate.

Final Report: A Final Report shall be submitted by the CONTRACTOR in the format provided by SCAQMD staff. Report shall include, at a minimum: a) an executive summary; and b) a detailed discussion of the results and conclusions at this project. CONTRACTOR will identify any barriers encountered and solutions developed to overcome the barriers, and impact of project on future EV infrastructure projects.

**Attachment 1
Statement of Work – continued
San Bernardino Associated Governments
Contract Number MS16096**

4. Project Schedule

CONTRACTOR shall comply with the increments of progress identified in the following chart. The completion month for each task is based on the date of Contract execution.

Task	Completion
Submit Public Outreach Plan	Month 4
Select vendor(s) for equipment and installations	Month 7
Complete engineering and design	Month 21
Complete installations and commence operation	Month 32
Implement Public Outreach Plan	Month 34
Quarterly Reports	Months 4, 7, 10, 13, 16, 19, 22, 25, 28 and 31
Final Report	Month 36

**Attachment 2
Payment Schedule
San Bernardino Associated Governments
Contract Number MS16096**

Cost Breakdown

Purchase Category	Maximum AB 2766 Discretionary Funds payable under this Contract	CONTRACTOR Co-Funding (estimated)	Total Cost
EV Charging Stations	\$450,000	\$100,000	\$550,000

No funds shall be paid out to CONTRACTOR pursuant to this Contract, until the project described in Attachment 1 is completed and proof of completion is provided to SCAQMD. If the project described in Attachment 1 is not completed and satisfactory proof of completion is not provided to SCAQMD, no monies shall be due and payable to CONTRACTOR. Proof of completion shall include:

- Representative photos of completed stations;
- a report signed by a responsible official certifying that the stations have been completed as described in Attachment 1; and
- receipts for equipment and/or invoice(s) from subcontractor(s) performing the installations, if any.

Additional AB 2766 Discretionary Funds will not be available to fund project cost overruns. Any project cost overruns must be funded from other than AB 2766 Discretionary Funds.

Minute Action

AGENDA ITEM: 8

Date: *October 5, 2016*

Subject:

Interstate 10 Mountain View Interchange

Recommendation:

That the Board, acting as the San Bernardino County Transportation Authority:

A. Approve Cooperative Agreement No. 16-1001528 with the City of Loma Linda and Inland Valley Development Agency (IVDA) for reimbursement of SANBAG Project Management and California Department of Transportation (Caltrans) Project Study Report/Project Development Support (PSR/PDS) services for the Interstate 10 (I-10) Mountain View Interchange Project for an amount not to exceed \$392,400.

B. Approve Cooperative Agreement No. 16-1001560 between SANBAG and Caltrans to develop the Project Study Report/Project Development Support (PSR/PDS) for the I-10 Mountain View Interchange Project for a not to exceed cost of \$378,400 utilizing \$264,880 from the City of Loma Linda and \$113,520 from IVDA.

C. Approve amendment to the current approved 2016/2017 Fiscal Year Budget to add \$212,000 to Task 0830 from the City of Loma Linda.

Background:

This is a new project. The I-10 Mountain View Avenue Interchange Project is number 18 in priority on the Measure I Valley Freeway Interchange Program. The interchange itself is located in the City of Loma Linda and serves a large volume of truck traffic due to surrounding fulfillment centers and businesses located in the City of Loma Linda, City of San Bernardino, the County of San Bernardino, and the City of Redlands. The interchange also serves the San Bernardino International Airport. Mountain View Avenue, designated as a truck route, currently experiences truck traffic at over 13% of the total traffic volume. Due to the resultant congestion and delay at the interchange, the Inland Valley Development Agency (IVDA) and the City of Loma Linda (City) recently expressed interest in moving this project forward with San Bernardino County Transportation Authority (SANBAG) serving as the project management lead.

Recommendation A: This is a new Cooperative Agreement. To advance the project according to SANBAG Policy 40002, a Project Study Report (PSR), or equivalent, must be completed. In the future, the City plans to enter into an Advanced Expenditure Agreement (AEA) with SANBAG in order to allow this project to proceed before it receives an allocation of Measure I funds per the priority list. Per SANBAG policy the PSR phase is not eligible for reimbursement through the AEA program. The City would like SANBAG to lead the effort on developing the PSR. This cooperative agreement with the City of Loma Linda as the sponsoring agency for the project, and IVDA, outlines the roles and responsibilities of the parties, including funding.

Entity: CTA

The development fair share contributors and the development fair share project cost percentage of 37.8% are established according to the SANBAG Development Mitigation Nexus Study. The City of Loma Linda is the majority share contributor providing 70.0% of the development fair share, followed by the contributions from the City of San Bernardino, the County, and the City of Redlands with 20.0%, 6.1%, and 3.9% contributions, respectively. The City of Loma Linda is ready to participate with its developer share of 70%, with IVDA fronting the remaining 30% developer share while working directly with the remaining participants to discuss their participation.

IVDA, for their contribution, is going to allow SANBAG to self-reimburse with Measure I funds which were previously exchanged for federal funds under Cooperative Agreement No. 06-072. In August 2005, IVDA exchanged federalized Inland Valley Goods Movement Bill (IVGMB) funds with SANBAG's Measure I funds to fund regional traffic improvements under Cooperative Agreement No. 06-072. This agreement was amended in October 2010 to include an additional exchange of \$10,000 of federal Surface Transportation Program funds. Since then SANBAG has reimbursed IVDA for delivered projects leaving a balance of \$5.6 million based on billings through January 2016. For the I-10 Mountain View Interchange planning phase, IVDA is willing to arrange for reimbursement from the City of Redlands and County of San Bernardino. For this reason, the Cooperative Agreement is a three-party agreement—SANBAG, IVDA and Loma Linda. Both the IVDA Board and the Loma Linda City Council have already approved the terms of the agreement.

Recommendation B: In May 2016, the Planning phase was discussed with Caltrans for preparation of a PSR/PDS for the I-10 Mountain View Interchange project.

Cooperative Agreement No. 16-1001560 with Caltrans for the PSR/PDS phase is a standard agreement between SANBAG and Caltrans which defines the roles and responsibilities between the parties. Under this agreement SANBAG will be the funding agency for this project and Caltrans is responsible for development and approval of the PSR/PDS. SANBAG will utilize City of Loma Linda and IVDA – Measure I funds approved under Cooperative Agreement No. 16-1001528 to fund Cooperative Agreement No. 16-1001560.

The terms of this cooperative agreement are based on a cost estimate for an amount not to exceed \$374,800 and a schedule of 10 months after project kick off. Staff from the City of Loma Linda, IVDA, and SANBAG believe that both cost and schedule as proposed are reasonable.

Recommendation C: This is a new project that was not anticipated when the budget was prepared. Staff is requesting approval to amend the current approved fiscal year budget to include the City of Loma Linda funding identified on the subject agreements for project. The Measure I funds due to IVDA that will be used to pay the IVDA share were already included in the budget.

In the interest of advancing this project, staff recommends approval of all recommendations.

Financial Impact:

A budget amendment is required to the current approved Fiscal Year 2016/2017 Budget. Task No. 830

Board of Directors Agenda Item

October 5, 2016

Page 3

Reviewed By:

This item was reviewed and recommended for approval (12-0-1; Abstained: Tahan) without a quorum of the Board present at the Board of Directors Metro Valley Study Session on September 15, 2016. SANBAG General Counsel and Procurement Manager have reviewed this item and the draft cooperative agreements.

Responsible Staff:

Garry Cohoe, Director of Project Delivery

Approved
Board of Directors
Date: October 5, 2016

Witnessed By:

General Contract Information

Contract No: 16-1001528 Amendment No.: _____ Vendor No.: 01111/01288

Vendor/Customer Name: Inland Valley Development Agency / City of Loma Linda Sole Source? Yes No

Description: I-10 Mountain View MOU

Start Date: 01/02/2017 Expiration Date: 12/30/2018 Revised Expiration Date: _____

Has Contract Term Been Amended? No Yes - Please Explain _____

List Any Related Contracts Nos.: C06072 and C06072-01

Dollar Amount			
Original Contract	\$ 392,400.00	Original Contingency	\$ -
Revised Contract (Inclusive of Prior Amendments)	\$ -	Revised Contingency (Inclusive of Prior Amendments)	\$ -
Current Amendment	\$ -	Contingency Amendment	\$ -
TOTAL CONTRACT VALUE	\$ 392,400.00	TOTAL CONTINGENCY VALUE	\$ -
		TOTAL DOLLAR AUTHORITY (Contract Value and Contingency)	\$ 392,400.00

Contract Authorization

Executive Director Date: _____

Executive Director Action: _____

Board of Directors Date: 10/05/2016

Board of Directors Action: Approve New Sub-Task No and MOU

Contract Management: Payable/Miscellaneous

Invoice Warning: 20% Renewals: _____ Type: Capital PAA Other

Retention: % Maximum Retention: \$ -

Services: Construction Intrgrnt/MOU/COOP A & E Services Other Professional Services

Disadvantaged Business Enterprise (DBE) Goal _____ %

Contract Management: Receivable

E-76 and/or CTC Date _____ (Attach Copy) Program Supplement No.: _____

Finance Letter Reversion Date: _____ EA No.: _____

All of the above MUST be submitted to FINANCE including originals, amendments and miscellaneous transaction changes

Additional Information

Project Manager: Hiep Bui

Attachment: IVD - Loma Linda CSS (3115 : I-10 Mtn View Cooperative Agreement)

COOPERATIVE AGREEMENT NO. 16-1001528

BETWEEN

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

AND

CITY OF LOMA LINDA

AND

INLAND VALLEY DEVELOPMENT AGENCY

FOR

**PLANNING DOCUMENT PREPARATION FOR THE INTERSTATE 10 MOUNTAIN
VIEW AVENUE INTERCHANGE IN THE CITY OF LOMA LINDA**

I. PARTIES AND TERM

- A. THIS COOPERATIVE AGREEMENT (“Agreement”) is made and entered into by and between the San Bernardino County Transportation Authority (hereinafter referred to as “AUTHORITY”), the City of LOMA LINDA (CITY), and INLAND VALLEY DEVELOPMENT AGENCY (IVDA) (AUTHORITY, CITY, and IVDA may be referred to herein as a “Party” and collectively “Parties”).
- B. This Agreement shall terminate upon completion of the AUTHORITY’s management of the planning phase and upon reimbursement of eligible costs by CITY and IVDA or December 31, 2018 whichever is earlier in time, except that the indemnification provisions shall remain in effect until terminated or modified, in writing, by mutual agreement. Should any claims arising out of this Agreement be asserted against one of the Parties, the Parties agree to extend the fixed termination date of this Agreement, until such time as the claims are settled, dismissed or paid.

II. RECITALS

- A. WHEREAS, CITY intends to improve the Interchange at Interstate 10 Mountain View Ave in the City of Loma Linda;
- B. WHEREAS, IVDA would like to participate in funding a portion of the Developer Share.
- C. WHEREAS, planned improvements will be studied and documented as part of the Project Study Report/Project Development Support (PSR/PDS) document as further described in Attachment B, attached hereto and made part of this Agreement, and is defined as the “PROJECT”; and

- D. WHEREAS, the PROJECT is identified in the Measure I 2010-2040 Expenditure Plan and SANBAG Nexus Study (Nexus Study) prepared by the San Bernardino Associated Governments (SANBAG), and approved by the SANBAG Board of Directors on November 6, 2013; and
- E. WHEREAS, the City and IVDA consider PROJECT to be high priority and are willing to participate in funding 100% of the Planning activities of the PROJECT pursuant to the provisions of the Nexus Study; and
- F. WHEREAS, the Parties wish to enter into this Agreement to delineate roles, responsibilities, and funding commitments relative to the Planning activities of the PROJECT.
- G. WHEREAS, the project planning phase is estimated to cost a total of \$392,400 which includes \$14,000 for the AUTHORITY to provide project management services for the Planning phase of the Project and to be reimbursed 100% by CITY and IVDA pursuant to Policy 40002 and 40005 VFI-33; and
- H. WHEREAS, the remaining PROJECT cost for the Environmental, PS&E, ROW, and Construction phases will be estimated as part of this PSR/PDS and shall be funded with 37.8% Development Share funds and 62.2% Public Share funds, as defined by the Nexus Study and the SANBAG Measure I 2010-2014 Strategic Plan and Policy 40005 VFI-33; and
- I. WHEREAS, roles and responsibilities of future phases of the PROJECT will be addressed in separate agreements.

NOW, THEREFORE, the Parties agree to the following:

III. AUTHORITY RESPONSIBILITIES

AUTHORITY agrees:

- A. To be lead agency on Project Management and to diligently undertake the management and oversight of Planning activities associated with PROJECT, including the selection and retention of consultants. Performance of services under these consultant contracts shall be subject to the technical direction of the AUTHORITY's Director of Project Delivery, or his designee, with input and consultation from CITY and IVDA.
- B. To expend funds towards the planning contractor and SANBAG Project Management staff for the PROJECT in an amount not to exceed \$14,000 as shown in Attachment A.
- C. Under no circumstances is the total Planning Phase cost to exceed \$392,400.00 without an amendment to this agreement.
- D. To prepare and submit to CITY an original signed invoice for reimbursement of 70% eligible PROJECT expenses. Invoices may be submitted to CITY as frequently as monthly.
- E. To prepare and submit to IVDA an original signed invoice for reimbursement of 30% eligible PROJECT expenses. SANBAG will self-reimburse for 30% of the Local Share of the

PROJECT for the planning phase utilizing SANBAG Measure I funds which were exchanged for Inland Valley Goods Movement Bill (IVGMB) funds to fund regional traffic improvements between SANBAG and IVDA under Contract No. 06-072.

- F. To establish and maintain an accounting system conforming to Generally Accepted Accounting Principles (GAAP) to support AUTHORITY's request for reimbursement, payment vouchers, or invoices which segregate and accumulate costs of PROJECT Management and Planning work elements and produce monthly reports which clearly identify reimbursable costs, matching fund costs, indirect cost allocation, and other allowable expenditures by AUTHORITY.
- G. To prepare a final accounting of expenditures, including a final invoice for the actual PROJECT Management and Planning costs. The final accounting and invoice shall be submitted no later than one hundred and twenty (120) calendar days following the completion of work and shall be submitted to CITY. The invoice shall include a statement that these PROJECT funds were used in conformance with this Agreement and for those PROJECT-specific Management and Planning work activities.
- H. To cooperate in having a PROJECT-specific audit completed by CITY or IVDA, at its option, upon completion of the PROJECT Planning work. The audit should justify and validate that all funds expended on the PROJECT were used in conformance with this Agreement.
- I. To reimburse CITY or IVDA for costs that are determined by subsequent audit to be unallowable within ninety (90) calendar days of AUTHORITY receiving notice of audit findings, which time shall include an opportunity for AUTHORITY to respond to and/or resolve the finding. Should the finding not be otherwise resolved and AUTHORITY fails to reimburse monies due CITY or IVDA within ninety (90) calendar days of audit finding, or within such other period as may be agreed between both Parties hereto, the CITY Council and/or IVDA Board reserve the right to withhold future payments due AUTHORITY from any source under CITY's or IVDA's respective control.
- J. To include CITY and IVDA in Project Development Team (PDT) meetings and related communications on PROJECT progress as well as to provide CITY and IVDA with copies of PDT meeting minutes and action items.
- K. To provide CITY and IVDA an opportunity to review and comment on the Planning documents.

IV. CITY RESPONSIBILITIES

CITY agrees:

- A. To reimburse AUTHORITY for the actual costs incurred estimated at \$274,680.00 towards SANBAG Project Management and planning costs of the PROJECT as shown in Attachment A. Under no circumstances is the total combined CITY contribution for the Planning Phase to exceed \$274,680.00 without an amendment to this agreement.

- B. To reimburse AUTHORITY within 30 days after AUTHORITY submits an original signed invoice in the proper form covering those actual allowable PROJECT expenditures and SANBAG management that were incurred by AUTHORITY. Invoices may be submitted to CITY as frequently as monthly.
- C. When conducting an audit of the costs claimed under the provisions of this Agreement, to rely to the maximum extent possible on any prior audit of AUTHORITY performed pursuant to the provisions of State and Federal laws. In the absence of such an audit, work of other auditors will be relied upon to the extent that work is acceptable to CITY when planning on conducting additional audits.
- D. To designate a responsible staff member that will be CITY's representative in attending the PDT meetings, receiving day-to-day communication and reviewing the project documents.
- E. To complete review and provide comments on the Planning documents within 10 working days of receiving the review request from AUTHORITY.
- F. CITY's Director of the Department of Public Works is authorized to act on behalf of CITY under this Section of the Agreement.

V. INLAND VALLEY DEVELOPMENT AGENCY RESPONSIBILITIES

IVDA agrees:

- A. To reimburse AUTHORITY for the actual costs incurred estimated at \$117,720.00 towards SANBAG Project Management and planning costs of the PROJECT as shown in Attachment A. Under no circumstances is the total combined IVDA contribution for the Planning Phase to exceed \$117,720.00 without an amendment to this agreement.
- B. IVDA will be responsible for 30% of the Local Share of the PROJECT for the planning phase utilizing SANBAG Measure I funds which were exchanged for Inland Valley Goods Movement Bill (IVGMB) funds to fund regional traffic improvements between the two agencies under Contract No. 06-072.
- C. When conducting an audit of the costs claimed under the provisions of this Agreement, to rely to the maximum extent possible on any prior audit of AUTHORITY performed pursuant to the provisions of State and Federal laws. In the absence of such an audit, work of other auditors will be relied upon to the extent that work is acceptable to IVDA when planning on conducting additional audits.
- D. To designate a responsible staff member that will be IVDA's representative in attending the PDT meetings, receiving day-to-day communication and reviewing the project documents.
- E. To complete review and provide comments on the Planning documents within 10 working days of receiving the review request from AUTHORITY.

- F. IVDA's Executive Director is authorized to act on behalf of IVDA under this Section of the Agreement.

VI. MUTUAL RESPONSIBILITIES

The Parties agree:

- A. To abide by all applicable Federal, State and Local laws and regulations pertaining to the PROJECT, including policies in the applicable program in the Measure I 2010-2040 Strategic Plan, as amended, as of the Effective Date of this Agreement.
- B. In the event AUTHORITY determines PROJECT Management and Planning work may exceed the amounts identified in Attachment A of this Agreement, AUTHORITY shall inform CITY and IVDA of this determination and thereafter the Parties shall work together in an attempt to agree upon an amendment to the amounts identified this Agreement. In no event, however, shall any of the Parties be responsible for PROJECT costs in excess of the amounts identified in this Agreement absent a written amendment that is approved by all Parties.
- C. Eligible PROJECT reimbursements shall include only those costs incurred by AUTHORITY for PROJECT-specific work activities that are described in this Agreement and shall not include escalation or interest.
- D. In the event that federal funds are used in the Planning, Environmental and/or PS&E phase of work, the PARTIES acknowledge Federal Highway Administration (FHWA) requires that the PROJECT must progress to a capital phase (ROW or construction) within ten years or the federal funds may be required to be repaid to FHWA. Should repayment be required, and is a result of the PROJECT not progressing by choice, it shall be the responsibility of the PARTY that determines it is unable to move forward with the PROJECT. If it is mutually decided that the project will not move forward then repayment of any federal funds used for Public Share will be the responsibility of the AUTHORITY and any federal funds used for the Local Share will be the responsibility of the CITY.
- E. Neither AUTHORITY nor any officer, director, employee or agent thereof is responsible for any injury, damage or liability occurring or arising by reason of anything done or omitted to be done by CITY under or in connection with any work, authority or jurisdiction delegated to CITY under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, CITY shall fully defend, indemnify and save harmless AUTHORITY, its officers, directors, employees or agents from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by CITY under or in connection with any work, authority or jurisdiction delegated to CITY under this Agreement.
- F. Neither CITY nor any officer, director, employee or agent thereof is responsible for any injury, damage or liability occurring or arising by reason of anything done or omitted to be done by AUTHORITY and under or in connection with any work, authority or jurisdiction delegated to AUTHORITY under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, AUTHORITY shall fully defend, indemnify and save

harmless CITY, its officers, directors, employees or agents from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by AUTHORITY under or in connection with any work, authority or jurisdiction delegated to AUTHORITY under this Agreement.

- G. Neither AUTHORITY nor any officer, director, employee or agent thereof is responsible for any injury, damage or liability occurring or arising by reason of anything done or omitted to be done by IVDA under or in connection with any work, authority or jurisdiction delegated to IVDA under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, IVDA shall fully defend, indemnify and save harmless AUTHORITY, its officers, directors, employees or agents from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by IVDA under or in connection with any work, authority or jurisdiction delegated to IVDA under this Agreement.
- H. Neither IVDA nor any officer, director, employee or agent thereof is responsible for any injury, damage or liability occurring or arising by reason of anything done or omitted to be done by AUTHORITY and under or in connection with any work, authority or jurisdiction delegated to AUTHORITY under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, AUTHORITY shall fully defend, indemnify and save harmless IVDA, its officers, directors, employees or agents from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by AUTHORITY under or in connection with any work, authority or jurisdiction delegated to AUTHORITY under this Agreement.
- I. This Agreement will be considered terminated upon reimbursement of eligible costs by CITY and IVDA. Notwithstanding any other provision herein, to the extent consistent with the terms and obligations hereof, any Party may terminate this Agreement at any time, with or without cause, by giving thirty (30) calendar days written notice to all the other Parties. In the event of a termination, the Party terminating this Agreement shall be liable for any costs or other obligations it may have incurred under the terms of the Agreement prior to termination.
- J. The Recitals to this Agreement are true and correct and are incorporated into this Agreement.
- K. All signatories hereto warrant that they are duly authorized to execute this Agreement on behalf of said Parties and that by executing this Agreement, the Parties hereto are formally bound to this Agreement.
- L. Except on subjects preempted by federal law, this Agreement shall be governed by and construed in accordance with the laws of the State of California. All Parties agree to follow all local, state, county and federal laws and ordinances with respect to performance under this Agreement.

- M. The Parties agree that each Party and any authorized representative, designated in writing to the Parties, and upon reasonable notice, shall have the right during normal business hours to examine all Parties' financial books and records with respect to this Agreement. The Parties agree to retain their books and records for a period of five (5) years from the later of; a) the date on which this Agreement terminates; or b) the date on which such book or record was created.
- N. If any clause or provisions of this Agreement is illegal, invalid or unenforceable under applicable present or future laws, then it is the intention of the Parties that the remainder of this Agreement shall not be affected but shall remain in full force and effect.
- O. This Agreement cannot be amended or modified in any way except in writing, signed by all Parties hereto.
- P. Neither this Agreement, nor any of the Parties rights, obligations, duties, or authority hereunder may be assigned in whole or in part by either Party without the prior written consent of the other Party in its sole, and absolute, discretion. Any such attempt of assignment shall be deemed void and of no force and effect.
- Q. No waiver of any default shall constitute a waiver of any other default whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.
- R. In the event of litigation arising from this Agreement, each Party to this Agreement shall bear its own costs, including attorney(s) fees. This paragraph shall not apply to the costs or attorney(s) fees relative to paragraphs E, F, G, and H of this Section.
- S. This Agreement may be signed in counterparts, each of which shall constitute an original. This Agreement is effective and shall be dated on the date executed by AUTHORITY.
- T. Any notice required, authorized or permitted to be given hereunder or any other communications between the Parties provided for under the terms of this Agreement shall be in writing, unless otherwise provided for herein, and shall be served personally or by reputable courier addressed to the relevant party at the address/fax number stated below:

If to AUTHORITY: Garry Cohoe
 Director of Project Delivery
 1170 West Third Street, Second Floor
 San Bernardino, CA 92410-1715
 Telephone: (909) 884-8276

If to CITY:
 Jarb Thaipejr
 City Manager
 25541 Barton Road
 Loma Linda, CA 92354

Telephone: (909) 799-2811

If to IVDA:

Michael Burrows
Executive Director
1601 E. Third Street, Suite 100
San Bernardino, CA 92408
Telephone: (909) 382-4100

- S. There are no third party beneficiaries, and this Agreement is not intended, and shall not be construed to be for the benefit of, or be enforceable by, any other person or entity whatsoever.

SIGNATURES ON FOLLOWING PAGE:

Attachment: 16-1001528 (3115 : I-10 Mtn View Cooperative Agreement)

**SIGNATURE PAGE TO
COOPERATIVE AGREEMENT NO. 16-1001228
BETWEEN
SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY
and CITY OF LOMA LINDA**

**SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY**

CITY OF LOMA LINDA

By: _____
Robert A. Lovingood

President, Board of Directors

By: _____
Jarb Thaipejr
City Manager

Date: _____

Date: _____

APPROVED AS TO FORM

APPROVED AS TO FORM AND
PROCEDURE:

By: _____
Eileen Monaghan Teichert
General Counsel

By: _____
Richard Holdaway
CITY Counsel

By: _____
Jeffery Hill
Contract Administrator

**INLAND VALLEY DEVELOPMENT
AGENCY**

By: _____
Michael Burrows
Executive Director

Date: _____

APPROVED AS TO FORM:

By: _____
Michael Lewin,
General Counsel

Attachment: 16-1001528 (3115 : I-10 Mtn View Cooperative Agreement)

Attachment A

PROJECT DESCRIPTION

The CITY of LOMA LINDA, INLAND VALLEY DEVELOPMENT AGENCY and AUTHORITY propose to develop a PSR/PDS in order to study improvements for the Interstate 10 Mountain View Avenue Interchange.

PROJECT FUNDING TABLE

Public Share: 62.2%

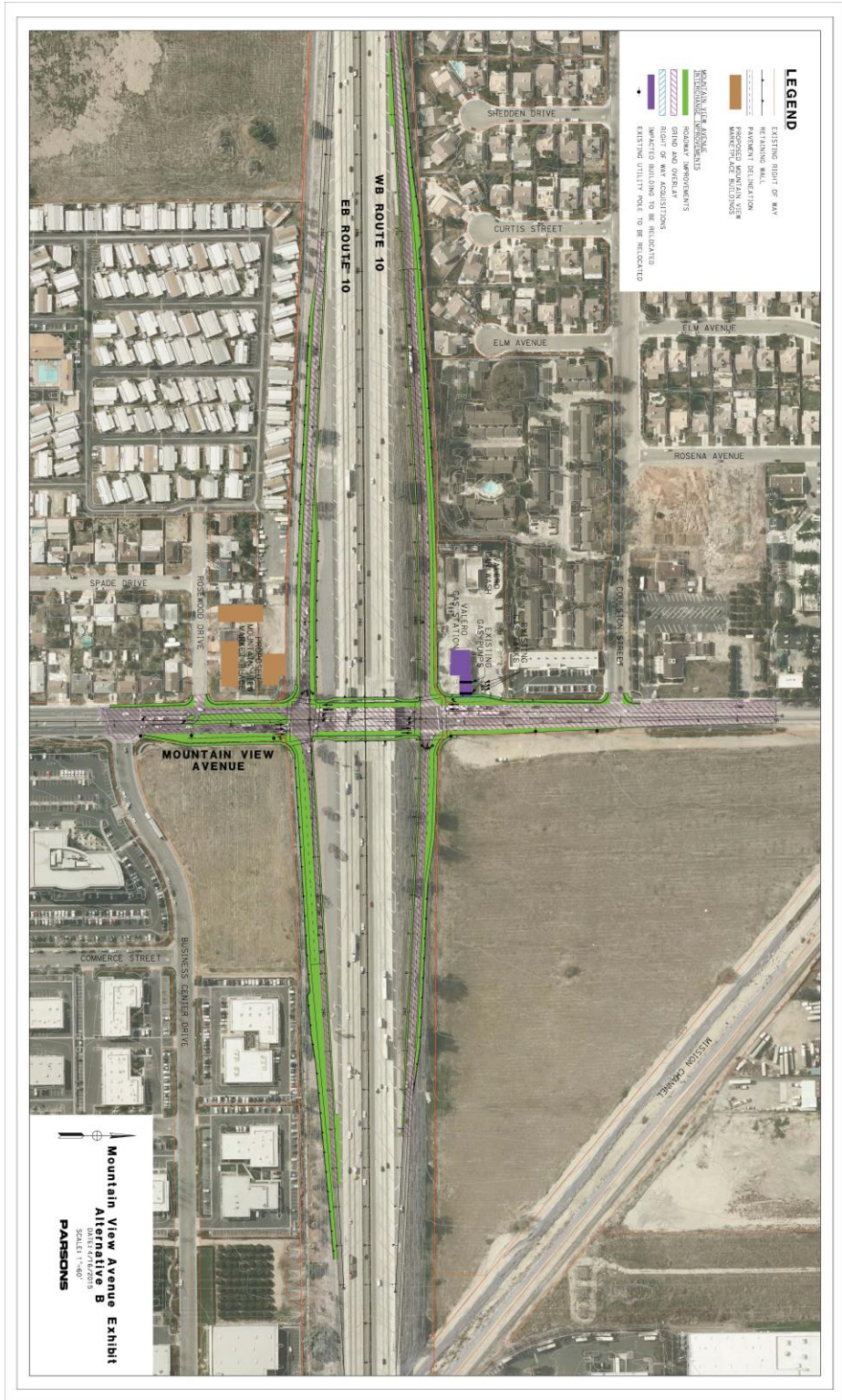
Nexus Development Impact Fee Share (DIF, “Development Share” or “Local Share”): 37.8%

Local Jurisdictional Split of the DIF Share: LOMA LINDA 70%; IVDA 30%

Planning phase of work to be paid 100% pursuant to Policy 40002	Nexus Study (%) for all phases except Planning	Public Share	Developer Share			
		62.20%	37.80%			
		Public Share	Loma Linda	San Bernardino	County	Redlands
		62.20%	26.46%	7.56%	2.31%	1.47%
Planning Breakdown (%)		0%	70%	20%	6.10%	3.90%
		0%	Loma Linda	IVDA		
Caltrans PSR/PDS	\$ 378,400.00	0	\$ 264,880.00	\$ 75,680.00	\$ 23,082.40	\$ 14,757.60
AUTHORITY Project Management	\$ 14,000.00	0	\$ 9,800.00	\$ 2,800.00	\$ 854.00	\$ 546.00
	\$ 392,400.00	0	\$ 274,680.00		\$ 117,720.00	

Attachment: 16-1001528 (3115 : I-10 Mtn View Cooperative Agreement)

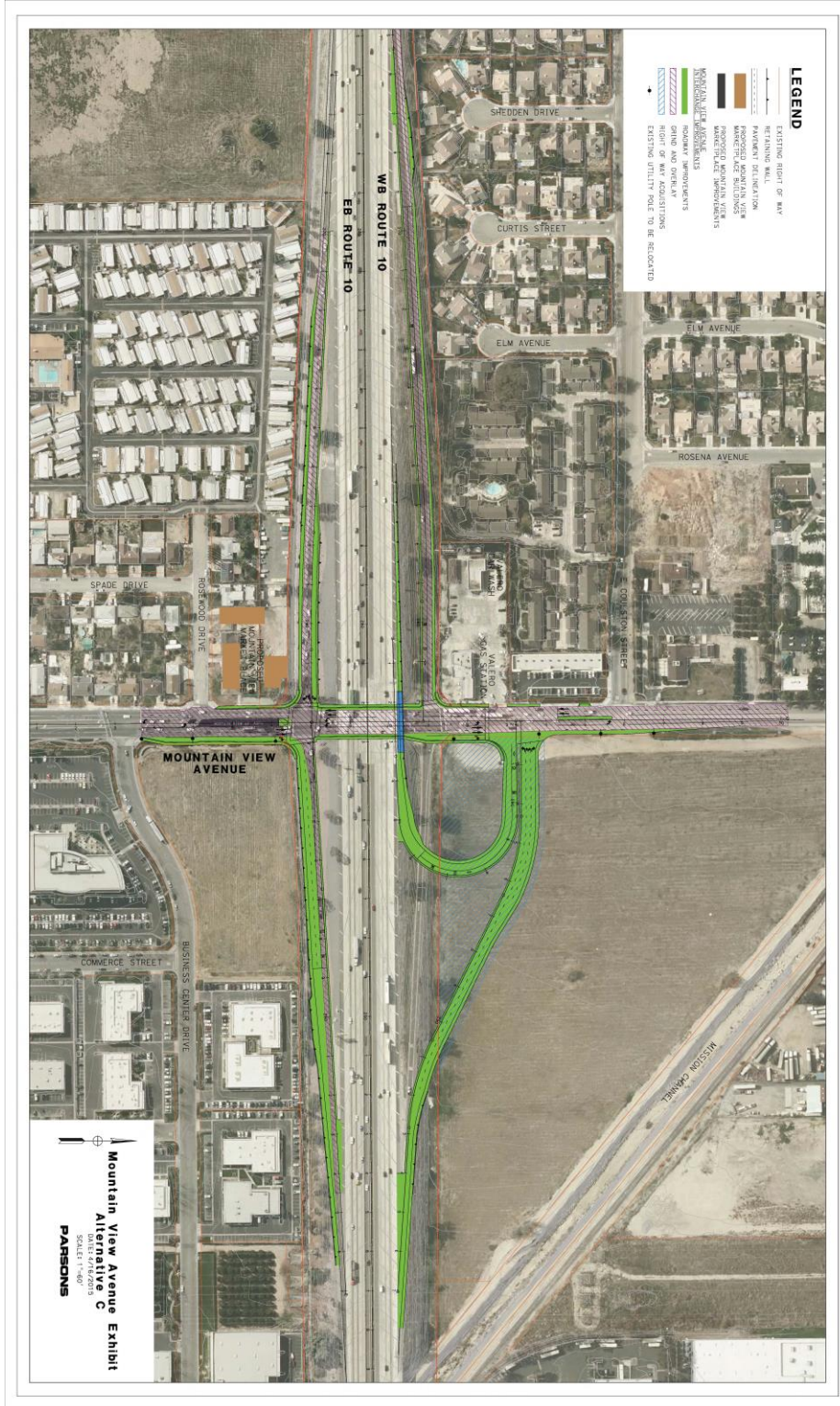
Attachment B CONCEPTUAL LAYOUT



Attachment: 16-1001528 (3115 : I-10 Mtn View Cooperative Agreement)

Exhibit B

Conceptual Layout Alternative C



Attachment: 16-1001528 (3115 : I-10 Mtn View Cooperative Agreement)

Contract Summary Sheet

General Contract Information

Contract No: 16-1001560 Amendment No.: _____ Vendor No.: 00450
 Vendor/Customer Name: CALTRANS Sole Source? Yes No
 Description: I-10 Mountain View MOU
 Start Date: 01/02/2017 Expiration Date: 01/03/2018 Revised Expiration Date: _____
 Has Contract Term Been Amended? No Yes - Please Explain _____
 List Any Related Contracts Nos.: 16-1001528, C06072, C06072-01

Dollar Amount

Original Contract	\$ 378,400.00	Original Contingency	\$ -
Revised Contract (Inclusive of Prior Amendments)	\$ -	Revised Contingency (Inclusive of Prior Amendments)	\$ -
Current Amendment	\$ -	Contingency Amendment	\$ -
TOTAL CONTRACT VALUE	\$ 378,400.00	TOTAL CONTINGENCY VALUE	\$ -
		TOTAL DOLLAR AUTHORITY (Contract Value and Contingency)	\$ 378,400.00

Contract Authorization

Executive Director Date: _____
 Executive Director Action: _____
 Board of Directors Date: 10/05/2016
 Board of Directors Action: Approve 16-1001560 MOU with Caltrans

 Contract Management: Payable/Miscellaneous

Invoice Warning: 20% Renewals: _____ Type: Capital PAA Other
 Retention: % Maximum Retention: \$ -
 Services: Construction Intrgrnt/MOU/COOP A & E Services Other Professional Services
 Disadvantaged Business Enterprise (DBE) Goal _____ %

 Contract Management: Receivable

E-76 and/or CTC Date _____ (Attach Copy) Program Supplement No.: _____
 Finance Letter Reversion Date: _____ EA No.: _____

All of the above MUST be submitted to FINANCE including originals, amendments and miscellaneous transaction changes

Additional Information

Project Manager:

COOPERATIVE AGREEMENT

Project Study Report – Project Development Support (PSR-PDS)

This Agreement, effective on _____, is between the State of California, acting through its Department of Transportation, referred to as CALTRANS, and:

San Bernardino Associated Governments, a public agency, acting as the San Bernardino County Transportation Authority, referred to hereinafter as SANBAG.

RECITALS

1. PARTNERS are authorized to enter into a cooperative agreement for improvements to the state highway system (SHS) per Government Code 65086.5.
2. SANBAG desires that a project initiation document (PID) be developed for interchange improvements at Mountain View Avenue undercrossing in the city of Loma Linda, within the State Highway System (SHS), referred to herein as PROJECT.
3. PARTNERS acknowledge that this Agreement is to complete a Project Study Report-Project Development Support (PSR-PDS) PID.
4. SANBAG requests CALTRANS to develop the PID and SANBAG is willing to fund one hundred percent (100%) of the costs and fees of the PID and the costs to reimburse CALTRANS. CALTRANS will develop, review and approve the PID as reimbursed work.
5. PARTNERS hereby set forth the terms, covenants, and conditions of this Agreement, under which they will complete the PID.

ROLES AND RESPONSIBILITIES

6. CALTRANS will prepare a PID for PROJECT at SANBAG's sole cost and expense and at no cost to CALTRANS.
7. CALTRANS will complete the work elements that are assigned to it on the SCOPE SUMMARY which is attached to and made a part of this Agreement by reference. SANBAG will complete the work elements assigned to it on the SCOPE SUMMARY. Work elements marked with "N/A" on the SCOPE SUMMARY are not included within this Agreement. Work elements are outlined in the *Workplan Standards Guide for the Delivery of Capital Projects* available at www.dot.ca.gov/hq/projmgmt/guidance.htm.

8. CALTRANS has no obligation to perform work if funds to perform work are withheld or unavailable.

INVOICE AND PAYMENT

9. SANBAG agrees to pay CALTRANS, an estimated \$378,400.00 for actual cost of the work described herein. If there is an unexpected increase in the actual cost of work, CALTRANS will be compensated for the additional costs.
10. CALTRANS will draw from state and federal funds that are provided by SANBAG without invoicing SANBAG when CALTRANS administers those funds and CALTRANS has been allocated those funds by the California Transportation Commission and whenever else possible.
11. The cost of any engineering support performed by CALTRANS, when allowed, will be charged according to current law.
12. CALTRANS will invoice SANBAG for a \$37,840.00 initial deposit after execution of this Agreement and thirty (30) working days prior to the commencement of PROJECT expenditures.
13. Thereafter, CALTRANS will submit to SANBAG monthly invoices for estimated monthly costs based on the prior month's expenditures.
14. After PARTNERS agree that all work is complete for the PROJECT, CALTRANS will submit a final accounting for all costs. Based on the final accounting, CALTRANS will refund or invoice as necessary in order to satisfy the financial commitments of this Agreement.
15. If an executed Program Supplement Agreement (PSA) or STIP (Statewide Transportation Improvement Program) Planning, Programming, and Monitoring Program Fund Transfer Agreement (PPM) exists for this PROJECT then SANBAG will abide by the billing and payment conditions detailed for the fund types identified in the PSA or PPM.
16. If SANBAG has received Electronic Funds Transfer (EFT) certification from CALTRANS then SANBAG will use the EFT mechanism and follow all EFT procedures to pay all invoices issued from CALTRANS.
17. If CALTRANS reimburses SANBAG for any costs later determined to be unallowable, SANBAG will reimburse those funds.
18. Except as otherwise provided in this Agreement, PARTNERS will pay invoices within thirty (30) calendar days of receipt of invoice.

GENERAL CONDITIONS

19. Per Chapter 603, amending item 2660-001-0042 of Section 2.00 of the State Budget Act of 2012, the cost of any engineering services performed by CALTRANS towards any local government agency-sponsored PID project will only include direct costs. Indirect or overhead costs will not be applied during the development of the PID document.
20. If any hazardous materials, pursuant to Health and Safety Code 25401.1, are found within PROJECT limits, CALTRANS will notify SANBAG within 24 hours of discovery.
21. PARTNERS agree to consider alternatives to PROJECT scope and/or alignment, to the extent practicable, in an effort to avoid any known hazardous materials within the proposed PROJECT limits.
22. If hazardous materials are discovered within PROJECT limits, but outside of SHS right of way, it is the responsibility of SANBAG in concert with the local agency having land use jurisdiction over the property, and the property owner, to remedy before CALTRANS will acquire or accept title to such property.
23. CALTRANS' acquisition or acceptance of title to any property on which any hazardous materials are found will proceed in accordance with CALTRANS' policy.
24. CALTRANS' obligations under this Agreement are subject to the appropriations of resources by the Legislature, the State Budget Act authority, and the allocation of funds by the California Transportation Commission.
25. Neither SANBAG nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by CALTRANS, its contractors, sub-contractors, and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon CALTRANS under this Agreement. It is understood and agreed that CALTRANS, to the extent permitted by law, will defend, indemnify, and save harmless SANBAG and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories and assertions of liability occurring by reason of anything done or omitted to be done by CALTRANS, its contractors, sub-contractors, and/or its agents under this Agreement.

26. Neither CALTRANS nor any officer or employee thereof is responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by SANBAG, its contractors, sub-contractors, and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon SANBAG under this Agreement. It is understood and agreed that SANBAG, to the extent permitted by law, will defend, indemnify, and save harmless CALTRANS and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories and assertions of liability occurring by reason of anything done or omitted to be done by SANBAG, its contractors, sub-contractors, and/or its agents under this Agreement.
27. This Agreement is intended to be PARTNERS' final expression and supersedes all prior oral understanding pertaining to PROJECT.
28. This Agreement will terminate one hundred eighty (180) days after PID is signed by PARTNERS or as mutually agreed by PARTNERS in writing. However, all indemnification articles will remain in effect until terminated or modified in writing by mutual agreement.

DEFINITIONS

PARTNER – Any individual signatory party to this Agreement.

PARTNERS – The term that collectively references all of the signatory agencies to this Agreement. This term only describes the relationship between these agencies to work together to achieve a mutually beneficial goal. It is not used in the traditional legal sense in which one PARTNER's individual actions legally bind the other parties.

SCOPE SUMMARY – The attachment in which each PARTNER designates its responsibility for the completion of specific work elements as outlined by the *Guide to Capital Project Delivery Workplan Standards* (previously known as WBS Guide) available at <http://www.dot.ca.gov/hq/projmgmt/guidance.htm>.

CONTACT INFORMATION

The information provided below indicates the primary contact information for each PARTNER to this Agreement. PARTNERS will notify each other in writing of any personnel or location changes. Contact information changes do not require an amendment to this Agreement.

The primary Agreement contact person for CALTRANS is:

Raghuram Radhakrishnan, Project Manager
464 W. 4th Street, 6th Floor
San Bernardino, CA 92401-1400

Office Phone: 909-383-6288
Email: raghuram_radhakrishnan@dot.ca.gov

The primary Agreement contact person for SANBAG is:

Hiep Bui, Project Manager
1170 W. 3rd Street, 2nd Floor
San Bernardino, CA 92410-1715

Office Phone: 909-889-8611
Email: hbui@sanbag.ca.gov

SIGNATURES

PARTNERS declare that:

1. Each PARTNER is an authorized legal entity under California state law.
2. Each PARTNER has the authority to enter into this Agreement.
3. The people signing this Agreement have the authority to do so on behalf of their public agencies.

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

By: _____
John Bulinski
District Director

Certified as to funds:

By: _____
Lisa Pacheco
District Budget Manager

SAN BERNARDINO ASSOCIATED
GOVERNMENTS, Acting as the San
Bernardino County Transportation Authority

By: _____
Robert A. Lovingood
Board President

Approved as to form and procedure:

By: _____
Eileen Monaghan Teichert
General Counsel

Concurrence:

By: _____
Jeffery Hill
Procurement Manager

Attachment: Agreement 16-1001560 (3115 : I-10 Mtn View Cooperative Agreement)

SCOPE SUMMARY

WORK ELEMENT	CALTRANS	SANBAG	N/A
0.100.05.05.xx - Quality Management Plan		X	
0.100.05.05.xx - Risk Management Plan		X	
0.100.05.05.xx - Communication Plan		X	
0.100.05.10.xx - Cooperative Agreement for PA&ED Phase	X		
0.100.05.10.xx - Independent Quality Assurance (IQA)	X		
0.100.05.10.xx - Project Development Team Meetings	X	X	
1.150.05.05 - Review of Existing Reports Studies and Mapping	X		
1.150.05.05.xx - Provision of Existing Reports, Data, Studies, and Mapping	X		
1.150.05.10 - Geological Hazards Review	X		
1.150.05.10.xx - Provision of Existing Geological Information	X		
1.150.05.15 - Utility Search	X		
1.150.05.15.xx - Provision of Existing Utility Information	X		
1.150.05.20 - Environmental Constraints Identification	X		
1.150.05.20.xx - Provision of Environmental Constraints Information	X		
1.150.05.25 - Traffic Forecasts/Modeling	X		
1.150.05.25.xx - Provision of Existing Traffic Forecasts/Modeling Information	X		
1.150.05.30 - Surveys and Maps for PID			X
1.150.05.30.xx - Provision of Existing Surveys and Mapping	X		
1.150.05.35 - Problem Definition	X		
1.150.05.45 - As-Built Centerline and Existing Right of Way	X		
1.150.05.xx - Provision of Existing District Geotechnical Information	X		
1.150.10.05 - Public/Local Agency Input		X	
1.150.15.05 - Right of Way Data Sheets	X		
1.150.15.10 - Utility Relocation Requirements Assessment	X		
1.150.15.15 - Railroad Involvement Determination	X		
1.150.15.25 - Preliminary Materials Report	X		
1.150.15.35 - Multimodal Review	X		

WORK ELEMENT	CALTRANS	SANBAG	N/A
1.150.15.40 - Hydraulic Review	X		
1.150.15.50 - Traffic Studies	X		
1.150.15.55 - Construction Estimates	X		
1.150.20.05 - Initial Noise Study			X
1.150.20.10 - Hazardous Waste Initial Site Assessment	X		
1.150.20.15 - Scenic Resource and Landscape Architecture Review	X		
1.150.20.30 - Initial Records and Literature Search for Cultural Resources	X		
1.150.20.50 - Initial Water Quality Studies			X
1.150.20.60 - Preliminary Environmental Analysis Report Preparation	X		
1.150.20.65 - Initial Paleontology Study			X
1.150.25.05 - Draft PID	X		
1.150.25.20 - PID Circulation, Review, and Approval	X		
1.150.25.25 - Storm Water Data Report	X		
1.150.35 - Required Permits During PID Development			X
1.150.40 - Permit Identification During PID Development	X		
1.150.45 - Base Maps and Plan Sheets for PID	X		



Minute Action

AGENDA ITEM: 9

Date: *October 5, 2016*

Subject:

State Route 210 Base Line Interchange Project

Recommendation:

That the Board, acting as the San Bernardino County Transportation Authority:

A. Approve Second Amended and Restated Cooperative Agreement No. C13027 (C13027-04) with the City of Highland for the delivery of the Planning, Environmental, Design and Right of Way phases of the State Route 210 (SR-210) Base Line Interchange Project, which adds in the Right of Way phase roles and responsibilities and increases project funding by \$2,864,000, including an additional \$1,663,984 in SANBAG Measure I Valley Freeway Interchange Program funds and an additional \$1,200,015 in City of Highland funds, for a new funding total of \$5,838,780.

That the Board, acting as the San Bernardino County Transportation Commission:

B. Approve Second Amended and Restated Cooperative Agreement No. C13027 (C13027-04) with the City of Highland for the delivery of the Planning, Environmental, Design and Right of Way phases of the State Route 210 (SR-210) Base Line Interchange Project, which adds in the Right of Way phase roles and responsibilities and increases project funding by \$2,864,000, including an additional \$1,663,984 in SANBAG Measure I Valley Freeway Interchange Program funds and an additional \$1,200,015 in City of Highland funds, for a new funding total of \$5,838,780.

Background:

The SR-210 Base Line Interchange project is the second highest priority in the Measure I 2010-2040 Freeway Interchange Program. The SR-210 Base Line Interchange project, in the City of Highland, includes widening of the Base Line overcrossing at SR-210 along with additional ramp widening improvements for the northbound on-ramp, northbound off-ramp and southbound on-ramps. The project is currently in the Project Study Report/Project Report (PSR/PR) phase. The Draft Environmental Document was circulated for public review between May 9, 2016, and June 7, 2016. Comments from the public review are now being evaluated for incorporation into the Final Environmental Document which has an anticipated approval in October of this year.

At the December 2015 Board of Directors meeting, Cooperative Agreement No. 15-1001230 with Caltrans for Design and Right of Way (ROW) phases was approved. Also at the December 2015 meeting, the Board of Directors approved an Amended and Restated Cooperative Agreement No. C13027 with the City of Highland to include the Design phase. In order to move forward with the project, Cooperative Agreement No. C13027 now needs to be Amended and Restated to include the ROW phase to allow commencement of the Right of Way acquisition

Entity: CTA, CTC

Board of Directors Agenda Item

October 5, 2016

Page 2

process. This amendment defines roles, responsibilities, and funding, specifying SANBAG as the lead agency for ROW acquisition and that SANBAG will hear the Resolutions of Necessity.

At the June 2016, Board of Directors meeting, a Design Contract was awarded to AECOM Technical Services for the preparation of Plans, Specifications and Estimate (PS&E) and ROW Engineering Services to allow for “at-risk” design to begin since the project features only one build alternative. ROW acquisitions will not begin prior to the Final Environmental Document Approval.

The Amended and Restated Cooperative Agreement with the City of Highland adds the work efforts and funding for the ROW phase. It also provides additional Project Management funding for this added ROW phase. This added work will be funded with Measure I Valley Fund Interchange Freeway Program Funds (Public Share) and City of Highland funds (Local Share), consistent with the SANBAG Nexus Study and as shown in TABLE 1.

Table 1

PHASE	TOTAL	PUBLIC SHARE	DIF SHARE
PSR/PR & ED	\$1,252,982	\$727,983	\$524,999
PS&E	\$1,507,500	\$875,858	\$631,642
Right of Way	\$2,814,000	\$1,634,934	\$1,179,066
Project Management	\$264,298	\$153,557	\$110,741
Total	\$5,838,780	\$3,392,332	\$ 2,446,448

A Memorandum of Understanding (MOU) No. C13070 was executed on February 6, 2013, with the City of Highland. This MOU indicated an estimated total project cost of \$15,287,280 based on initial conceptual engineering. The funding in this Cooperative Agreement Amendment exceeds the funding identified in the MOU for the ROW phase by \$2,615,000. This ROW phase increase is due to sliver ROW acquisitions that were not anticipated when the MOU was prepared. In addition, as the preliminary engineering phase has progressed, the project cost estimates have been further developed and currently reflect a total estimated project cost of \$28,165,836. The increased cost is attributed to new ROW requirements, incorporating current Caltrans standards, additional cost escalations due to delay in obtaining environmental clearance and additional design elements which were not detailed out in conceptual engineering, such as ramp metering, additional turn lanes based on traffic studies and retaining walls. An amendment to the MOU will be presented at a future Board of Directors meeting incorporating the current total project cost.

Staff is recommending Board approval of the Amended and Restated Cooperative Agreement No. C13027 (C13027-04) with the City of Highland for the delivery of the Planning, Environmental, Design and Right of Way phases of the SR-210 Base Line Interchange Project.

Board of Directors Agenda Item

October 5, 2016

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Financial Impact:

This item is consistent with the approved SANBAG Fiscal Year 2016/2017 budget under Sub-Task No. 0803.

Reviewed By:

This item was reviewed and recommended for approval (19-0-0) with a quorum of the Board present at the Board of Directors Metro Valley Study Session on August 11, 2016. SANBAG General Counsel and Procurement Manager have reviewed this item and a draft of the agreement.

Responsible Staff:

Garry Cohoe, Director of Project Delivery

Approved
Board of Directors
Date: October 5, 2016

Witnessed By:

Contract Summary Sheet

General Contract Information

Contract No: 00-1000791-C13027 Amendment No.: 4 Vendor No.: 01011
 Vendor/Customer Name: City of Highland Sole Source? Yes No
 Description: SR-210 Base Line Interchange Cooperative Agreement
 Start Date: 02/06/2013 Expiration Date: 12/31/2020 Revised Expiration Date: _____
 Has Contract Term Been Amended? No Yes - Please Explain _____
 List Any Related Contracts Nos.: C13070, C13114, C12137, 16-1001330, 15-1001230, 15-1001231

Dollar Amount

Original Contract	\$ 434,620.00	Original Contingency	\$ -
Revised Contract (Inclusive of Prior Amendments)	\$ 1,246,433.00	Revised Contingency (Inclusive of Prior Amendments)	\$ -
Current Amendment	\$ 1,200,015.00	Contingency Amendment	\$ -
TOTAL CONTRACT VALUE	\$ 2,446,448.00	TOTAL CONTINGENCY VALUE	\$ -
		TOTAL DOLLAR AUTHORITY (Contract Value and Contingency)	\$ 2,446,448.00

Contract Authorization

Executive Director Date: _____
 Executive Director Action: _____
 Board of Directors Date: 10/05/2016
 Board of Directors Action: Approve C13027 Amendment #4

Contract Management: Payable/Miscellaneous

Invoice Warning: 20% Renewals: _____ Type: Capital PAA Other
 Retention: % Maximum Retention: \$ -
 Services: Construction Intrgrnt/MOU/COOP A & E Services Other Professional Services
 Disadvantaged Business Enterprise (DBE) Goal _____ %

Contract Management: Receivable

E-76 and/or CTC Date _____ (Attach Copy) Program Supplement No.: _____
 Finance Letter Reversion Date: _____ EA No.: _____

All of the above MUST be submitted to FINANCE including originals, amendments and miscellaneous transaction changes

Additional Information

Project Manager: Brian Smith

Attachment: C13027-04_CSS (3022 : 210 Base Line Interchange - RW Coop)

**SECOND AMENDED AND RESTATED
COOPERATIVE AGREEMENT NO. C13027 (C13027-04)**

BETWEEN

**SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY, SAN
BERNARDINO COUNTY TRANSPORTATION COMMISSION**

AND

CITY OF HIGHLAND

**FOR PREPARATION OF THE COMBINED PROJECT STUDY REPORT/PROJECT
REPORT AND ENVIRONMENTAL DOCUMENT, PLANS, SPECIFICATIONS AND
ESTIMATE (PS&E) AND RIGHT OF WAY (ROW) PHASES FOR THE
INTERCHANGE AT BASE LINE AND STATE ROUTE 210 IN THE CITY OF
HIGHLAND**

THIS SECOND AMENDED and RESTATED COOPERATIVE AGREEMENT (“Agreement”) is made and entered into by and between the San Bernardino County Transportation Authority and San Bernardino County Transportation Commission (hereinafter collectively referred to as “SANBAG”) and the City of HIGHLAND (“CITY”), (SANBAG and CITY may be referred to individually herein as a “Party” and collectively “Parties”).

WHEREAS, CITY intends to improve the interchange on State Route 210 (SR 210) at Base Line, in the City of Highland (“PROJECT”); and

WHEREAS, the Parties consider the PROJECT to be a high priority and are willing to participate in funding the PROJECT pursuant to the provisions of Measure I 2010-2040 Expenditure Plan and the SANBAG Nexus Study (“Nexus Study”) prepared by the San Bernardino Associated Governments (“SANBAG”), and approved by the SANBAG Board of Directors on November 6, 2013; and

WHEREAS, the PROJECT cost for the Planning, Environmental, PS&E and ROW phases is estimated at \$5,838,780 which shall be funded with 41.9% Development Fair Share funds provided by CITY and 58.1% Public Share funds provided by SANBAG, as defined by the Nexus Study and the SANBAG Measure I 2010-2014 Strategic Plan; and

WHEREAS, AGREEMENT C13027 dated February 6, 2013, provides for SANBAG to be the lead agency in preparing the Project Initiation Documents for the PROJECT; and

WHEREAS, AMENDMENT NO. 1 TO AGREEMENT C13027 (C13027-01) dated August 27, 2013, modified the scope of the Project Initiation Documents to include a combined Project Study Report-Project Report (PSR-PR) in lieu of a Project Approval and Environmental Document (PA&ED); and

WHEREAS, AMENDMENT NO. 2 TO AGREEMENT C13027 (C13027-02) dated June 18, 2015, modified the terms of the Agreement to extend the expiration date to December 31, 2016; and

WHEREAS, AMENDED AND RESTATED AGREEMENT C13027 (C13027-03) dated December 9, 2015, modified the scope of the Agreement to include the PS&E phase; and

WHEREAS, SANBAG is the lead agency for all phases of a project on SR-210 to add one mixed flow lane in each direction between Highland Avenue in the City of San Bernardino and San Bernardino Avenue in the City of Redlands (“SR-210 LANE ADDITION”); and

WHEREAS, the PROJECT is geographically located within the boundaries of the SR-210 LANE ADDITION; and

WHEREAS, constructing the PROJECT concurrently with the SR-210 LANE ADDITION provides viable opportunities to save money and to reduce inconvenience to the public during construction; and

WHEREAS, CITY desires SANBAG to provide project management services for the Planning, Environmental, PS&E and ROW phases of the PROJECT in conjunction with the SR-210 LANE ADDITION Project; and

WHEREAS, the Parties wish to further amend and restate the AGREEMENT to delineate roles, responsibilities, and funding commitments relative to the Planning, Environmental, PS&E and ROW activities of the PROJECT.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises herein, the Parties agree as follows:

I. SANBAG RESPONSIBILITIES

SANBAG agrees:

- A. To be lead agency for PROJECT Management and to diligently undertake and complete the Planning, Environmental, PS&E and ROW work for the PROJECT, including the selection and retention of consultants. Performance of services under these consultant contracts shall be subject to the technical direction of SANBAG’s Director of Project Delivery, or his designee.
- B. To contribute towards the cost of PROJECT Management, and Planning, Environmental, PS&E and ROW phases of the PROJECT in an amount not to exceed \$3,392,332 (the Public Share amount) as shown in Attachment AR-01. The actual cost of a specific phase may ultimately vary from the estimates provided in Attachment AR-01,

however, under no circumstances is the total combined SANBAG contribution to exceed \$3,392,332 without an amendment to this Agreement.

- C. To prepare and submit to CITY an original and two copies of signed invoices for reimbursement of eligible PROJECT expenses. Invoices may be submitted to CITY as frequently as monthly.
- D. To establish and maintain an accounting system conforming to Generally Accepted Accounting Principles (GAAP) to support SANBAG's request for reimbursement, payment vouchers, or invoices which segregate and accumulate costs of PROJECT Management, and Planning, Environmental, PS&E and ROW work elements and produce monthly reports which clearly identify reimbursable costs, matching fund costs, indirect cost allocation, and other allowable expenditures by SANBAG.
- E. To prepare a final accounting of expenditures, including a final invoice for the actual PROJECT Management, Planning, Environmental, PS&E and ROW work activities. The final accounting and invoice shall be submitted no later than one hundred and twenty (120) calendar days following the completion of work and shall be submitted to CITY. The invoice shall include a statement that the PROJECT funds were used in conformance with this Agreement and for those PROJECT-specific Management, Planning, Environmental, PS&E and ROW work activities.
- F. To cooperate in having a PROJECT-specific audit completed by CITY, at its option, upon completion of the PROJECT Management, and Planning, Environmental, PS&E and ROW work. The audit should justify and validate that all funds expended on the PROJECT were used in conformance with this Agreement.
- G. To reimburse CITY for costs that are determined by subsequent audit to be unallowable within ninety (90) calendar days of SANBAG receiving notice of audit findings, which time shall include an opportunity for SANBAG to respond to and/or resolve the finding. Should the finding not be otherwise resolved and SANBAG fails to reimburse monies due CITY within ninety (90) calendar days of audit finding, or within such other period as may be agreed between both Parties hereto, CITY reserves the right to withhold future payments due SANBAG from any source under CITY's control.
- H. To include CITY in Project Development Team (PDT) meetings and related communications on PROJECT progress as well as to provide CITY with copies of PDT meeting minutes and action items.
- I. To provide CITY an opportunity to review and comment on the Planning, Environmental, PS&E and ROW documents.
- J. To provide all necessary ROW services to acquire rights-of-way for PROJECT through negotiated purchases of property, or if necessary, through Eminent Domain. If necessary, the San Bernardino County Transportation Commission (Commission) will conduct the Resolutions of Necessity hearings and acquire property in the name of Commission for

purposes of construction of the PROJECT and convey such property, or portions thereof, to CITY. The interest conveyed to the CITY shall be a permanent easement or other required instrument for public street and/or utility purposes.

- K. To identify the utilities within the PROJECT area and coordinate with utility companies to determine their location, and if necessary, their relocation.

II. CITY RESPONSIBILITIES

CITY agrees:

- A. To reimburse SANBAG for the actual costs incurred estimated at \$2,446,448 towards the PROJECT Management, and Planning, Environmental, PS&E and ROW phases of the PROJECT as shown in Attachment AR-01. The actual cost of a specific phase may ultimately vary from the estimates provided in Attachment AR-01, however, under no circumstances is the total combined CITY contribution to exceed \$2,446,448 (the Development share amount) without an amendment to this Agreement.
- B. To reimburse SANBAG within 30 days after SANBAG submits an original and two copies of the signed invoices in the proper form covering those actual allowable PROJECT expenditures that were incurred by SANBAG. Invoices may be submitted to CITY as frequently as monthly.
- C. When conducting an audit of the costs claimed under the provisions of this Agreement, to rely to the maximum extent possible on any prior audit of SANBAG performed pursuant to the provisions of State and Federal laws. In the absence of such an audit, work of other auditors will be relied upon to the extent that work is acceptable to CITY when planning on conducting additional audits.
- D. To designate a responsible staff member that will be CITY's representative in attending the PDT meetings, receiving day-to-day communication and reviewing the PROJECT documents.
- E. To complete review and provide comments on the Planning, Environmental, PS&E and ROW documents within two weeks of receiving the review request from SANBAG.
- F. To provide any CITY permits, inspections, reviews, and oversight at no cost to SANBAG or to consultants and contractors contracted by SANBAG for the work of the PROJECT.
- G. CITY's Public Works Director is authorized to act on behalf of CITY under this Section of the Agreement.
- H. To accept all PROJECT acquired rights-of-way located within CITY's jurisdictional boundaries upon completion of construction. The City Council of Highland, by approval of this Agreement, authorizes and directs the City Clerk to execute an acceptance, in substantial conformance with the form attached hereto as Attachment B, within thirty (30) days of

receipt of a quit claim deed from SANBAG conveying its interests in such acquired rights-of-way.

- I. To provide SANBAG copies of the franchise/utility agreements for the utilities in the PROJECT area for the purposes of determining prior rights and estimating utility relocation costs.
- J. To assist SANBAG as requested, and when necessary, exercise its rights under utility relocation law or under any franchise agreement, to cause each utility to relocate or rearrange its utility facilities.

III. MUTUAL RESPONSIBILITIES AND AGREEMENT

The Parties agree:

- A. To abide by all applicable Federal, State and Local laws and regulations pertaining to the PROJECT, including policies in the applicable program in the Measure I 2010-2040 Strategic Plan, as amended, as of the Effective Date of this Agreement.
- B. In the event that any federal or state funds that are classified as funds that buy down the total cost of the PROJECT, per San Bernardino Valley Subarea (VS) Measure I 2010-2040 Strategic Plan Policy 40001.IV.I.1, are used, the Parties acknowledge the federal or state funds will be used to reduce Development Share and Public Share, as defined in Attachment AR-01, proportionally. In addition, in the event SANBAG determines PROJECT Management, and Planning, Environmental, PS&E and ROW work may exceed the total amount identified in Attachment AR-01 of this Agreement, SANBAG shall inform CITY of this determination and thereafter the Parties shall work together in an attempt to agree upon an amendment to the amounts identified this Agreement. In no event, however, shall any of the Parties be responsible for PROJECT costs in excess of the total amount identified in this Agreement absent a written amendment that is approved by all Parties.
- C. Eligible PROJECT reimbursements shall include only those costs incurred by SANBAG for PROJECT-specific work activities that are described in this Agreement and shall not include escalation or interest.
- D. In the event that federal funds are used in any phase of work, the Parties acknowledge Federal Highway Administration (FHWA) requires that the PROJECT must progress to a capital phase (ROW or construction) within ten years or the federal funds may be required to be repaid to FHWA. Should repayment be required, and is a result of the PROJECT not progressing by choice, it shall be the responsibility of the Party that determines it is unable to move forward with the PROJECT. If it is mutually decided that the PROJECT will not move forward then repayment of any federal funds used for Public Share will be the responsibility of SANBAG and any federal funds used for the Local Share will be the responsibility of CITY.

- E. Neither SANBAG nor any officer, director, employee or agent thereof is responsible for any injury, damage or liability occurring or arising by reason of anything done or omitted to be done by CITY under or in connection with any work, authority or jurisdiction delegated to CITY under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, CITY shall fully defend, indemnify and save harmless SANBAG, its officers, directors, employees or agents from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by CITY or its officers, directors, employees, agents, volunteers and contractors under or in connection with any work, authority or jurisdiction delegated to CITY under this Agreement.
- F. Neither CITY nor any officer, director, employee or agent thereof is responsible for any injury, damage or liability occurring or arising by reason of anything done or omitted to be done by SANBAG and under or in connection with any work, authority or jurisdiction delegated to SANBAG under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, SANBAG shall fully defend, indemnify and save harmless CITY, its officers, directors, employees or agents from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by SANBAG or their officers, directors, employees, agents, volunteers and contractors under or in connection with any work, authority or jurisdiction delegated to SANBAG under this Agreement.
- G. This Agreement will terminate upon completion of (1) SANBAG's management of the Planning, Environmental, PS&E and ROW phases of the PROJECT, PROJECT closeout and reimbursement of eligible costs by CITY to SANBAG, or (2) December 31, 2020, whichever is earlier in time, unless otherwise extended by agreement, except that the indemnification provisions shall remain in effect until terminated or modified, in writing, by mutual agreement.
- H. Should any claims arising out of this Agreement be asserted against one of the Parties, the Parties agree to extend the fixed termination date of this Agreement, until such time as the claims are settled, dismissed or paid.
- I. Notwithstanding any other provision herein, to the extent consistent with the terms and obligations hereof, any Party may terminate this Agreement at any time, with or without cause, by giving thirty (30) calendar days written notice to all the other Parties. In the event of a termination, the Party terminating this Agreement shall be liable for any costs or other obligations it may have incurred under the terms of the Agreement prior to termination.
- J. The Recitals to this Agreement are true and correct and are incorporated into this Agreement.
- K. All signatories hereto warrant that they are duly authorized to execute this Agreement on behalf of said Parties and that by executing this Agreement, the Parties hereto are formally bound to this Agreement.

- L. Except on subjects preempted by federal law, this Agreement shall be governed by and construed in accordance with the laws of the State of California. All Parties agree to follow all local, state, county and federal laws and ordinances with respect to performance under this Agreement.
- M. The Parties agree that each Party and any authorized representative, designated in writing to the Parties, and upon reasonable notice, shall have the right during normal business hours to examine all Parties' financial books and records with respect to this Agreement. The Parties agree to retain their books and records for a period of five (5) years from the later of a) the date on which this Agreement terminates; or b) the date on which such book or record was created.
- N. If any clause or provisions of this Agreement is fully and finally determined by a court of competent jurisdiction to be illegal, invalid or unenforceable under applicable present or future laws, then it is the intention of the Parties that the illegal, invalid or unenforceable clause or provision shall be deemed severed from this Agreement and the remainder of this Agreement shall not be affected but shall remain in full force and effect.
- O. This Agreement cannot be amended or modified in any way except in writing, signed by all Parties hereto.
- P. Neither this Agreement, nor any of the Parties' rights, obligations, duties, or authority hereunder may be assigned in whole or in part by either Party without the prior written consent of the other Party in its sole, and absolute, discretion. Any such attempt of assignment shall be deemed void and of no force and effect.
- Q. No waiver of any default shall constitute a waiver of any other default whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.
- R. In the event of litigation arising from this Agreement, each Party to this Agreement shall bear its own costs, including attorney(s) fees. This paragraph shall not apply to the costs or attorney(s) fees relative to paragraphs E and F of this Section.
- S. This Agreement may be signed in counterparts, each of which shall constitute an original.
- T. Attachment AR-01 listing the Project Description and Project Funding Table is attached to and incorporated into this Agreement.
- U. Any notice required, authorized or permitted to be given hereunder or any other communications between the Parties provided for under the terms of this Agreement shall be in writing, unless otherwise provided for herein, and shall be served personally or by reputable courier or by facsimile addressed to the relevant party at the address/fax number stated below:

If to SANBAG: Garry Cohoe
Director of Project Delivery
1170 West Third Street, Second Floor
San Bernardino, CA 92410-1715
Telephone: (909) 884-8276

If to CITY: Ernie Wong
Public Works Director/City Engineer
27215 Base Line Road
Highland, CA 92346
Telephone: (909) 864-8732 x 212

IN WITNESS THEREOF, this Agreement has been executed by the Parties hereto and is effective on the date signed by SANBAG.

SIGNATURES ON FOLLOWING PAGE:

Attachment: C13027-04_210 Base Line City Coop (3022 : 210 Base Line Interchange - R/W Coop)

**SIGNATURE PAGE TO SECOND AMENDED and RESTATED
COOPERATIVE AGREEMENT NO. C13027-04**

BETWEEN

**SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY,
SAN BERNARDINO TRANSPORTATION COMMISSION**

and CITY OF HIGHLAND

**SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY**

CITY OF HIGHLAND

By: _____
Robert A. Lovingood
President, Board of Directors

By: _____
Larry McCallon, Mayor
City of Highland

Date: _____

Date: _____

**SAN BERNARDINO COUNTY
TRANSPORTATION COMMISSION**

APPROVED AS TO FORM

By: _____
Robert A. Lovingood
President, Board of Directors

By: _____
Craig Steele
City Attorney

Date: _____

APPROVED AS TO FORM

By: _____
Eileen Monaghan Teichert
General Counsel

By: _____
Jeffery Hill
Procurement Manager

Attachment: C13027-04_210 Base Line City Coop (3022 : 210 Base Line Interchange - R/W Coop)

Attachment AR-01

PROJECT DESCRIPTION

The CITY of HIGHLAND and SANBAG propose to widen SR 210/Base Line Overcrossing and improve interchange ramps and local streets. It is intended that the Project development will be combined with the State Route 210 Lane Addition Project having SANBAG serve as the lead for all phases of the work.

PROJECT FUNDING TABLE

Public Share: 58.1%

Nexus Development Impact Fee Share (“DIF”, “Development Share” or “Local Share”): 41.9%

Local Jurisdictional Split of the DIF Share: HIGHLAND 100%

PHASE	TOTAL	PUBLIC SHARE	DIF SHARE
PSR/PR & ED	\$1,252,982	\$727,983	\$524,999
PS&E	\$1,507,500	\$875,858	\$631,642
Right of Way	\$2,814,000	\$1,634,934	\$1,179,066
Project Management	\$264,298	\$153,557	\$110,741
Total	\$5,838,780	\$3,392,332	\$ 2,446,448

Attachment: C13027-04_210 Base Line City Coop (3022 : 210 Base Line Interchange - R/W Coop)

Attachment B

CITY OF HIGHLAND
27215 BASE LINE
HIGHLAND, CALIFORNIA 92346

This is to certify that the interest in real property conveyed by the within instrument dated _____, 20__ from the San Bernardino County Transportation Commission, a California transportation commission, as Grantor to the City of Highland, a Municipal Corporation, as Grantee, is hereby accepted by order of the City Council of the City of Highland, County of San Bernardino, State of California, pursuant to authority so ordered on _____, 20__, and that the Grantee consents to recordation thereof by its duly authorized officer.

Dated: _____, 20__

Betty Hughes, MMC, City Clerk
City of Highland

Attachment: C13027-04_210 Base Line City Coop (3022 : 210 Base Line Interchange - R/W Coop)

Minute Action

AGENDA ITEM: 10

Date: *October 5, 2016*

Subject:

I-15/I-215 Devore Interchange Right of Way

Recommendation:

That the Board, acting in its capacity as the San Bernardino County Transportation Authority:

A. Approve determination that APNs 0349-169-04, -06, -07, and -08; APN 0349-174-02; APN 0349-174-10; APNs 0349-173-19 and -20; APN 0349-173-31; APN 0349-173-38; APN 0349-172-01; APN 0349-174-03; APN 0349-174-01; APN 0349-143-18; and APN 0349-102-09 are surplus parcels for the Interstate 15/Interstate 215 (I-15/I-215) Devore Interchange Reconstruction Project and are no longer necessary for construction, staging, storage, or mitigation/exchange on the project or any other anticipated future use, and authorize disposition of said surplus parcels once necessary code compliance conditions are met.

B. Approve authorization of additional \$2 million in Measure I Cajon Pass fund expenditure authority for final right of way settlements for the I-15/I-215 Devore Interchange Project.

Background:

Recommendation A: San Bernardino County Transportation Authority (Authority) and the State of California Department of Transportation (Caltrans) are involved in the I-15/I-215 Devore Interchange Reconstruction Project. Construction is complete for beneficial use, and final construction work and punch list work is ongoing with completion of all construction work anticipated within the next month or two. Caltrans has been the lead agency for design-build construction, and Authority is the lead agency for the right of way phase of the project. Per SANBAG's right of way cooperative agreement C11103, Authority is responsible for the acquisition and funding of all right of way, utilities, and railroad coordination for the project. Authority has been acquiring the right of way in Caltrans' name for their use for the project. For a variety of reasons, the properties listed in the recommendation are remnants of larger parcels of which some portion was not required for the project. The remaining portion of the property was determined to be an uneconomic remnant relative to its original use. In some cases the remainder portion of the property may have been landlocked with no access or it may have been too small to be developable per the owner's development plan.

Caltrans has determined that these properties are no longer necessary for construction, staging, storage, or mitigation/exchange on the project, or any future use, and Authority staff and the design-builder have concurred with this assessment. Per our cooperative agreement, once Caltrans has determined property to be excess, it transfers the property back to Authority for disposition. Under California Government Code Sections 54220-54232, Authority can then offer properties for sale to private individuals and companies when certain conditions are met. Prior to the disposition of any property, Authority must determine whether the property is needed for any future use and the Authority must declare the property as excess. Staff is recommending the

Entity: CTA

Board of Directors Agenda Item

October 5, 2016

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Authority make these findings. Following declaration by the Authority that the properties are excess or surplus, a 60 day public agency notification period can then be initiated for City and County agencies within the jurisdiction of the parcels for their specific, limited uses. If no interest is expressed, Authority may then offer the surplus property on the open market.

The properties listed below have been identified to be surplus to the needs of this joint agency design-build project and are immediately adjacent to the project area:

CPN	APN	Former Owner	Address	Property Type
22512-01-01	0349-169-04, -06, -07, -08	Dulin	NE Corner of Devore Rd. & Cajon Blvd, South of Meyers Street San Bernardino County, CA	Vacant Land
22515-01-01	0349-174-02	Denno	18495 Cajon Blvd, San Bernardino CA	Vacant Land
22516-01-01	0349-174-10	City of San Bernardino	South of Old Cajon Blvd, West of Devore Rd, San Bernardino, CA	Vacant Land
22523-01-01	0349-173-19, 20	Kardos	18329 Cajon Blvd. San Bernardino, CA	Vacant Land
22524-01-01	0349-173-31	Ashe	Taft Ave, West of Cajon Blvd, Unincorporated Area of San Bernardino County, CA	Vacant Land
22525-01-01	0349-173-38	Smith	18253 Taft Ave, Devore Heights, CA	Vacant Land
22522-01-01	0349-172-01	Wood	North Side of Old Cajon Boulevard East of I-15, San Bernardino, CA	Vacant Land
22514-01-01	0349-174-03	JP Preferred LLC	Devore Rd Devore Heights, CA	Vacant Land
22517-01-01	0349-174-01	Plies and Reid	SE Corner of Parker Street & Dement St., Unincorporated Area of San Bernardino County, CA	Vacant Land
22536-01-01	0349-143-18	Denton	1528 Marion Avenue, San Bernardino, CA	Vacant Land
22562-01-01	0349-102-09	Boone	17164 Cajon Blvd., San Bernardino, CA	Vacant Land

In preparation for sale at the appropriate time, staff will ensure full clearance of all improvements, that a new legal description is prepared for each remnant parcel, that the value has been determined, and that Authority has the ability to convey clear title of the surplus property.

Based on and subject to applicable government codes and guidelines regarding disposition of surplus property, staff recommends that the above referenced parcels be declared by the Authority as surplus and approved for immediate offer.

Recommendation B: Authority has been acquiring properties as needed for the project and of the more than 90 parcels needed for the project, there are currently 5 properties on which a final settlement has not been reached. On four of these properties, resolutions of necessity have been adopted and are currently working through the eminent domain process. It is anticipated that we could potentially go to trial on two or three of these properties while the others we hope to be able to negotiate a settlement or work out an agreement through mediation. As we have progressed through the eminent domain process, expert appraisers for both Caltrans and the property owners have been retained and results of these analyses, including goodwill claims based on business impacts are being determined. Currently, based on these expert appraisals, the cost for settlement or final trial verdicts could exceed our current cooperative agreement expenditure authority by up to \$2 million. Per our agreement with Caltrans, Authority would be responsible for any expenditures over the limit specified in the agreement. Since Authority is fully responsible for all costs for this phase, the recommendation is for Board approval of the additional expenditure authority to settle these remaining properties. Subject to approval of Recommendation A, the sale of the surplus property should cover most if not all of the additional expenditure authority. But due to the anticipated schedule of reaching a settlement on the remaining parcels and the sale of the surplus property, the additional expenditure authority is necessary. Staff recommends approval of this recommendation.

Financial Impact:

This item is consistent with the current Fiscal Year 2016/2017 budget under Sub-Task No. 880.

Reviewed By:

This item was reviewed and recommended for approval (13-0-0) without a quorum of the Board present at the Board of Directors Metro Valley Study Session on September 15, 2016. This item was reviewed and unanimously recommended for approval by the Mountain/Desert Policy Committee on September 16, 2016. SANBAG General Counsel has reviewed this agenda item.

Responsible Staff:

Garry Cohoe, Director of Project Delivery

Approved
Board of Directors
Date: October 5, 2016

Witnessed By:

Minute Action

AGENDA ITEM: 11

Date: *October 5, 2016*

Subject:

Mojave Desert Air Quality Management District Update

Recommendation:

Receive and file the presentation from the Mojave Desert Air Quality Management District.

Background:

Staff from the Mojave Desert Air Quality Management District (MDAQMD) presented to the Mountain/Desert Policy Committee an update on current issues being addressed in the District and highlighted relevant, ongoing activities. The MDAQMD is geographically the second largest of the state's 35 air districts and represents the San Bernardino County High Desert and the Blythe portion of Riverside County. It includes the Cities of Adelanto, Barstow, Hesperia, Needles, Twentynine Palms, and Victorville and the Towns of Apple Valley and Yucca Valley plus the surrounding unincorporated area.

The MDAQMD has primary responsibility for controlling emissions from stationary sources of air pollution within the District boundary. These can range from equipment located at cement facilities, to power plants or the corner gas station. There are over 1,000 such businesses operating under MDAQMD permits. The District also coordinates with the California Air Resources Board (ARB) on mobile sources of pollution.

The District implements air quality programs required by State and Federal mandates and enforces rules and regulations based on air pollution law. The District website indicates that the MDAQMD is committed to protecting the air breathed by more than 500,000 residents living within its boundaries while supporting strong and sustainable economic growth. This is accomplished through a comprehensive and common-sense program of planning, regulation, compliance assistance, enforcement, monitoring, and public education. Additional background on the MDAQMD can be found at: <http://www.mdaqmd.ca.gov/index.aspx?page=6>.

Financial Impact:

This item has no impact on the Fiscal Year 2016-2017 budget.

Reviewed By:

This item was received by the Mountain/Desert Policy Committee on September 16, 2016.

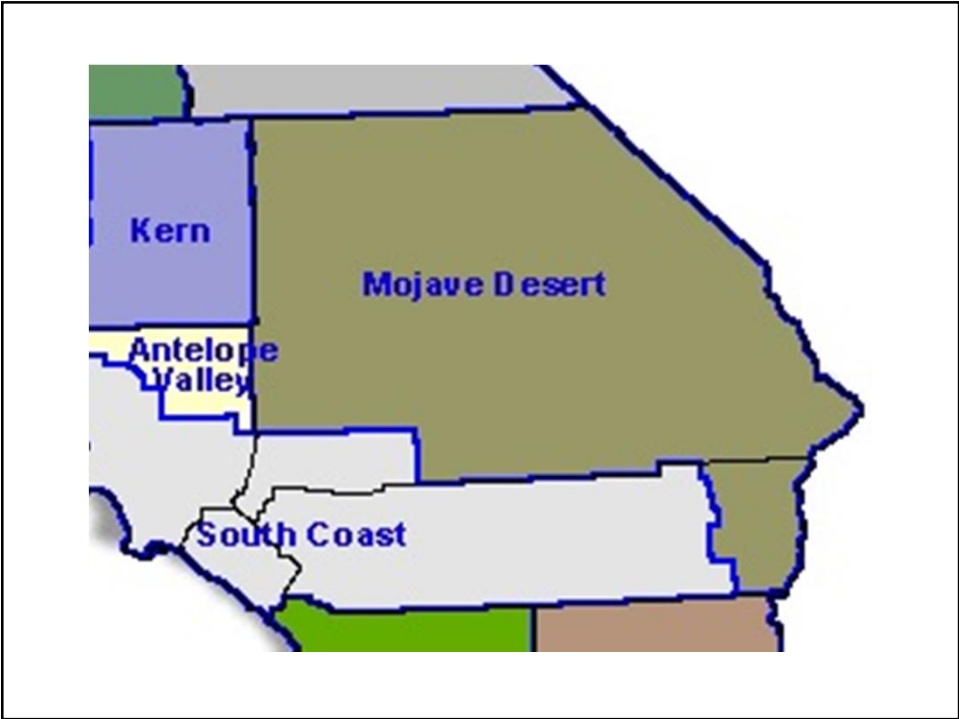
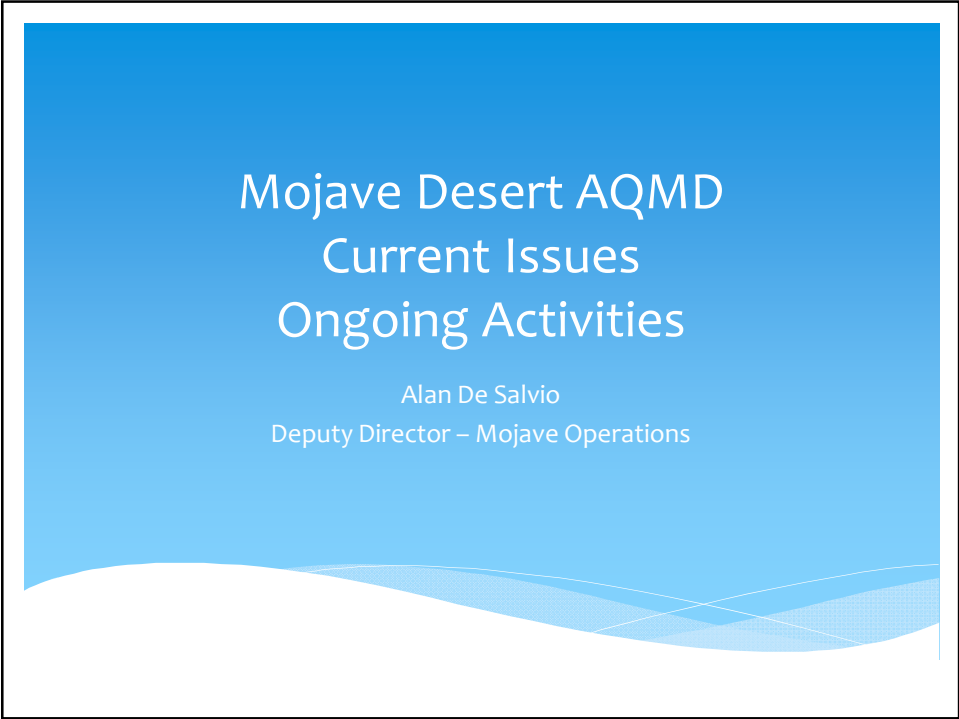
Responsible Staff:

Steve Smith, Director of Planning

Entity: COG, CTC

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Approved
Board of Directors
Date: October 5, 2016
Witnessed By:



Rural Desert District

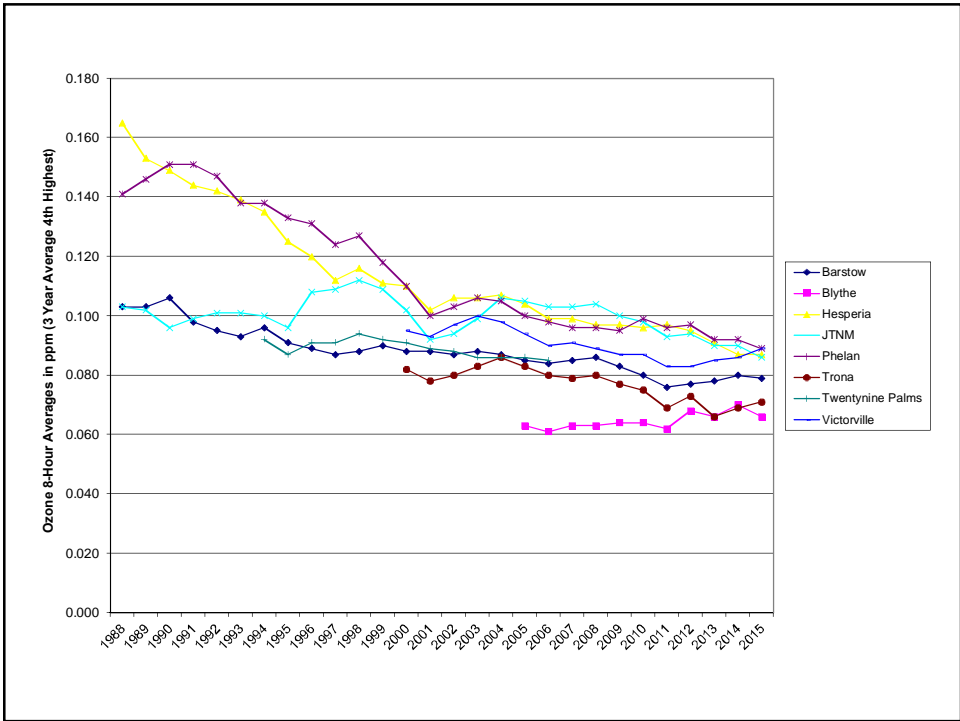
- * Desert portions of San Bernardino and far eastern Riverside Counties
- * Adjacent to and downwind of South Coast AQMD
- * High ozone on SCAQMD border; less ozone far from SCAQMD border
- * ~500,000 population vs ~17 million
- * Mission statement balances environment and economic growth

Current Issues

- * Federal attainment requirements:
 - * Cannot be addressed by local reductions; can only be achieved by upwind (reductions in SCAQMD)
 - * SCAQMD and CARB address this requirement in SCAQMD AQMP (SCAQMD AQMP shows downwind attainment)
- * Jobs/housing balance – still not enough jobs up the hill; many long commutes down the hill (vmt and emissions)

Current Issues, Continued

- * Las Vegas/River traffic – still exceeds Interstate 15 capacity. When will that high speed rail (or hyperloop, I am not picky) get finished? Or started?
- * High wind dust exceptional events
- * Wildfires – someone should phase these out (too much smoke)
- * Latest Federal ozone standard (70 ppb) not expected to expand nonattainment area



MDAQMD 75 ppb Ozone Plan

- * Will be adopted this year, likely October or special November meeting
- * Will show Severe-15 attainment (thanks to SCAQMD reductions)
- * No Transportation Control Measures (beyond state measures)
- * Will have SCAG-agreed transportation conformity budget

Ongoing Issues

- * Low profile on GHG
- * Seeking delegation of all Federal air permitting (adding Prevention of Significant Deterioration to New Source Review) – more efficient, no other significant effect
- * Federal and State mandates slowly tighten regulatory restrictions
- * Natural gas transmission and storage coming under State scrutiny

Conclusion

- * MDAQMD tries to be business friendly by taking an educational approach first and eliminating red tape where possible
- * Constant and continuous new legislative mandates are a counterforce
- * Any questions?

Minute Action

AGENDA ITEM: 12

Date: *October 5, 2016*

Subject:

Downtown San Bernardino Passenger Rail Project Construction Contingency Increase

Recommendation:

That the Board, acting in its capacity as the San Bernardino County Transportation Commission, approve an increase in contingency for the Downtown San Bernardino Passenger Rail Project in the amount of \$2,981,464 for activities related to Contract No. C14001 with Shimmick Construction Company, Inc. to be funded with Valley Local Transportation Funds.

Background:

Construction of the Downtown San Bernardino Passenger Rail Project (Project) is on-going and scheduled to be complete in mid-2017. Shimmick Construction Company, Inc. was awarded the construction contract in December 2013 in the amount of \$59,629,283.75. Additionally, the SANBAG Board approved a contingency amount of \$2,981,464 or 5%. Approximately 62% of the original contingency amount of \$2,981,464 has been released to the contractor for contract change orders leaving a balance of approximately \$1,130,000. The project has identified \$900,000 in additional potential change orders that are currently being assessed and negotiated. Typically a 10% contingency is used for construction contracts. Staff is requesting that an additional contingency of 5% or \$2,981,464 be approved so that there is sufficient contingency available to close-out the project.

As of the end of August 2016, the project is approximately 78% complete based on contract value and approximately 83% of the working days have been used. The current contract completion date per approved working days is February 27, 2017. The contractor's current proposed schedule shows project completion in July 2017. The construction manager has provided comments on the contractor's schedule noting the difference between the contract working days and requested a mitigation schedule.

Much of the work between the San Bernardino Transit Center (SBTC) and the San Bernardino Santa Fe Depot (Depot) has been completed. The contractor is now focused on the track work at the Depot and along the Shortway, the pedestrian overpass at the Depot, the crew quarters at the SBTC, and platform work at both the Depot and SBTC.

Financial Impact:

This item is consistent with the approved Fiscal Year 2016/2017 SANBAG Budget.

Reviewed By:

This item was reviewed by the Transit Committee on September 15, 2016, acting as a committee of the whole without a quorum present. Following discussion, the Committee recommended placement of this item on the Consent Calendar. SANBAG General Counsel and Procurement Manager have reviewed this item.

Entity: CTC

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Responsible Staff:

Carrie Schindler, Director of Transit and Rail

Approved
Board of Directors
Date: October 5, 2016

Witnessed By:

Minute Action

AGENDA ITEM: 13

Date: *October 5, 2016*

Subject:

Downtown San Bernardino Passenger Rail Project Memorandum of Agreement (Noise Abatement)

Recommendation:

That the Board, acting in its capacity as the San Bernardino County Transportation Commission:

A. Authorize the Executive Director or his designee to execute the Memorandum of Agreement (Noise Abatement), Contract No. 17-1001591, with Varp, Inc. providing funding for noise mitigation improvements as required by the Mitigation Monitoring and Reporting Program for the Downtown San Bernardino Passenger Rail Project for a not-to-exceed amount of \$25,000.00 subject to approval as to form by SANBAG legal counsel.

B. Approve a Fiscal Year 2016/2017 budget amendment to increase Task Transit Capital No. 0315, Sub-Task No. 0323 Downtown San Bernardino Passenger Rail Project, in the amount of \$25,000.00 to be funded by Local Transportation Funds-Rail.

Background:

The Downtown San Bernardino Passenger Rail Project (DSBPRP) Mitigation Monitoring and Reporting Program (MMRP) requires that SANBAG install noise insulation at two noise sensitive properties adjacent to the railroad right-of-way. In order to support the mitigation measures, HDR Engineering, Inc. (HDR) prepared an Acoustical Report, documenting the existing sound isolation conditions as well as the proposed noise insulation recommendations for the two buildings located at 907 West 2nd Street (APN 0137-043-26), currently owned by Varp, Inc. The recommended measures included the replacement of various windows and doors for portions of the building facing the railroad alignment.

The funds required to implement the mitigation measures is estimated to be \$25,000.00. HDR obtained three quotes and the lowest of the three quotes, plus a 25% contingency, was used as the basis for the cost estimate. The agreement with Varp, Inc. is required in order to release SANBAG of any future liability since the funds will be provided to Varp, Inc. and they will be responsible for the installation of the various noise mitigation upgrades.

Financial Impact:

This item is not consistent with the current Fiscal Year 2016/2017 budget. This item requires a budget amendment as outlined in the recommendation section.

Reviewed By:

This item was reviewed by the Transit Committee on September 15, 2016, acting as a committee of the whole without a quorum present. Following discussion, the Committee recommended placement of this item on the Consent Calendar. SANBAG General Counsel and Procurement Manager have reviewed this item and the agreement.

Entity: CTC

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Page 2

Responsible Staff:

Carrie Schindler, Director of Transit and Rail

Approved
Board of Directors
Date: October 5, 2016

Witnessed By:

Contract Summary Sheet

General Contract Information

Contract No: 17-1001591 Amendment No.: _____ Vendor No.: TBD
 Vendor/Customer Name: _____ Varp, Inc. Sole Source? Yes No
 Description: DSBPRP: Memorandum of Noise Abatement Agreement-APN 0137-043-26
 Start Date: 08/08/2016 Expiration Date: 06/30/2017 Revised Expiration Date: _____
 Has Contract Term Been Amended? No Yes - Please Explain _____
 List Any Related Contracts Nos.: DSBPRP ROW Admin Contract 00-1000768

Dollar Amount			
Original Contract	\$ 25,000.00	Original Contingency	\$ -
Revised Contract (Inclusive of Prior Amendments)	\$ -	Revised Contingency (Inclusive of Prior Amendments)	\$ -
Current Amendment	\$ -	Contingency Amendment	\$ -
TOTAL CONTRACT VALUE	\$ 25,000.00	TOTAL CONTINGENCY VALUE	\$ -
		TOTAL DOLLAR AUTHORITY (Contract Value and Contingency)	\$ 25,000.00

Contract Authorization

Executive Director Date: _____
 Execute DSBPRP: Memorandum of Noise Abatement Agreement for APN 0137-043-26.
 Executive Director Action: _____
 Board of Directors Date: 10/05/2016
 Board of Directors Action: Execute DSBPRP: Memorandum of Noise Abatement Agreement for APN 0137-043-26.

Contract Management: Payable/Miscellaneous

Invoice Warning: 20% Renewals: _____ Type: Capital PAA Other
 Retention: % Maximum Retention: \$ _____
 Services: Construction Intrgrnt/MOU/COOP A & E Services Other Professional Services
 Disadvantaged Business Enterprise (DBE) Goal _____ %

Contract Management: Receivable

E-76 and/or CTC Date _____ (Attach Copy) Program Supplement No.: _____
 Finance Letter Reversion Date: _____ EA No.: _____

All of the above MUST be submitted to FINANCE including originals, amendments and miscellaneous transaction changes

Additional Information

Project Manager: Victor Lopez

Attachment: 17-1001591 _ CSS (3135 : Downtown San Bernardino Passenger Rail Project Memorandum of Agreement (Noise Abatement))

RECORDING REQUESTED BY:
 SAN BERNARDINO COUNTY
 ASSOCIATED GOVERNMENTS

WHEN RECORDED MAIL TO:
 SAN BERNARDINO COUNTY
 ASSOCIATED GOVERNMENTS
 1170 W. 3rd Street, 2nd Floor
 San Bernardino, California 92410-1715

APN(s): 0137-043-26-0000

EXEMPT FROM RECORDING FEES PER GOVT. CODE §27383
 EXEMPT FROM DOCUMENTARY TRANSFER TAX PER REV. & TAX CODE §11922

**MEMORANDUM OF AGREEMENT
 (NOISE ABATEMENT)**

This MEMORANDUM OF AGREEMENT (“Agreement”) is made and entered into by and between **San Bernardino Associated Governments, acting in its capacity as the San Bernardino County Transportation Commission (“SANBAG”)** and **VARP, INC., A CALIFORNIA CORPORATION (“Owner”)**, with reference and respect to Recitals 2, 3, and 4 below. The parties hereto have executed this Agreement on the dates set forth below next to their respective signatures..

1. The performance of this Agreement constitutes the entire agreement between the parties and full consideration for the covenants as set forth hereinbelow and shall relieve SANBAG of all further obligation or claims arising from or related to sound and/or noise on account of the location, grade, construction or operation of the Downtown San Bernardino Passenger Rail Project (DSBPRP)
2. This agreement pertains to property known as San Bernardino Assessor’s Parcel No.: (0137-043-26-0000) (Map Attached as Exhibit “A”) located at 907 West Rialto Avenue, and herein identified as the Owner’s Property”.
3. SANBAG shall pay the undersigned Owner(s) the sum of \$25,000 for the cost and installation of upgrade components (window and door upgrades and repairs) as listed in Exhibit “B”, attached hereto.
4. It is understood and agreed that the components installed shall be greater than or equal to the Sound Transmission Class (STC) rating of 39 as recommended in Exhibit “C, Sound Isolation Memo”, attached hereto.
5. It is understood and agreed that participation and compensation for sound impacts are voluntary and are considered unusual and extraordinary abatement as determined by the Sound Isolation Memo, approved (August, 2015), in connection with the DSBPRP.

- 6. It is understood and agreed by the parties that the amount shown in Clause 3 represents the lowest of three bids, as provided to the Owner by SANBAG for installation of components identified on Exhibit "D". These bids were prepared by Mark Maes of Green- Lite Window and Door, Joe Sanchez of Customized Windows and Doors, and Hayedon Hardy of Hardy Windows. Neither SANBAG nor any person or entity related to or in contract with SANBAG shall be responsible for the any of the work performed by any of the above-mentioned contractors, or any other contractor selected by Owner to perform the mitigation work. Neither SANBAG nor any person or entity related to or in contract with SANBAG shall be responsible for any future costs of operating or maintaining the noise abatement measures.
- 7. It is acknowledged and agreed that the amount in Clause 3 is payment in full for the cost and installation of components shown on Exhibit "B", attached hereto.
- 8. It is acknowledged and agreed that SANBAG makes no representation as to the amount of sound mitigation that will occur as a result of work performed by Owner's contractor.
- 9. Owner hereby waives and releases any and all past, present and future claims for damages against SANBAG and/or any person or entity related to or in contract with SANBAG arising from sound and/or noise impacts upon the Property of Owner as a result of the location, grade, construction or operation of the DSBPRP in the manner proposed and Owner irrevocably waives any and all rights pursuant to California Civil Code Section 1542 pertaining to the released claims. This release shall be effective notwithstanding the provision of California Civil Code Section 1542 which states:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

- 10. This transaction will be handled through an internal escrow by SANBAG at its offices located at 1170 W. 3rd Street, 2nd Floor, San Bernardino, CA 92410-1715.
- 11. It is acknowledged and agreed by both parties that this document will be recorded with the Recorder's Office of the County of San Bernardino.

-----SIGNATURES ON THE FOLLOWING PAGES-----

IN WITNESS WEHEREOF, the parties hereto have executed this Agreement as of the date(s) set forth below next to their respective signatures.

OWNER:
VARP, INC.
A CALIFORNIA CORPORATION

By: _____

Name: _____

Date: _____

By: _____

Name: _____

Date: _____

SANBAG:

By: _____

Name: Raymond W. Wolfe

Title Executive Director

Date: _____

APPROVED AS TO FORM:

By: _____

Name: Robert D. Herrick

Title Assistant General Counsel

Date: _____

ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____ before me, _____,
Notary Public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____ (SEAL)

Minute Action

AGENDA ITEM: 14

Date: *October 5, 2016*

Subject:

Project Development Cooperative Agreement with County Transit Operators

Recommendation:

That the San Bernardino County Transportation Authority (SBCTA) approve the use of the attached templates for SBCTA to provide project development and construction management services for delivery of capital projects, real estate services, and transit related studies for Mountain Area Regional Transit Authority, Victor Valley Transit Authority and Morongo Basin Transit Authority.

Background:

At the December 2013 meeting, the Board approved a Scope of Work for a County-wide Transit Efficiency Study and Parsons Brinckerhoff was engaged to perform the study. The stated goals of the County-wide Transit Efficiency Study were to:

- Identify potential cost efficiencies that can be achieved through coordination and joint efforts among the transit operators and SBCTA.
- Improve transit services for current and new transit users through better coordination among the operators and SBCTA.

At the August 2015 meeting, the Board received and filed a presentation on the County-wide Transit Efficiency Study. As a part of the presentation, next steps presented included the initiation of discussions between transit agencies regarding cooperative agreements for selected strategies presented in the Study. One of the selected strategies involved the temporary furnishing of SBCTA staff assistance for studies, project development, design, and construction management services.

Subsequently, Parsons Brinckerhoff conducted discussions with SBCTA and the following transit agencies regarding the proposed services:

- Mountain Area Regional Transit Authority (MT)
- Victor Valley Transit Authority (VVTA)
- Morongo Basin Transit Authority (MBTA)
- Needles Area Transit (NAT)

After discussion, NAT chose not to participate in the process, while the other three agencies chose to proceed.

SBCTA volunteered to serve as the lead agency, with individual cooperative agreements with each agency desiring such services. SBCTA staff anticipated in many cases it would utilize its

Entity: CTA

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existing on-call consultant contracts to provide such services. However, when the SBCTA on-call consultant contracts were awarded it was not envisioned they would be used to provide services to the transit agencies. Amendments to the existing SBCTA on-call consultant contracts may be needed depending on the demand for SBCTA to provide services to the transit agencies.

Based on these discussions, a cooperative agreement template was prepared and reviewed by SBCTA and transit agency staff. The template is intended to be used to enter into a cooperative agreement on a project by project basis between SBCTA and the specific transit agency requesting specific services. Project specific agreements will be brought to the SBCTA Board for approval. However, the standard template will be used to minimize upfront staff time, including legal services, and expedite the process.

Financial Impact:

This item has no financial impact on the adopted SANBAG budget.

Reviewed By:

This item was reviewed by the Transit Committee on September 15, 2016, acting as a committee of the whole without a quorum present. Following discussion, the Committee recommended placement of this item on the Consent Calendar. SANBAG General Counsel has reviewed this item and the draft templates.

Responsible Staff:

Carrie Schindler, Director of Transit and Rail

Approved
Board of Directors
Date: October 5, 2016

Witnessed By:

COOPERATIVE AGREEMENT NO XXX
BY AND BETWEEN SAN BERNARDINO COUNTY TRANSPORTATION
COMMISSION
AND
MOUNTAIN AREA REGIONAL TRANSIT AUTHORITY
FOR
TEMPORARY FURNISHING OF STAFF ASSISTANCE FOR PROJECT
DEVELOPMENT, DESIGN, AND CONSTRUCTION MANAGEMENT

THIS COOPERATIVE AGREEMENT (“Agreement”) is effective on the _____ day of _____, 2016, by and between the San Bernardino County Transportation Authority (“SBCTA”), whose address is 1170 W. 3rd Street, 2nd Floor, San Bernardino, California 92410-1715, and Mountain Area Regional Transit Authority (“MT”), a public agency formed under a Joint Powers Agreement, whose address is 41939 Fox Farm Road, Big Bear Lake, California, 92315. SBCTA and MT are each a “Party” and collectively are the “Parties” as identified herein.

RECITALS:

WHEREAS, SBCTA, as the Transportation Commission for San Bernardino County, has the responsibility to oversee and coordinate the provision of public transportation services and allocation of local, state and Federal funds for the County; and

WHEREAS, MT provides Dial-a-Ride and Fixed Route public transportation service throughout the rural San Bernardino Mountain communities of the Big Bear Valley, Crestline, Lake Arrowhead, and Running Springs. Mountain Transit also provides Off-the-Mountain commuter service between these communities and the city of San Bernardino; and

WHEREAS, MT needs new or expanded operating facilities to support its public transit service operations and maintenance (the “Project”), and is in need of project development/ management/engineering support services; and

WHEREAS, SBCTA has certain project development/ management/engineering Staff and/or On-Call Consultants under contract (collectively referred to as SBCTA STAFF) that are or can become available to assist MT;

NOW, THEREFORE, SBCTA and MT in consideration of the mutual covenants hereinafter set forth and intending to be legally bound hereby agree as follows:

1. Project Management Responsibilities

- a. Overall Project Management Responsibility for the Project as identified in Exhibit “A” Scope of Work shall remain with MT.
- b. MT’s Project Manager or his/her designee shall provide direction to SBCTA STAFF assisting MT on the Project as identified in Exhibit “A” Scope of Work.

2. SBCTA Responsibilities

- a. SBCTA shall provide project development / management / engineering support services through a combination of SBCTA STAFF, to MT, for support of the Project as identified in Exhibit "A" Scope of Work.
- b. The total not-to-exceed cost for services provided by SBCTA as described in Exhibit "A" for which MT shall reimburse SBCTA under this AGREEMENT shall not exceed \$ [REDACTED] over the term of this AGREEMENT, unless subsequently amended by mutual agreement of the Parties. The specific SBCTA STAFF positions, their rates and estimated Other Direct Costs are identified in Exhibit "B" SBCTA Billing Rate Schedule.
- c. SBCTA STAFF selected for this assignment shall be selected by SBCTA with the review and concurrence of the MT, and are subject to change. SBCTA shall endeavor to make the SBCTA STAFF selected for services provided on the Project available full or part time for a minimum of XX months.
- d. SBCTA STAFF will recognize and follow all applicable rules, regulations or policies established by MT and provided to SBCTA STAFF affecting or pertaining to operation of the Project site, when SBCTA STAFF are performing services.
- e. SBCTA STAFF shall work full or part time as needed per Exhibit "A" Scope of Work, but not to exceed a forty (40) hour workweek and shall be on the same schedule as SBCTA's regular employees unless other work schedule arrangements are agreed by SBCTA's Executive Director or designee in writing.
- f. SBCTA STAFF working on the Project shall acknowledge that certain confidential or proprietary information belonging to MT may become available to them, and as such, shall maintain such confidentiality.
- g. SBCTA STAFF are assigned to MT only for the purposes and to the extent set forth in this Agreement. SBCTA STAFF'S relationship to MT and its subsidiaries and clients shall during the period of this assignment and services hereunder be that of a SBCTA employee or independent consultant, as applicable, working in a professional manner. SBCTA STAFF shall not be considered as having an employee status with MT or being entitled to participate in any plans or benefits of MT for its regular employees. SBCTA assumes full responsibility for all employment contributions, taxes, withholding, etc, (Employer Withholdings) under any state and local laws, as applicable for SBCTA's employees and shall require SBCTA's On-Call Consultants to assume full responsibility for Employer withholdings for On-Call Consultants staff assigned to the Project.
- h. SBCTA shall invoice MT no more frequently than monthly, and no less than quarterly for the services provided for that period, based on actual hours worked and using the fully-burdened hourly rates for direct employees, and the approved hourly billing rates for assigned consultant staff. Such fully-burdened hourly rates shall be specific to each position type, will be disclosed to MT in advance, and will be consistent with the labor rate in Exhibit "B". SBCTA'S fully-burdened employee hourly rates shall include employee labor rates, fringe, benefits and overhead items such as workers' compensation,

insurance, computers, office space and phone. For SBCTA On-Call Consultants assigned to the Project, SBCTA shall invoice MT the amount so billed by the On-Call Consultants for the Project work during the invoice period. With each invoice, SBCTA shall also identify any actual Project-related administrative, travel and other direct costs incurred by SBCTA STAFF in managing MT's project. Mileage shall be billed based on the current, approved Internal Revenue Service rate. However, SBCTA shall not apply a flat administrative fee or percentage.

3. MT Responsibilities

- a. MT shall direct and control the work activities of the SBCTA STAFF on the project work described herein, and shall be responsible for providing a safe place to work in compliance with all safety laws and regulations while working at MT-designated work site(s). MT is not responsible for the health or safety of any SBCTA STAFF due to injuries or property damage caused by others not within the control of MT at any Project site.
- b. MT shall furnish SBCTA STAFF with a copy of applicable rules, regulations and policies that MT deems necessary to implement the provisions in Section 2.d above.
- c. MT strictly agrees that it shall not induce, passively or actively solicit, approach or hire any of the SBCTA STAFF so long as this agreement is in effect and for a period of one (1) year thereafter except if mutually agreed in writing by SBCTA, MT, and, if applicable, On-Call Consultants under contract, on a case by case basis.
- d. Upon receipt of the SBCTA invoice, MT shall approve and make prompt payment on all invoices or explain in writing to the SBCTA Contact identified in Section 8 below (or designee), the reason for disapproval of any item within 10 business days of receipt. MT payment for undisputed invoice amounts shall be made within 30 days of receipt of invoice.

4. SBCTA and MT Joint Responsibilities

- a. If SBCTA STAFF is deemed by MT or SBCTA to be unqualified to perform the assignment contracted for, MT may request the removal and/or replacement of the SBCTA STAFF.
- b. Overtime hours shall be defined by SBCTA and approved by MT, and SBCTA STAFF shall not be directed by MT to work Overtime hours, unless agreed to in writing by both Parties.

5. Indemnification

- a. Neither SBCTA nor any officer or employee or agent thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by MT and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon MT under this Agreement. It is understood and agreed that MT will fully defend, indemnify, and save harmless SBCTA and all of its officers, employees and agents from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories or assertions

of liability occurring by reason of anything done or omitted to be done by MT and/or its agents under this Agreement.

- b. Neither MT nor any officer or employee thereof is responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by SBCTA and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon SBCTA under this Agreement. It is understood and agreed that SBCTA will fully defend, indemnify, and save harmless MT and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories or assertions of liability occurring by reason of anything done or omitted to be done by SBCTA and/or its agents under this Agreement.
6. **Venue.** This AGREEMENT shall be construed and interpreted solely in accordance with the laws of the State of California.
7. **Binding Provisions.** The persons executing this AGREEMENT on behalf of the Parties hereto warrant that they are duly authorized to execute this AGREEMENT on behalf of said Parties and that, by so executing this AGREEMENT, the Parties hereto are formally bound to the provisions of this AGREEMENT.
8. **Notices.** All notices hereunder and communications required or permitted by this AGREEMENT, or changes thereto, or by law to be served on, given to or delivered to any other Party hereto by any other Party to this AGREEMENT shall be in writing or authorized in writing, and may be sent by regular mail, email or FAX. Any such notice shall be addressed to:

Notices to SBCTA:

Name: Carrie Schindler
 Title: Director of Rail and Transit Programs
 Address: 1170 W. 3rd Street, 2nd Floor
 City, State Zip: San Bernardino, California, 92410
 Email: cschindler@SBCTA.ca.gov
 FAX: 909-885-4407

Notices to the MT:

Name: Ms. Kathy Hawksford
 Title: General Manager/Chief Executive Officer
 Physical Address: 41939 Fox Farm Road
 Mailing Address: PO Box 1501
 City, State Zip: Big Bear Lake, California, 92315
 Email: khawksford@mountaintransit.org
 FAX: 909-963-7200

9. **Other Provisions.**
- a. This AGREEMENT shall terminate ____, 20__, unless earlier terminated by mutual agreement of the Parties.

- b. The headings of all sections of this AGREEMENT are inserted solely for the convenience of reference and are not part of and not intended to govern, limit, or aid in the construction or interpretation of any terms or provision thereof.
- c. The provisions of this AGREEMENT shall bind and inure to the benefit of each of the Parties hereto and all successors or assigns of the Parties hereto.
- d. If any term, provision, covenant, or condition of this AGREEMENT is held to be invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder to this AGREEMENT shall not be affected thereby, and each term, provision, covenant or condition of this AGREEMENT shall be valid and enforceable to the fullest extent permitted by law.
- e. This AGREEMENT may be executed and delivered in any number of counterparts, each of which, when executed and delivered shall be deemed an original and all of which together shall constitute the same AGREEMENT. Secure electronic signatures will be permitted.
- f. This AGREEMENT may be amended in writing at any time by the mutual consent of the Parties. No amendment shall have any force or effect unless executed in writing by the Parties. The Parties agree that minor administrative changes, such as changes in assigned staff, modifications to scope-of-work elements, etc., may be approved administratively without re-approval by the Parties' Boards of Directors.
- g. SBCTA or MT may terminate this AGREEMENT, without cause, by delivering written notice of termination to the other Party not less than thirty (30) calendar days before the date of termination. In the event that services are underway at the time such notice of termination is issued, SBCTA and its On-Call Consultants, if assigned to the project, shall follow the termination provisions of the on-call contracts and any outstanding services up to the date of termination shall be paid for in accordance with AGREEMENT terms before termination of this AGREEMENT shall be complete.
- h. Neither this AGREEMENT, nor any of a Party's rights, obligations or duties hereunder may be assigned in whole or in part by either Party without the prior written consent of the other Party. Any such attempt of assignment shall be deemed void and of no force and effect. Consent to one assignment shall not be deemed consent to any subsequent assignment, nor the waiver of any right to consent to such subsequent assignment.
- i. The Parties warrant that, in the performance of this AGREEMENT, they shall comply with all applicable federal, state and local laws, statutes and ordinances and lawful orders, rules and regulations promulgated thereunder.
- j. Either Party shall be excused from performing its obligations under this AGREEMENT during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control, including but not limited to: any incidence of fire, flood, acts of God, commandeering of material, products, plants or facilities by the federal, state or local government, national fuel shortage, or a material act or omission by the other Party, when satisfactory evidence of such cause is presented to the other Party, and provided further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the Party not performing.

- k. Exhibit A – Scope of Work and Exhibit B – SBCTA Billing rate Schedule are attached to and incorporated into this agreement.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first above written.

San Bernardino County Transportation Authority

Mountain Transit Area Regional Transit Authority

By: _____
Raymond W. Wolfe
Executive Director

By: _____
Kathy Hawksford
General Manager/CEO

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____

By: _____

Name/Title: _____

Name/Title: _____

EXHIBIT "A"

"PROJECT SPECIFIC SCOPE OF WORK"

EXHIBIT "B"
"PROJECT SPECIFIC FEES"

COOPERATIVE AGREEMENT NO XXX
BY AND BETWEEN SAN BERNARDINO COUNTY TRANSPORTATION
AUTHORITY
AND
VICTOR VALLEY TRANSIT AUTHORITY
FOR
TEMPORARY FURNISHING OF STAFF ASSISTANCE FOR PROJECT
DEVELOPMENT, DESIGN, AND CONSTRUCTION MANAGEMENT

THIS COOPERATIVE AGREEMENT (“Agreement”) is effective on the _____ day of _____, 2016, by and between the San Bernardino County Transportation Authority (“SBCTA”), whose address is 1170 W. 3rd Street, 2nd Floor, San Bernardino, California 92410-1715, and Victor Valley Transit Authority (“VVTA”), a public agency formed under a Joint Powers Agreement, whose address is, 17150 Smoketree St., Hesperia, California, 92345. SBCTA and VVTA are each a “Party” and collectively are the “Parties” as identified herein.

RECITALS:

WHEREAS, SBCTA, as the Transportation Commission for San Bernardino County, has the responsibility to oversee and coordinate the provision of public transportation services and allocation of local, state and Federal funds for the County; and

WHEREAS, VVTA provides Dial-a-Ride and Fixed Route public transportation services throughout the Victor Valley Subarea cities of Adelanto, Hesperia, Victorville, the Town of Apple Valley, and San Bernardino County communities of Helendale, Lucerne Valley, Oro Grande, Phelan, Pinon Hills, Silver Lakes, and Wrightwood, as well as the Barstow Area Transit service area. VVTA also provides B-V Link Lifeline service between Barstow, Victor Valley, and San Bernardino Valley, and National Training Center Commuter Service to Barstow and Fort Irwin; and

WHEREAS, VVTA anticipates the need for new or expanded operating facilities and/or transit centers to support its public transit service operations (the “Projects”), and is in need of project development/ management/engineering support services; and

WHEREAS, SBCTA has certain project development/ management /engineering Staff and/or On-Call Consultants under contract (collectively referred to as SBCTA STAFF) that are or can become available to assist VVTA;

NOW, THEREFORE, SBCTA and VVTA in consideration of the mutual covenants hereinafter set forth and intending to be legally bound hereby agree as follows:

1. Project Management Responsibilities

- a. Overall Project Management Responsibility for the Project as identified in Exhibit "A" Scope of Work shall remain with VVTA.
- b. VVTA's Project Manager or his/her designee shall provide direction to SBCTA STAFF assisting VVTA on the Project as identified in Exhibit "A" Scope of Work.

2. SBCTA Responsibilities

- a. SBCTA shall provide project development / management / engineering support services through a combination of SBCTA STAFF, to VVTA, for support of the Project as identified in Exhibit "A" Scope of Work.
- b. The total not-to-exceed cost for services provided by SBCTA as described in Exhibit "A" for which VVTA shall reimburse SBCTA under this AGREEMENT shall not exceed \$ [REDACTED] over the term of this AGREEMENT, unless subsequently amended by mutual agreement of the Parties. The specific SBCTA STAFF positions, their rates and estimated Other Direct Costs are identified in Exhibit "B" -- SBCTA Billing Rate Schedule.
- c. SBCTA STAFF selected for this assignment shall be selected by SBCTA with the review and concurrence of VVTA, and are subject to change. SBCTA shall endeavor to make the SBCTA STAFF selected for services provided on the Project available full or part time for a minimum of XX months.
- d. SBCTA STAFF will recognize and follow all applicable rules, regulations or policies established by VVTA and provided to SBCTA STAFF affecting or pertaining to operation of the Project site(s), when SBCTA STAFF are performing services.
- e. SBCTA STAFF shall work full or part time as needed per Exhibit "A" Scope of Work, but not to exceed a forty (40) hour workweek and shall be on the same schedule as SBCTA's regular employees unless other work schedule arrangements are agreed by SBCTA's Executive Director or designee in writing.
- f. SBCTA STAFF working on the Projects shall acknowledge that certain confidential or proprietary information belonging to VVTA may become available to them, and as such, shall maintain such confidentiality.
- g. SBCTA STAFF are assigned to VVTA only for the purposes and to the extent set forth in this Agreement. SBCTA STAFF's relationship to VVTA and its subsidiaries and clients shall during the period of this assignment and services hereunder be that of a SBCTA employee or independent consultant, as applicable, working in a professional manner. SBCTA STAFF shall not be considered as having an employee status with VVTA or being entitled to participate in any plans or benefits of VVTA for its regular employees. SBCTA assumes full responsibility for all employment contributions, taxes, withholding, etc, (Employer withholdings) under any state and local laws, as applicable for SBCTA's employees and shall require SBCTA's On-Call Consultants to assume full responsibility for Employer withholdings for On-Call Consultants staff assigned to the Project .
- h. SBCTA shall invoice VVTA no more frequently than monthly, and no less than quarterly for the services provided for that period, based on actual hours worked and using the fully-burdened hourly rates for direct employees, and the approved hourly billing rates for assigned consultant staff. Such fully-

burdened hourly rates shall be specific to each position type, will be disclosed to VVTA in advance, and will be consistent with the labor rate in Exhibit "B". SBCTA'S fully-burdened employee hourly rates shall include employee labor rates, fringe, benefits and overhead items such as workers' compensation, insurance, computers, office space and phone. For SBCTA On-Call Consultants assigned to the Project, SBCTA shall invoice VVTA the amount so billed by the On-Call Consultants for the Project work during the invoice period. With each invoice, SBCTA shall also identify any actual Project-related administrative, travel and other direct costs incurred by SBCTA STAFF in managing VVTA's project. Mileage shall be billed based on the current, approved Internal Revenue Service rate. However, SBCTA shall not apply a flat administrative fee or percentage.

3. VVTA Responsibilities

- a. VVTA shall direct and control the work activities of the SBCTA STAFF on Project work described herein, and shall be responsible for providing a safe place to work in compliance with all safety laws and regulations while working at VVTA-designated work site(s). VVTA is not responsible for the health or safety of any SBCTA STAFF due to injuries or property damage caused by others not within the control of VVTA at any Project site.
- b. VVTA shall furnish SBCTA STAFF with a copy of applicable rules, regulations and policies that VVTA deems necessary to implement the provisions in Section 2.d above.
- c. VVTA strictly agrees that it shall not induce, passively or actively solicit, approach or hire any of the SBCTA STAFF so long as this agreement is in effect and for a period of one (1) year thereafter except if mutually agreed in writing by SBCTA, VVTA, and, if applicable, On-Call Consultants under contract, on a case by case basis.
- d. Upon receipt of the SBCTA invoice, VVTA shall approve and make prompt payment on all invoices or explain in writing to the SBCTA Contact identified in Section 8 below (or designee), the reason for disapproval of any item within 10 business days of receipt. VVTA payment for undisputed invoice amounts shall be made within 30 days of receipt of invoice.

4. SBCTA and VVTA Joint Responsibilities

- a. If SBCTA STAFF is deemed by VVTA or SBCTA to be unqualified to perform the assignment contracted for, VVTA may request the removal and/or replacement of the SBCTA STAFF.
- b. Overtime hours shall be defined by SBCTA and approved by VVTA, and SBCTA STAFF shall not be directed by VVTA to work Overtime hours, unless agreed to in writing by both Parties.

5. Indemnification

- a. Neither SBCTA nor any officer or employee or agent thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by VVTA and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon VVTA under this Agreement. It is understood and agreed that VVTA will fully defend, indemnify, and save

harmless SBCTA and all of its officers, employees and agents from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories or assertions of liability occurring by reason of anything done or omitted to be done by VVTA and/or its agents under this Agreement.

- b. Neither VVTA nor any officer or employee thereof is responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by SBCTA and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon SBCTA under this Agreement. It is understood and agreed that SBCTA will fully defend, indemnify, and save harmless VVTA and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories or assertions of liability occurring by reason of anything done or omitted to be done by SBCTA and/or its agents under this Agreement.
6. **Venue.** This AGREEMENT shall be construed and interpreted solely in accordance with the laws of the State of California.
7. **Binding Provisions.** The persons executing this AGREEMENT on behalf of the Parties hereto warrant that they are duly authorized to execute this AGREEMENT on behalf of said Parties and that, by so executing this AGREEMENT, the Parties hereto are formally bound to the provisions of this AGREEMENT.
8. **Notices.** All notices hereunder and communications required or permitted by this AGREEMENT, or changes thereto, or by law to be served on, given to or delivered to any other Party hereto by any other Party to this AGREEMENT shall be in writing or authorized in writing, and may be sent by regular mail, email or FAX. Any such notice shall be addressed to:

Notices to SBCTA:

Name: Carrie Schindler
 Title: Director of Transit and Rail
 Address: 1170 W. 3rd Street, 2nd Floor
 City, State Zip: San Bernardino, California, 92410
 Email: cschindler@sanbag.ca.gov
 FAX: 909-885-4407

Notices to VVTA:

Name: Mr. Kevin Kane
 Title: Executive Director
 Address: 17150 Smoketree St
 City, State Zip: Hesperia, California, 92345
 Email: kkane@vta.org
 FAX: 760-948-1380

9. Other Provisions.

- a. This AGREEMENT shall terminate ____, 20__, unless earlier terminated by mutual agreement of the Parties.
- b. The headings of all sections of this AGREEMENT are inserted solely for the convenience of reference and are not part of and not intended to govern, limit, or aid in the construction or interpretation of any terms or provision thereof.
- c. The provisions of this AGREEMENT shall bind and inure to the benefit of each of the Parties hereto and all successors or assigns of the Parties hereto.
- d. If any term, provision, covenant, or condition of this AGREEMENT is held to be invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder to this AGREEMENT shall not be affected thereby, and each term, provision, covenant or condition of this AGREEMENT shall be valid and enforceable to the fullest extent permitted by law.
- e. This AGREEMENT may be executed and delivered in any number of counterparts, each of which, when executed and delivered shall be deemed an original and all of which together shall constitute the same AGREEMENT. Secure electronic signatures will be permitted.
- f. This AGREEMENT may be amended in writing at any time by the mutual consent of the Parties. No amendment shall have any force or effect unless executed in writing by the Parties. The Parties agree that minor administrative changes, such as changes in assigned staff, modifications to scope-of-work elements, etc., may be approved administratively without re-approval by the Parties' Boards of Directors.
- g. SBCTA or VVTA may terminate this AGREEMENT, without cause, by delivering written notice of termination to the other Party not less than thirty (30) calendar days before the date of termination. In the event that services are underway at the time such notice of termination is issued, SBCTA and its On-Call Consultants, if assigned to the project, shall follow the termination provisions of the on-call contracts and any outstanding services up to the date of termination shall be paid for in accordance with AGREEMENT terms before termination of this AGREEMENT shall be complete.
- h. Neither this AGREEMENT, nor any of a Party's rights, obligations or duties hereunder may be assigned in whole or in part by either Party without the prior written consent of the other Party. Any such attempt of assignment shall be deemed void and of no force and effect. Consent to one assignment shall not be deemed consent to any subsequent assignment, nor the waiver of any right to consent to such subsequent assignment.
- i. The Parties warrant that, in the performance of this AGREEMENT, they shall comply with all applicable federal, state and local laws, statutes and ordinances and lawful orders, rules and regulations promulgated thereunder.
- j. Either Party shall be excused from performing its obligations under this AGREEMENT during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control, including but not limited to: any incidence of fire, flood, acts of God, commandeering of material, products, plants or facilities by the federal, state or local government, national fuel shortage, or a material act or omission by the other Party, when satisfactory evidence of such cause is presented to the other Party, and

- provided further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the Party not performing.
- k. Exhibit A—Scope of Work and Exhibit B—SBCTA Billing Rate Schedule are attached to and incorporated into this AGREEMENT.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first above written.

San Bernardino County Transportation Authority

Victor Valley Transit Authority

By: _____
Raymond W. Wolfe
Executive Director

By: _____
Kevin Kane
Executive Director

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____

By: _____

Name/Title: _____

Name/Title: _____

EXHIBIT "A"
"PROJECT SPECIFIC SCOPE OF WORK"

EXHIBIT "B"
"PROJECT SPECIFIC FEES"

COOPERATIVE AGREEMENT NO XXX
BY AND BETWEEN SAN BERNARDINO COUNTY TRANSPORTATION
COMMISSION
AND
MORONGO BASIN TRANSIT AUTHORITY
FOR
TEMPORARY FURNISHING OF STAFF ASSISTANCE FOR PROJECT
DEVELOPMENT, DESIGN, AND CONSTRUCTION MANAGEMENT

THIS COOPERATIVE AGREEMENT (“Agreement”) is effective on the _____ day of _____, 2016, by and between the San Bernardino County Transportation Commission (“SBCTA”), whose address is 1170 W. 3rd Street, 2nd Floor, San Bernardino, California 92410-1715, and Morongo Basin Transit Authority (“MBTA”), a public agency formed under a Joint Powers Agreement, whose address is 62405 Verbena Road, Joshua Tree, California, 92252. SBCTA and MBTA are each a “Party” and collectively are the “Parties” as identified herein.

RECITALS:

WHEREAS, SBCTA, as the Transportation Commission for San Bernardino County, has the responsibility to oversee and coordinate the provision of public transportation services and allocation of local, state and Federal funds for the County; and

WHEREAS, MBTA provides Dial-a-Ride, Fixed-Route, and Deviated Fixed-Route public transportation service in ten communities of San Bernardino County including Joshua Tree, Twentynine Palms, Yucca Valley, Morongo Valley, and Landers. MBTA also provides commuter and weekend service between Twentynine Palms Marine Corps Base and Palm Springs, California; and

WHEREAS, MBTA anticipates the need for new or expanded operating facilities and/or transit centers to support its public transit service operations (the “Projects”), and is in need of on-call project development/ management/engineering support services; and

WHEREAS, SBCTA has certain project development/ management/engineering Staff and/or On-Call Consultants under contract (collectively referred to as SBCTA STAFF) that are or can become available to assist MBTA; and

NOW, THEREFORE, SBCTA and MBTA in consideration of the mutual covenants hereinafter set forth and intending to be legally bound hereby agree as follows:

1. Project Management Responsibilities

- a. Overall Project Management Responsibility for the Projects as identified in Exhibit “A” Scope of Work shall remain with MBTA.

- b. MBTA's Project Manager or his/her designee shall provide direction to SBCTA STAFF assisting MBTA on the Projects as identified in Exhibit "A" Scope of Work.

2. SBCTA Responsibilities

- a. SBCTA shall provide project development / management / engineering support services through a combination of SBCTA STAFF, to MBTA, for support of the Projects as identified in Exhibit "A" Scope of Work.
- b. The total not-to-exceed cost for services provided by SBCTA as described in Exhibit "A" for which MBTA shall reimburse SBCTA under this AGREEMENT shall not exceed \$ [REDACTED] over the term of this AGREEMENT, unless subsequently amended by mutual agreement of the Parties. The specific SBCTA STAFF positions, their rates and estimated Other Direct Costs are identified in Exhibit "B" - SBCTA Billing Rate Schedule.
- c. SBCTA STAFF selected for this assignment shall be selected by SBCTA with the review and concurrence of MBTA, and are subject to change. SBCTA shall endeavor to make the SBCTA STAFF selected for services provided on the Project available full or part time for a minimum of XX months.
- d. SBCTA STAFF will recognize and follow all applicable rules, regulations or policies established by MBTA and provided to SBCTA STAFF affecting or pertaining to operation of the Project site(s), when SBCTA STAFF are performing services.
- e. SBCTA STAFF shall work full or part time as needed per Exhibit "A" Scope of Work, but not to exceed a forty (40) hour workweek and shall be on the same schedule as SBCTA's regular employees unless other work schedule arrangements are agreed by SBCTA's Executive Director or designee in writing.
- f. SBCTA STAFF working on the Projects shall acknowledge that certain confidential or proprietary information belonging to MBTA may become available to them, and as such, shall maintain such confidentiality.
- g. SBCTA STAFF are assigned to MBTA only for the purposes and to the extent set forth in this Agreement. SBCTA STAFF'S relationship to MBTA and its subsidiaries and clients shall during the period of this assignment and services hereunder be that of a SBCTA employee or independent consultant, as applicable, working in a professional manner. SBCTA STAFF shall not be considered as having an employee status with MBTA or being entitled to participate in any plans or benefits of MBTA for its regular employees. SBCTA assumes full responsibility for all employment contributions, taxes, withholding, etc, (Employer withholdings) under any state and local laws, as applicable for SBCTA's employees and shall require SBCTA's On-Call Consultants to assume full responsibility for Employer withholdings for On-Call Consultants staff assigned to the project.
- h. SBCTA shall invoice MBTA no more frequently than monthly, and no less than quarterly for the services provided for that period, based on actual hours worked and using the fully-burdened hourly rates for direct employees, and the approved hourly billing rates for assigned consultant staff. Such fully-burdened hourly rates shall be specific to each position type, will be disclosed to MBTA in advance, and will be consistent with the labor rate in Exhibit "B".

SBCTA'S fully-burdened employee hourly rates shall include employee labor rates, fringe, benefits and overhead items such as workers' compensation, insurance, computers, office space and phone. For SBCTA On-Call Consultants assigned to the Project, SBCTA shall invoice MBTA the amount so billed by the On-Call Consultants for the Project work during the invoice period. With each invoice, SBCTA shall also identify any actual Project-related administrative, travel and other direct costs incurred by SBCTA STAFF in managing MBTA's project. Mileage shall be billed based on the current, approved Internal Revenue Service rate. However, SBCTA shall not apply a flat administrative fee or percentage.

3. MBTA Responsibilities

- a. MBTA shall direct and control the work activities of the SBCTA STAFF on Project work described herein, and shall be responsible for providing a safe place to work in compliance with all safety laws and regulations while working at MBTA-designated work site(s). MBTA is not responsible for the health or safety of any SBCTA STAFF due to injuries or property damage caused by others not within the control of MBTA at any Project site.
- b. MBTA shall furnish SBCTA STAFF with a copy of applicable rules, regulations and policies that MBTA deems necessary to implement the provisions in Section 2.d above.
- c. MBTA strictly agrees that it shall not induce, passively or actively solicit, approach or hire any of the SBCTA STAFF so long as this agreement is in effect and for a period of one (1) year thereafter except if mutually agreed in writing by SBCTA, MBTA, and, if applicable, On-Call Consultants under contract, on a case by case basis.
- d. Upon receipt of the SBCTA invoice, MBTA shall approve and make prompt payment on all invoices or explain in writing to the SBCTA Contact identified in Section 8 below (or designee), the reason for disapproval of any item within 10 business days of receipt. MBTA payment for undisputed invoice amounts shall be made within 30 days of receipt of invoice.

4. SBCTA and MBTA Joint Responsibilities and Understandings

- a. If SBCTA STAFF is deemed by MBTA or SBCTA to be unqualified to perform the assignment contracted for, MBTA may request the removal and/or replacement of the SBCTA STAFF.
- b. Overtime hours shall be defined by SBCTA and approved by MBTA, and SBCTA STAFF shall not be directed by MBTA to work Overtime hours, unless agreed to in writing by both Parties.
- c. MBTA has the unilateral right to continue using services from its own contract engineer or firms selected through a competitive bidding process conducted by MBTA. SBCTA staff or on-call consultants (collectively, "SBCTA STAFF") will provide support as requested to MBTA to advance the Project. Exhibit "A", Scope of Work, provides a high-level description of the services SBCTA STAFF will supply to MBTA. More detailed scope of work elements will be discussed and agreed to between the Parties.

5. Indemnification

- a. To the fullest extent permitted by law, MBTA shall protect, indemnify, defend and hold harmless SBCTA and any and all of its officials, employees, volunteers, and agents (“Indemnified Parties”) from and against any and all losses, liabilities, damages, and costs and expenses (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorney’s fees and costs, court costs, interest, defense costs, and expert witness fees) where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the negligence, recklessness, or willful misconduct of MBTA, its officers, agents, employees or subconsultants, or any entity or individual that MBTA shall bear the legal liability thereof.
- b. To the fullest extent permitted by law, SBCTA shall protect, indemnify, defend and hold harmless MBTA and any and all of its officials, employees, volunteers, and agents (“Indemnified Parties”) from and against any and all losses, liabilities, damages, and costs and expenses (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorney’s fees and costs, court costs, interest, defense costs, and expert witness fees) where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the negligence, recklessness, or willful misconduct of SBCTA, its officers, agents, employees or subconsultants, or any entity or individual that SBCTA shall bear the legal liability thereof.
6. **Venue.** This AGREEMENT shall be construed and interpreted solely in accordance with the laws of the State of California.
7. **Binding Provisions.** The persons executing this AGREEMENT on behalf of the Parties hereto warrant that they are duly authorized to execute this AGREEMENT on behalf of said Parties and that, by so executing this AGREEMENT, the Parties hereto are formally bound to the provisions of this AGREEMENT.
8. **Notices.** All notices hereunder and communications required or permitted by this AGREEMENT, or changes thereto, or by law to be served on, given to or delivered to any other Party hereto by any other Party to this AGREEMENT shall be in writing or authorized in writing, and may be sent by regular mail, email or FAX. Any such notice shall be addressed to:

Notices to SBCTA:

Name:	Carrie Schindler
Title:	Director of Transit and Rail
Address:	1170 W. 3 rd Street, 2 nd Floor
City, State Zip:	San Bernardino, California, 92410
Email:	cschindler@sanbag.ca.gov
FAX:	909-885-4407

Notices to the MBTA:

Name: Mark Goodale
 Title: General Manager
 Physical Address: 62405 Verbena Road
 City, State Zip: Joshua Tree, California, 92252
 Email: mark@mbtabus.com
 FAX: 760-366-2445

9. Other Provisions.

- a. This AGREEMENT shall terminate ____, 20__, unless earlier terminated by mutual agreement of the Parties.
- b. The headings of all sections of this AGREEMENT are inserted solely for the convenience of reference and are not part of and not intended to govern, limit, or aid in the construction or interpretation of any terms or provision thereof.
- c. The provisions of this AGREEMENT shall bind and inure to the benefit of each of the Parties hereto and all successors or assigns of the Parties hereto.
- d. If any term, provision, covenant, or condition of this AGREEMENT is held to be invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder to this AGREEMENT shall not be affected thereby, and each term, provision, covenant or condition of this AGREEMENT shall be valid and enforceable to the fullest extent permitted by law.
- e. This AGREEMENT may be executed and delivered in any number of counterparts, each of which, when executed and delivered shall be deemed an original and all of which together shall constitute the same AGREEMENT. Secure electronic signatures will be permitted.
- f. This AGREEMENT may be amended in writing at any time by the mutual consent of the Parties. No amendment shall have any force or effect unless executed in writing by the Parties. The Parties agree that minor administrative changes, such as changes in assigned staff, modifications to scope-of-work elements, etc., may be approved administratively without re-approval by the Parties' Boards of Directors.
- g. SBCTA or MBTA may terminate this AGREEMENT, without cause, by delivering written notice of termination to the other Party not less than thirty (30) calendar days before the date of termination. In the event that services are underway at the time such notice of termination is issued, SBCTA and its On-Call Consultants, if assigned to the project, shall follow the termination provisions of the on-call contracts and any outstanding services up to the date of termination shall be paid for in accordance with AGREEMENT terms before termination of this AGREEMENT shall be complete.
- h. Neither this AGREEMENT, nor any of a Party's rights, obligations or duties hereunder may be assigned in whole or in part by either Party without the prior written consent of the other Party. Any such attempt of assignment shall be deemed void and of no force and effect. Consent to one assignment shall not be deemed consent to any subsequent assignment, nor the waiver of any right to consent to such subsequent assignment.

- i. The Parties warrant that, in the performance of this AGREEMENT, they shall comply with all applicable federal, state and local laws, statutes and ordinances and lawful orders, rules and regulations promulgated thereunder.
- j. Either Party shall be excused from performing its obligations under this AGREEMENT during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control, including but not limited to: any incidence of fire, flood, acts of God, commandeering of material, products, plants or facilities by the federal, state or local government, national fuel shortage, or a material act or omission by the other Party, when satisfactory evidence of such cause is presented to the other Party, and provided further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the Party not performing.
- k. Exhibit A – Scope of Work and Exhibit B – SBCTA Billing Rate Schedule are attached to and incorporated to this AGREEMENT.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first above written.

San Bernardino County Transportation Authority

Morongo Basin Transit Authority

By: _____
Raymond W. Wolfe
Executive Director

By: _____
Mark Goodale
General Manager

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____

By: _____

Name/Title: _____

Name/Title: _____

EXHIBIT "A"

"PROJECT SPECIFIC SCOPE OF WORK"

EXHIBIT "B"
"PROJECT SPECIFIC FEES"

Minute Action

AGENDA ITEM: 15

Date: *October 5, 2016*

Subject:

Cooperative Agreement with Mountain Area Regional Transit Authority for Maintenance Facility Study

Recommendation:

That the Board, acting as the San Bernardino County Transportation Authority, authorize the Executive Director or his designee to execute Cooperative Agreement No. 17-1001581 with the Mountain Area Regional Transit Authority to provide project development services for delivery of the Mountain Transit Facility Upgrade Study estimated at \$208,000.

Background:

One of the strategies identified in the County-wide Transit Efficiency Study (Study) presented to the Board in August 2015 included the temporary furnishing of SANBAG staff assistance to the local transit operators in San Bernardino County to support project development, project delivery and studies on an as-needed basis for individual projects. Based on the recommendations of the Study, cooperative agreement templates were prepared and reviewed by both our staff and the individual transit agency staff. Approval of the templates is scheduled for review and approval as a separate agenda item.

Anticipating approval of the template, Mountain Area Regional Transit Authority, also known as Mountain Transit (MT), submitted a scope of services for their Mountain Transit Facility Upgrade Study with the request that SANBAG provide staff to accomplish the tasks described in the scope. MT has two existing maintenance facilities, one in Crestline and one in Big Bear. The Crestline facility has been upgraded and functions sufficiently for most of MT's administrative needs except that it does not have sufficient surface area for fleet storage and the location of the vehicle shop makes it difficult to maneuver vehicles. The Big Bear facility lacks office space, cannot accommodate larger buses, and does not have sufficient employee parking. The draft scope for the Study includes project management services, right-of-way support services, feasibility assessments, and preliminary planning for the upgrade or replacement of MT's Crestline and Big Bear Lake Facilities. Staff is working with our on-call consultants to determine the final scope of work and associated fee. Mountain Transit will be responsible to fund the cost of the study and project management service out of their available funds. Included as an attachment to this item is Cooperative Agreement No. 17-1001581 with Mountain Transit for SANBAG to fulfill these services.

Financial Impact:

This item is not consistent with the adopted SANBAG Budget. Prior to proceeding with this work, a budget amendment will be presented as part of a larger department budget amendment to the October Transit Committee and November Board of Directors meeting.

Entity: CTA

Board of Directors Agenda Item

October 5, 2016

Page 2

Reviewed By:

This item was reviewed by the Transit Committee on September 15, 2016, acting as a committee of the whole without a quorum present. Following discussion, the Committee recommended placement of this item on the Consent Calendar. The template cooperative agreement used for Cooperative Agreement No. 17-1001581 was reviewed and approved by SANBAG General Counsel.

Responsible Staff:

Carrie Schindler, Director of Transit and Rail

Approved
Board of Directors
Date: October 5, 2016

Witnessed By:

General Contract Information

Contract No: 17-1001581 Amendment No.: _____ Vendor No.: 1342
 Vendor/Customer Name: _____ Mountain Transit Sole Source? Yes No
 Description: Cooperative Agreement for SBCTA to do Maintenance Facility Study
 Start Date: 10/05/2016 Expiration Date: 06/30/2017 Revised Expiration Date: _____
 Has Contract Term Been Amended? No Yes - Please Explain _____
 List Any Related Contracts Nos.: _____

Dollar Amount			
Original Contract	\$ 208,000.00	Original Contingency	\$ -
Revised Contract (Inclusive of Prior Amendments)	\$ -	Revised Contingency (Inclusive of Prior Amendments)	\$ -
Current Amendment	\$ -	Contingency Amendment	\$ -
TOTAL CONTRACT VALUE	\$ 208,000.00	TOTAL CONTINGENCY VALUE	\$ -
		TOTAL DOLLAR AUTHORITY (Contract Value and Contingency)	\$ 208,000.00

Contract Authorization

Executive Director Date: _____
 Executive Director Action: _____
 Board of Directors Date: 10/05/2016
 Board of Directors Action: Approve cooperative agreement with Mountain Transit

Contract Management: Payable/Miscellaneous

Invoice Warning: 20% Renewals: _____ Type: Capital PAA Other
 Retention: % Maximum Retention: \$ _____
 Services: Construction Intrgrnt/MOU/COOP A & E Services Other Professional Services
 Disadvantaged Business Enterprise (DBE) Goal _____ %

Contract Management: Receivable

E-76 and/or CTC Date _____ (Attach Copy) Program Supplement No.: _____
 Finance Letter Reversion Date: _____ EA No.: _____

All of the above MUST be submitted to FINANCE including originals, amendments and miscellaneous transaction changes

Additional Information

Project Manager: Carrie Schindler

**COOPERATIVE AGREEMENT NO 17-1001581
BY AND BETWEEN SAN BERNARDINO COUNTY TRANSPORTATION
AUTHORITY
AND
MOUNTAIN AREA REGIONAL TRANSIT AUTHORITY
FOR
TEMPORARY FURNISHING OF STAFF ASSISTANCE FOR MOUNTAIN
TRANSIT FACILITY UPGRADE STUDY**

THIS COOPERATIVE AGREEMENT (“Agreement”) is effective on the _____ day of _____, 2016, by and between the San Bernardino County Transportation Authority (“SBCTA”), whose address is 1170 W. 3rd Street, 2nd Floor, San Bernardino, California 92410-1715, and Mountain Area Regional Transit Authority (“MT”), a public agency formed under a Joint Powers Agreement, whose address is 41939 Fox Farm Road, Big Bear Lake, California, 92315. SBCTA and MT are each a “Party” and collectively are the “Parties” as identified herein.

RECITALS:

WHEREAS, SBCTA, as the Transportation Commission for San Bernardino County, has the responsibility to oversee and coordinate the provision of public transportation services and allocation of local, state and Federal funds for the County; and

WHEREAS, MT provides Dial-a-Ride and Fixed Route public transportation service throughout the rural San Bernardino Mountain communities of the Big Bear Valley, Crestline, Lake Arrowhead, and Running Springs. Mountain Transit also provides Off-the-Mountain commuter service between these communities and the city of San Bernardino; and

WHEREAS, MT needs new or expanded operating facilities to support its public transit service operations and maintenance (the “Project”), and is in need of project development/ management/engineering support services; and

WHEREAS, SBCTA has certain project development/ management/engineering Staff and/or On-Call Consultants under contract (collectively referred to as SBCTA STAFF) that are or can become available to assist MT;

NOW, THEREFORE, SBCTA and MT in consideration of the mutual covenants hereinafter set forth and intending to be legally bound hereby agree as follows:

1. Project Management Responsibilities

- a. Overall Project Management Responsibility for the Project as identified in Exhibit “A” Scope of Work shall remain with MT.

- b. MT's Project Manager or his/her designee shall provide direction to SBCTA STAFF assisting MT on the Project as identified in Exhibit "A" Scope of Work.

2. SBCTA Responsibilities

- a. SBCTA shall provide project development / management / engineering support services through a combination of SBCTA STAFF, to MT, for support of the Project as identified in Exhibit "A" Scope of Work.
- b. The total not-to-exceed cost for services provided by SBCTA as described in Exhibit "A" for which MT shall reimburse SBCTA under this AGREEMENT shall not exceed two hundred eight thousand dollars (\$208,000) over the term of this AGREEMENT, unless subsequently amended by mutual agreement of the Parties. The specific SBCTA STAFF positions, their rates and estimated Other Direct Costs are identified in Exhibit "B" SBCTA Billing Rate Schedule.
- c. SBCTA STAFF selected for this assignment shall be selected by SBCTA with the review and concurrence of the MT, and are subject to change. SBCTA shall endeavor to make the SBCTA STAFF selected for services provided on the Project available full or part time for a minimum of 18 months.
- d. SBCTA STAFF will recognize and follow all applicable rules, regulations or policies established by MT and provided to SBCTA STAFF affecting or pertaining to operation of the Project site, when SBCTA STAFF are performing services.
- e. SBCTA STAFF shall work full or part time as needed per Exhibit "A" Scope of Work, but not to exceed a forty (40) hour workweek and shall be on the same schedule as SBCTA's regular employees unless other work schedule arrangements are agreed by SBCTA's Executive Director or designee in writing.
- f. SBCTA STAFF working on the Project shall acknowledge that certain confidential or proprietary information belonging to MT may become available to them, and as such, shall maintain such confidentiality.
- g. SBCTA STAFF are assigned to MT only for the purposes and to the extent set forth in this Agreement. SBCTA STAFF'S relationship to MT and its subsidiaries and clients shall during the period of this assignment and services hereunder be that of a SBCTA employee or independent consultant, as applicable, working in a professional manner. SBCTA STAFF shall not be considered as having an employee status with MT or being entitled to participate in any plans or benefits of MT for its regular employees. SBCTA assumes full responsibility for all employment contributions, taxes, withholding, etc., (Employer Withholdings) under any state and local laws, as applicable for SBCTA's employees and shall require SBCTA's On-Call Consultants to assume full responsibility for Employer withholdings for On-Call Consultants staff assigned to the Project.
- h. SBCTA shall invoice MT no more frequently than monthly, and no less than quarterly for the services provided for that period, based on actual hours worked and using the fully-burdened hourly rates for direct employees, and the approved hourly billing rates for assigned consultant staff. Such fully-burdened hourly rates shall be specific to each position type, will be disclosed to MT in advance, and will be consistent with the labor rate in Exhibit "B". SBCTA'S fully-burdened employee hourly rates shall include employee labor

rates, fringe, benefits and overhead items such as workers' compensation, insurance, computers, office space and phone. For SBCTA On-Call Consultants assigned to the Project, SBCTA shall invoice MT the amount so billed by the On-Call Consultants for the Project work during the invoice period. With each invoice, SBCTA shall also identify any actual Project-related administrative, travel and other direct costs incurred by SBCTA STAFF in managing MT's project. Mileage shall be billed based on the current, approved Internal Revenue Service rate. However, SBCTA shall not apply a flat administrative fee or percentage.

3. MT Responsibilities

- a. MT shall direct and control the work activities of the SBCTA STAFF on the project work described herein, and shall be responsible for providing a safe place to work in compliance with all safety laws and regulations while working at MT-designated work site(s). MT is not responsible for the health or safety of any SBCTA STAFF due to injuries or property damage caused by others not within the control of MT at any Project site.
- b. MT shall furnish SBCTA STAFF with a copy of applicable rules, regulations and policies that MT deems necessary to implement the provisions in Section 2.d above.
- c. MT strictly agrees that it shall not induce, passively or actively solicit, approach or hire any of the SBCTA STAFF so long as this agreement is in effect and for a period of one (1) year thereafter except if mutually agreed in writing by SBCTA, MT, and, if applicable, On-Call Consultants under contract, on a case by case basis.
- d. Upon receipt of the SBCTA invoice, MT shall approve and make prompt payment on all invoices or explain in writing to the SBCTA Contact identified in Section 8 below (or designee), the reason for disapproval of any item within 10 business days of receipt. MT payment for undisputed invoice amounts shall be made within 30 days of receipt of invoice.

4. SBCTA and MT Joint Responsibilities

- a. If SBCTA STAFF is deemed by MT or SBCTA to be unqualified to perform the assignment contracted for, MT may request the removal and/or replacement of the SBCTA STAFF.
- b. Overtime hours shall be defined by SBCTA and approved by MT, and SBCTA STAFF shall not be directed by MT to work Overtime hours, unless agreed to in writing by both Parties.

5. Indemnification

- a. Neither SBCTA nor any officer or employee or agent thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by MT and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon MT under this Agreement. It is understood and agreed that MT will fully defend, indemnify, and save harmless SBCTA and all of its officers, employees and agents from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories or assertions

of liability occurring by reason of anything done or omitted to be done by MT and/or its agents under this Agreement.

- b. Neither MT nor any officer or employee thereof is responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by SBCTA and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon SBCTA under this Agreement. It is understood and agreed that SBCTA will fully defend, indemnify, and save harmless MT and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories or assertions of liability occurring by reason of anything done or omitted to be done by SBCTA and/or its agents under this Agreement.
6. **Venue.** This AGREEMENT shall be construed and interpreted solely in accordance with the laws of the State of California.
7. **Binding Provisions.** The persons executing this AGREEMENT on behalf of the Parties hereto warrant that they are duly authorized to execute this AGREEMENT on behalf of said Parties and that, by so executing this AGREEMENT, the Parties hereto are formally bound to the provisions of this AGREEMENT.
8. **Notices.** All notices hereunder and communications required or permitted by this AGREEMENT, or changes thereto, or by law to be served on, given to or delivered to any other Party hereto by any other Party to this AGREEMENT shall be in writing or authorized in writing, and may be sent by regular mail, email or FAX. Any such notice shall be addressed to:

Notices to SBCTA:

Name: Carrie Schindler, PE
 Title: Director of Transit and Rail Programs
 Address: 1170 W. 3rd Street, 2nd Floor
 City, State Zip: San Bernardino, California, 92410
 Email: cschindler@sanbag.ca.gov
 FAX: 909-885-4407

Notices to the MT:

Name: Ms. Kathy Hawksford
 Title: General Manager/Chief Executive Officer
 Physical Address: 41939 Fox Farm Road
 Mailing Address: PO Box 1501
 City, State Zip: Big Bear Lake, California, 92315
 Email: khawksford@mountaintransit.org
 FAX: 909-963-7200

9. **Other Provisions.**
- a. This Agreement shall commence upon execution by all Parties and terminate on June 30, 2017, unless earlier terminated by mutual agreement of the Parties.

- b. The headings of all sections of this AGREEMENT are inserted solely for the convenience of reference and are not part of and not intended to govern, limit, or aid in the construction or interpretation of any terms or provision thereof.
- c. The provision of this AGREEMENT shall bind and inure to the benefit of each of the Parties hereto and all successors or assigns of the Parties hereto.
- d. If any term, provision, covenant, or condition of this AGREEMENT is held to be invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder to this AGREEMENT shall not be affected thereby, and each term, provision, covenant or condition of this AGREEMENT shall be valid and enforceable to the fullest extent permitted by law.
- e. This AGREEMENT may be executed and delivered in any number of counterparts, each of which, when executed and delivered shall be deemed an original and all of which together shall constitute the same AGREEMENT. Secure electronic signatures will be permitted.
- f. This AGREEMENT may be amended in writing at any time by the mutual consent of the Parties. No amendment shall have any force or effect unless executed in writing by the Parties. The Parties agree that minor administrative changes, such as changes in assigned staff, modifications to scope-of-work elements, etc., may be approved administratively without re-approval by the Parties' Boards of Directors.
- g. SBCTA or MT may terminate this AGREEMENT, without cause, by delivering written notice of termination to the other Party not less than thirty (30) calendar days before the date of termination. In the event that services are underway at the time such notice of termination is issued, SBCTA and its On-Call Consultants, if assigned to the project, shall follow the termination provisions of the on-call contracts and any outstanding services up to the date of termination shall be paid for in accordance with AGREEMENT terms before termination of this AGREEMENT shall be complete.
- h. Neither this AGREEMENT, nor any of a Party's rights, obligations or duties hereunder may be assigned in whole or in part by either Party without the prior written consent of the other Party. Any such attempt of assignment shall be deemed void and of no force and effect. Consent to one assignment shall not be deemed consent to any subsequent assignment, nor the waiver of any right to consent to such subsequent assignment.
- i. The Parties warrant that, in the performance of this AGREEMENT, they shall comply with all applicable federal, state and local laws, statutes and ordinances and lawful orders, rules and regulations promulgated thereunder.
- j. Either Party shall be excused from performing its obligations under this AGREEMENT during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control, including but not limited to: any incidence of fire, flood, acts of God, commandeering of material, products, plants or facilities by the federal, state or local government, national fuel shortage, or a material act or omission by the other Party, when satisfactory evidence of such cause is presented to the other Party, and

- provided further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the Party not performing.
- k. Exhibit A – Scope of Work and Exhibit B – SBCTA Billing rate Schedule are attached to and incorporated into this agreement.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first above written.

San Bernardino County Transportation Authority

Mountain Transit Area Regional Transit Authority

By: _____
Raymond W. Wolfe
Executive Director

By: _____
Kathy Hawksford
General Manager/CEO

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____

By: _____

Name/Title: _____

Name/Title: _____

EXHIBIT "A" SCOPE OF WORK

Mountain Transit Facility Upgrade Project Statement of Work

Introduction: Mountain Transit (MT) and the San Bernardino County Transportation Authority ("SBCTA") have approved a Cooperative Agreement whereby SBCTA may provide technical and administrative facility planning assistance to MT to implement facility improvement recommendations included in the 2016 MT Short Range Transit Plan (SRTP). This Statement of Work (SOW) outlines the Tasks to be provided by SBCTA Staff and/or its On-Call Consultants (SBCTA Staff), the terms of the Cooperative Agreement and the On-Call Transit and Rail Services consulting contract.

This SOW has five components:

- SANBAG Oversight
- Project Management
- Right of way (ROW) efforts in support of land acquisition and improvements at both the Crestline and Big Bear Lake Facilities. MT currently has an interest in a property that is currently for sale in Crestline, and it is anticipated that assistance regarding this parcel would be the first priority under this Scope. Further, MT is responsible for vetting the use of the existing property with the appropriate agencies and community groups in Crestline Area.
- Facility improvements at the Crestline Facility
- Facility improvements at the existing Big Bear Lake Facility, purchase of another existing facility, or construction of a new facility

While the Tasks require similar expertise for each location, they are presented as separate and distinct SOWs for the purpose of task scheduling, performance tracking, and labor tracking.

It is anticipated that all work will be done in accordance with Federal Transit Administration requirements.

PART A. SANBAG Oversight

SBCTA Staff will provide oversight of the on-call consultant contract in support of the project, including but not limited to: contract management: schedule and placement of SBCTA agenda items; general coordination including attending the project meetings; monitor contract schedule, scope and budget; review and process invoices; prepare requests for reimbursement; and review project deliverables.

PART B. Project Management Efforts

SBCTA Staff will perform project management services in support of the project including, but not limited to, initiation and administration of Project Meetings, development and administration of the Project Schedule, management of the Project Budget, implementation of Quality Assurance measures, creation of Staff Reports, and presentations at Committee and Board meetings. These activities will fall within the following categories:

Task 1.1 – Project Management

Task 1.2 – Project Administration

Task 1.3 – Project Controls

Part B Deliverables:

- Initial setup of the project in SBCTA and its On-Call Consultant's project management and accounting system
- Execution of sub-consultant task order agreement
- Scheduling and conducting Project Meetings and documenting meeting summaries
- Development and tracking of project schedule
- Management of the project budget
- Monthly reporting and invoicing
- On-going project QA/QC

PART C. ROW Support Efforts

Task 2 - Crestline Land Acquisition.

SBCTA Staff, acting as the MT Facility partner under the terms of the approved Cooperative Agreement, will provide the following technical and administrative support to MT:

Task 2.1 - Meet with SBCTA Staff and MT and to determine criteria for properties.

Task 2.2 - Evaluate up to 5 property options for viability of MT use.

Task 2.3 - Meet with SBCTA Staff and MT to present identified properties.

Task 2.4 - Perform an environmental transaction screen to determine any potential environmental issues (see below) and a preliminary title report on one property.

Task 2.5 - Appraise and review one property in accordance with FTA requirements.

Task 2.6 - Obtain FTA approvals to make an offer for one property, and obtain FTA approvals to purchase one property.

Task 2.7 - Provide staff assistance to negotiate and purchase land.

Task 2.8 - Provide recommendations as to initial land improvements for security (fencing, monitoring, etc.).

Land Acquisition Approach:

It should be noted that, because MT is potentially planning to use FTA funds for the project, FTA has to approve the offer for, and purchase of any property transaction. It is important to involve FTA early in the process and get their approval before MT proceeds with any transaction. FTA approval can take six weeks to three months, depending on the availability

of staff and the complexity of the transaction. Ideally, more than one site should be identified as potential locations.

MT would begin by informing FTA of the nature of the study and their intent to acquire property for the new facility. Through our study, once we have identified the area where the facility would be, our team would identify candidate parcels on the market that meet MT's requirements. We can do a "transaction screen" (which is similar to a Phase 1 environmental and uses the exact same research techniques, but is less costly, as the provider doesn't make a financial opinion of the condition and is without the financial guarantee of a Phase 1).

We would also do an appraisal and review appraisal of the property within FTA requirements.

An alternate approach is to pursue options on several of the identified properties. This "basket of option sites" would be taken to FTA for review and concurrence to proceed with purchase options with the property owners. FTA will review the sites for appropriate valuation and other considerations and authorize MT to proceed, probably taking anywhere from six weeks to three months (we have to allow for this in our schedule). Once FTA concurrence has been given, MT would approach all property owners and attempt to negotiate purchase options with each, wherein the property owner would hold the property for a period of time (up to two years is common) while we complete the study. Since multiple properties would potentially be under consideration, MT would inform each seller that they are just one of several being considered, to help control tendencies to increase prices. The specifics could be discussed by MT staff in closed session with their Board to keep the option negotiations confidential. Once the decision has been made on which site is desired, MT would obtain FTA final concurrence before proceeding with the purchase.

Task 3 – Big Bear Land Acquisition

SBCTA Staff, acting as the MT Facility partner under the terms of the approved Cooperative Agreement, will provide the following technical and administrative support to MT:

Task 3.1 - Meet with SBCTA Staff and MT to determine criteria for properties.

Task 3.2 - Evaluate up to 5 property options for viability of MT use.

Task 3.3 - Meet with SBCTA Staff and MT to present identified properties.

Task 3.4 - Perform an environmental transaction screen to determine any potential environmental issues (see below) and a preliminary title report on one property.

Task 3.5 - Appraise and review appraise one property in accordance with FTA requirements.

Task 3.6 - Obtain FTA approvals to make an offer for one property, and obtain FTA approvals to purchase one property.

Task 3.7 - Provide staff assistance to negotiate and purchase land.

Task 3.8 - Provide recommendations as to initial land improvements for security (fencing, monitoring, etc.).

The considerations regarding FTA involvement in the acquisition of a new site discussed for Crestline would also apply for the Big Bear location. The SBCTA Staff will provide the necessary technical support to purchase property for either or both locations but Mountain Transit would be the purchaser.

Part C Deliverables:

- Identification of available properties/sites that meet MT's needs at each location
- Property recommendations based on evaluation factors reviewed and approved by MT and SBCTA
- Prepare FTA requests for approval for making an offer on, and purchasing, the proposed site (s) and liaise with FTA to get written approval
- Perform "transaction screens" and preliminary appraisals for proposed site
- Upon FTA concurrence, approach each property owner on MT's behalf to negotiate purchase options
- Facilitate document execution and oversee escrow

PART D. MT Crestline Facility: SBCTA Staff, acting as the MT Facility partner under the terms of the approved Cooperative Agreement, will provide the following technical and administrative support to MT:

Task 4 – Conduct MT Crestline Facility Modernization Feasibility Assessment – SBCTA Staff will conduct a feasibility assessment of implementing facility modernization upgrades at the MT Crestline Maintenance Shop/Bus Bay ("Crestline Facility"). This feasibility assessment will include, but is not limited to, the following subtasks:

- 4.1 Facility Requirements Assessment – in coordination with MT staff, SBCTA Staff will conduct an assessment of required upgrades and modernization alternatives to the existing MT Crestline Facility based on the vehicle type and quantity identified by MT to be serviced or stored at this location over the next 20 years. This will include, but is not limited to:

4.1a) Conduct a needs assessment with MT staff to understand the current facility shortcomings, areas that require modernization as well as complete reconstruction, and how the current needs can be accommodated within the current Facility footprint. Also identify MT's needs based on MT's projection of fleet changes over the next 20 years. Specific areas of assessment will include:

- Current and projected bus maintenance bay and equipment requirements for anticipated fleet types
- Current and projected bus storage requirements for anticipated fleet types
- Current and future parts storage
- Current and projected fueling system requirements
- Current and projected operations, maintenance, dispatch, and administrative staff space requirements
- Other functional requirements identified by MT

4.1b) Conduct an inspection of the current Crestline facility to determine structural integrity, conformance with current County codes and other agency codes as applicable;

4.1c) Identify existing facility elements that can be retained during reconstruction;

4.1d) Based on input from MT staff, identify needed facility improvements, including maintenance activity space, bus storage space, structural, electrical, plumbing, HVAC, occupational safety, exterior parking accommodations, and ancillary improvements including but not limited to physical security, landscaping, etc.

4.1e) Recommend whether or not a Title VI Equity Analysis for Determining the Site or Location of Facilities is needed for MT desired alternative and assist MT in completing the process.

- 4.2 Construction Business Model Assessment – SBCTA Staff will assess options pertaining to a facility reconstruction business model (design-bid-build, design-build, etc.).
- 4.3 Preliminary Planning – Based on the results of the Facility Requirements Assessment in 4.1, SBCTA Staff will develop up to 3 Conceptual designs for the proposed facility. SBCTA Staff will conduct an analysis of the 3 options and recommend a preferred option. At a minimum, the analysis will consider efficiency, capital cost, on-going operating costs, safety and environmental factors. SBCTA Staff will meet with MT staff to present the conceptual options and assist in the selection of a preferred option.
- 4.4 Preliminary Cost Estimate – SBCTA Staff will develop a preliminary cost estimate based on the findings of Task 4.1 and the preferred option selected in Task 4.3. This cost estimate will be refined during performance of a future Phase 2, Facility Design & Engineering (not a part of this current task order).

Part D Deliverable:

The Crestline Facility Modernization Feasibility Assessment will be documented in a Draft and Final Feasibility Assessment Report documenting all of the information and analysis conducted for Part D, Tasks 4.1 – 4.4 above.

PART E. MT Big Bear Lake Facility: SBCTA Staff, acting as the MT Facility partner under the terms of the approved Cooperative Agreement, will provide the following technical and administrative support to MT:

Task 5 – Conduct MT Big Bear Lake Facility Modernization Feasibility Assessment – SBCTA Staff will assist MT in conducting a feasibility assessment for the construction of new administration, operations, and maintenance facilities, retrofit and expansion of the existing Big Bear Lake Facility, or the purchase and retrofit of an existing facility, in Big Bear Lake (Big Bear Lake Facility). This feasibility assessment will include, but is not limited to, the following subtasks:

5.1 Facility Requirements Assessment – in coordination with MT staff, SBCTA Staff will conduct a requirements assessment for the construction of administration, operations, and maintenance facilities in Big Bear Lake. This will include, but is not limited to:

5.1a) Based on input from MT staff, determine space requirements for MT administration, operations, and maintenance facilities over the next 20 years. Specific areas of assessment will include:

- Current and projected bus maintenance bay and equipment requirements for anticipated fleet types
- Current and projected bus storage requirements for anticipated fleet types
- Current and future parts storage
- Current and projected fueling system requirements
- Current and projected operations, maintenance, dispatch, and administrative staff space requirements
- Other functional requirements identified by MT

5.1b) Based on input from MT staff, determine the physical requirements of the facility, including but not limited to maintenance activity space, bus storage space, electric service requirements, plumbing and HVAC requirements, occupational safety, exterior parking accommodations, and ancillary improvements including but not limited to physical security, landscaping, etc.

5.1c) Based on the information developed in Task 5.1 a) and 5.1 b), conduct an assessment of which option or options for the Big Bear Lake Facility

(construction of a new facility, retrofit and expansion of the existing facility, or purchase and retrofit of an existing facility) can best meet MT's needs over the next 20 years.

5.1d) Recommend whether or not a Title VI Equity Analysis for Determining the Site or Location of Facilities is needed for MT desired alternative and assist MT in completing the process.

- 5.2 Construction Business Model Assessment – SBCTA Staff will assess options pertaining to a facility construction business model (design-bid-build, design-build, etc.).
- 5.3 Preliminary Planning – Based on the results of the Facility Requirements Assessment in 5.1, SBCTA Staff will develop up to 3 Conceptual designs for the proposed facility. SBCTA Staff will conduct an analysis of the 3 options and recommend a preferred option. At a minimum, the analysis will consider efficiency, capital cost, on-going operations costs, safety and environmental factors. SBCTA Staff will meet with MT staff to present the conceptual options and assist in the selection of a preferred option.
- 5.4 Preliminary Cost Estimate – SBCTA Staff will develop a preliminary cost estimate based on the findings of Task 5.1 and the preferred option selected in Task 5.3. This cost estimate will be refined during performance of a future Phase 2, Facility Design & Engineering (not a part of this current task order).

Part E Deliverable:

The Big Bear Lake Facility Modernization Feasibility Assessment will be documented in a draft and final Feasibility Assessment Report, documenting all of the information and analysis conducted for Part E, Tasks 5.1 – 5.4 above.

Assumptions reflected in the Fee Proposal for On-Call Consultants Fleet & Facilities staff, Houston

The following assumptions apply to Part C (MT Crestline Facility Assessment) and Part E (MT Big Bear Lake Facility Assessment) unless otherwise noted.

1. Mountain Transit will provide:
 - a. Current organization chart(s) and current and projected staffing.
 - b. Current and projected fleet size and mix.
 - c. A copy of the 2016 MT Short Range Transit Plan (SRTP).
 - d. A copy of current County codes and other agency codes as applicable.
 - e. As-built drawings (site and facility) of the existing Crestline and Big Bear Lake Facilities, if available.
 - f. Information (including surveys and as-built drawings, if available) on other existing facilities that are being considered for purchase.

- g. Information (including surveys and as-built drawings, if available) on the property currently for sale in Crestline in which MT has an interest.
- 2. Inspection of the current Crestline facility will be a visual inspection. Determining “structural integrity” does not include a seismic analysis, core analysis, or destructive testing of any kind or the services of a structural engineer. Structural integrity is assumed to refer to an evaluation of the suitability of the existing structure to support the functional requirements of a maintenance operation such as overhead clearance and suitability for expansion if necessary.
- 3. Items not included:
 - a. Task 2 (Facility Design and Engineering) referred to under the “Preliminary Cost Estimate” paragraph.
 - b. Development of as-built drawings.
 - c. Development of detailed design criteria.
 - d. Any services not specifically mentioned in the scope of services.
- 4. The Facility Requirements Assessment will be conducted for both the Crestline Facility and the Big Bear Lake Facility during one two day workshop. The workshop will be conducted with two people from the On-Call Consultant’s Fleet and Facilities group out of Houston.
- 5. A follow-up two-day workshop at MT will be conducted during Preliminary Planning to present up to three conceptual designs, get MT feedback, revise the concept designs based on MT feedback, and review the revised designs with MT the following day. The workshop will be conducted with two people from PB’s Fleet and Facilities group out of Houston.
- 6. Conceptual site plans will be based on maps from Google, unless surveys or as-built drawings are provided by MT.
- 7. Preliminary cost estimates will be conceptual level based on cost per square foot for similar facilities and will include contingency to reflect the conceptual nature of the estimate.
- 8. All deliverables will be made electronically in PDF format. No hard copies will be provided.

Assumptions reflected in the Fee Proposal from On-Call Consultants for Part C, ROW Support Efforts for Crestline and Big Bear:

- 1. Task 1 and Task 2 kick-off and alternatives discussion meetings will be held at the same time.
- 2. The property to be acquired is unoccupied. Assumes no fixtures and equipment appraisals are required.
- 3. One property will be pursued for purchase for each location – Big Bear area and Crestline area.

4. On-Call Consultant will make recommendations as to land improvements for security. MT or SBCTA Staff will be responsible for demolition, grading, fencing, maintenance and security.
5. Vetting the property with the community will be performed by MT and outside the scope of this contract.
6. On-Call Consultant will perform all negotiations, acquisitions, and escrow oversight on MT's behalf.
7. If options to purchase the property are pursued instead of a single fee purchase, proposed fees will need to be revisited when more specific details are available.
8. The acquisition will be voluntary (not under eminent domain). Maximum negotiation period will be 4 months for each site.
9. MT will be responsible for property management after purchase.

General Assumptions:

1. This Scope and Fee proposal is a draft for discussion and refinement purposes. A final proposal will need to be reviewed internally by SBCTA Staff for official submittal.
2. Please see the cost proposal spreadsheets for specific assumptions regarding the scope of work tasks and level of effort.
3. A draft schedule is attached. The project is assumed to start on or around November 1. Scheduled dates are subject to change based on real estate market conditions, time requirements to negotiate options or purchases, and time periods to comply with FTA requirements and await FTA approvals.
4. Although the Statement of Work's order of tasks lists the property acquisition efforts before the facility assessments, it is strongly recommended that at least the initial tasks of the facility assessments occur first (barring any time sensitivity on a particular site acquisition), so that identified site needs can inform the site selection process. We have indicated this on the draft schedule, tying the start of ROW Support Activities to the completion of the Identification of Needed Facility Improvements (Crestline) and Evaluation of Which Option Best Meets MT's Needs (Big Bear).
5. It is assumed that SBCTA Staff/Mountain Transit will respond with comments on draft submittals within two calendar weeks of submittal. Longer agency review times will extend the project schedule.
6. "Other Direct Costs (ODCs)" will be billed at actual costs, up to the amounts stated in the cost proposal. Should additional ODCs become necessary, On-Call Consultant will request an amendment from SBCTA.
7. We have assumed for purposes of this proposal that a Title VI Equity Analysis will be determined to be needed for both facilities, and have budgeted hours to prepare that analysis.
8. It is assumed that formal Facility Design and Engineering is a future phase of this project and not a part of this task order.

EXHIBIT "B"
SBCTA BILLING RATE SCHEDULE AND OTHER DIRECT COSTS
FOR PROJECT DEVELOPMENT / CONSTRUCTION MANAGEMENT /
ENGINEERING SERVICES FOR MT PROJECT

SBCTA Oversight

Position	Fully Burdened Hourly Rate*	Not-to-Exceed Hours	Total Costs
SBCTA Project Manager	\$260.00	109	\$28,340.00
Subtotal		109	\$28,340.00

Expense Category**	Units	Cost	Line Item Costs
Travel – Mileage			\$500.00
Other Travel			\$1,000.00
Printing/shipping/postage			\$238.48
Subtotal			\$1,738.48

SBCTA Oversight Cost	\$30,078.48
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Mountain Transit Facility Assessment Study

Position	Fully Burdened Hourly Rate*	Not-to-Exceed Hours	Total Costs
Contract/Program Manager	\$277.69	4	\$1,110.76
Project Manager	\$258.49	122	\$31,535.78
Senior Planner	\$257.55	12	\$3,090.60
TOD/Land Use/ Permitting	\$201.95	24	\$4,846.80
Task Leader	\$295.35	94	\$27,762.90
Architect	\$171.13	20	\$3,422.60
Planner	\$91.89	178	\$16,356.42
Planner	\$117.36	30	\$3,520.80
Project Administrator	\$124.45	20	\$2,489.00
Senior Planner	\$249.88	8	\$1,999.04
Program Manager	\$236.79	122	\$28,888.38
Appraiser	\$205.22	50	\$10,261.00
Project Administrator	\$99.45	242	\$24,066.90
Project Control	\$126.29	26	\$3,283.54
Subtotal		440	\$162,634.52

Expense Category**	Units	Cost	Line Item Costs
Travel – Mileage			\$1,959.00
Other Travel			\$6,260.00
Printing/shipping/postage			\$568.00
Review Appraisal			\$1,500.00
Environmental Transaction Screen			\$2,000.00
On Line Data Services			\$1,000.00
Preliminary Title Report			\$2,000.00
Subtotal			\$15,287.00

Mountain Transit Facility Assessment Study Cost	\$177,921.52
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Total Project Cost	\$208,000.00
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*These rates are based on current SBCTA budgeted rates for fully burdened employees and On- Call Consultants. Hourly rates are subject to change over time based on employee salary and benefit increases as well as Consultant contract costs.

**Other Direct Costs anticipated during the course of Project as identified but may include other costs not listed.

Minute Action

AGENDA ITEM: 16

Date: *October 5, 2016*

Subject:

Amendments to the Form of the Assessment Contract Used for the Residential HERO Program

Recommendation:

Approve Resolution No. 17-006 that will approve the form of an amended Assessment Contract for the Residential HERO Program.

Background:

In October 2013, the Board of Directors approved a Property Assessed Clean Energy (PACE) program for both residential and commercial properties throughout San Bernardino County. That program is known as the HERO Program. From time to time, adjustments are made to the documents used in administering the program. Staff is requesting a change to the Assessment Contract used in the program to add an Arbitration Clause.

Resolution No. 17-006 amends the existing Assessment Contract in the following ways:

- Requires the property owner to try and resolve a dispute in good faith with SANBAG prior to bringing a formal claim.
- Provides that all disputes that are not resolved with SANBAG directly or through small claims court are subject to binding arbitration.
- Provides that both parties waive the right to trial by jury or a judge. The dispute must be resolved by binding arbitration.
- Prohibits class action claims from being brought against the SANBAG HERO Program.

These amendments to the Assessment Contract provide a more cost-efficient way for consumers and SANBAG to resolve disputes quickly. Specifically, arbitration typically takes just over a year to complete, whereas litigation in court may take up to five years. Arbitration can be cheaper, on average, than litigating in court. Arbitration proceedings also tend to follow more specific and defined timelines toward resolving a dispute resulting in quicker final decisions.

Both SANBAG and consumers will be entitled to the same rights and relief in arbitration as in a court of law. In addition, the parties will be required to select a mutually agreed-upon arbitrator based on established rules and guidelines adopted by JAMS, Inc. The decisions of the arbitrator are generally final. The parties would be prohibited from appealing the decision of the arbitrator and are bound by such decision.

Financial Impact:

This item is consistent with the adopted SANBAG budget.

Entity: *COG*

Board of Directors Agenda Item
October 5, 2016
Page 2

Reviewed By:

This item was reviewed and unanimously recommended for approval by the General Policy Committee on September 14, 2016. SANBAG General Counsel has reviewed this item and the draft resolution.

Responsible Staff:

Duane Baker, Deputy Executive Director

Approved
Board of Directors
Date: October 5, 2016

Witnessed By:

RESOLUTION NO. 17-006

RESOLUTION OF THE BOARD OF DIRECTORS OF SAN BERNARDINO ASSOCIATED GOVERNMENTS APPROVING AMENDMENTS TO THE FORM OF ASSESSMENT CONTRACT AND APPROVING OTHER ACTIONS IN CONNECTION THERETO

WHEREAS, the Board of Directors of the San Bernardino Associated Governments (“SANBAG”) undertook proceedings pursuant to Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code (the “Chapter 29”), the Joint Powers Agreement of the San Bernardino Associated Governments (“SANBAG”), originally made and entered into October 17, 1975 (the “Joint Powers Agreement”), as further amended to date, and each separate Memorandum of Understanding (each, a “PACE Memorandum of Understanding”) by and between SANBAG and those parties (each, a “Participating Party”) to the Joint Powers Agreement identified in Exhibit A of Resolution No. 13-038 entered into as of the effective date of such Resolution, to establish and did establish, by the adoption of Resolution No. 13-044 (the “Resolution Establishing the Program”), a voluntary contractual assessment program, to be known as the SANBAG Program (the “Program”), to assist property owners within the jurisdictional boundaries of each Participating Party with the cost of installing distributed generation renewable energy sources, energy or water efficient improvements or electric vehicle charging infrastructure (the “Eligible Improvements”) that are permanently fixed to their property; and

WHEREAS, by the adoption of the Resolution Establishing the Program, the Board of Directors approved a report (the “Program Report”) addressing all of the matters set forth in Section 5898.22 and Section 5898.23 of Chapter 29, including establishment of the boundaries of the territory of the Participating Parties within which voluntary contractual assessments may be offered (the “Program Area”) to provide for financing of the installation of Eligible Improvements on properties within the Program Area; and

WHEREAS, the owners of parcels participating in the Program must enter into an assessment contract with SANBAG in order to finance the installation of Eligible Improvements (the “Assessment Contract”); and

WHEREAS, this Board of Directors previously approved the form of the Assessment Contract and it has been proposed that certain changes be implemented to the Assessment Contract to allow for binding arbitration, waiver of a jury trial in the event of a claim against the Program; and

WHEREAS, this Board of Directors, with the aid of its staff and counsel, has reviewed the revised Assessment Contract identified in the preceding recital and found them to be in proper order.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of the San Bernardino Associated Governments as follows:

Section 1. Approval of the Amended Assessment Contract. The Board of Directors hereby approves the form of the amended Assessment Contract, together with any changes therein and additions thereto approved by the Executive Director, or any designee of the Executive Director (each, an “Authorized Representative”) and reviewed and concurred in by Bond Counsel.

Section 2. Additional Action. The Executive Director or any Authorized Representative is hereby authorized and directed to approve any other documents related to the Program necessary in the judgment of the Executive Director or such Authorized Representative to conform such documents to the actions taken by the adoption of this Resolution.

Section 3. Effective Date. This Resolution shall take effect upon the date of its adoption.

PASSED AND ADOPTED at a Meeting of the Board of Directors of the San Bernardino Associated Governments held on _____, 2016.

Robert A. Lovingood, SANBAG Board President

Vicki Watson, SANBAG Clerk of the Board

San Bernardino Associated Governments Essential HERO Program
A O A

This Assessment Contract (this "Contract") is made and entered into as of this [Ordinal Day] of [Month], [Year], by and between the San Bernardino Associated Governments, a joint exercise of powers authority ("SANBAG"), and the record owner(s), **Robert Omer James Iste** (the "Property Owner"), of the fee title to the real property identified on Exhibit A (the "Property").

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WHEREAS, SANBAG is a joint exercise of powers authority the members of which include numerous cities in San Bernardino County and the County of San Bernardino; and

WHEREAS, SANBAG has established the HERO financing program (the "HERO Program") to allow for the financing of certain renewable energy, energy efficiency, water efficiency, and electric vehicle charging infrastructure improvements that are permanently fixed to real property (the "Authorized Improvements") through the levy of contractual assessments pursuant to Chapter 29 of Division 7 of the California Streets & Highways Code ("Chapter 29") and the issuance of improvement bonds under the Improvement Bond Act of 1915 (California Streets and Highways Code Sections 8500 and following) (the "1915 Act") upon the security of the unpaid contractual assessments; and

WHEREAS, Chapter 29 provides that assessments may be levied under its provisions only with the free and willing consent of the owner of each lot or parcel on which an assessment is levied at the time the assessment is levied pursuant to a contract between the property owner and the public agency; and

WHEREAS, SANBAG has conducted the proceedings required by Chapter 29 with respect to the territory within the boundaries of the City or County identified in Exhibit A and which has elected to participate in the HERO Program (the "Participating Entity"); and

WHEREAS, the Property is located in the boundaries of the Participating Entity, and the Participating Entity has consented to (i) owners of property within its jurisdiction (the "Participating Property Owners") participating in the HERO Program and (ii) SANBAG conducting assessment proceedings under Chapter 29 and issuing bonds under the 1915 Act to finance the Authorized Improvements; and

WHEREAS, pursuant to Chapter 29, SANBAG and the Property Owner wish to enter into a contract pursuant to which the Property Owner would agree to pay an assessment in order to finance the installation on the Property of the Authorized Improvements described in Exhibit A (the "Improvements") and SANBAG would agree to provide financing, all on the terms set forth in this Contract;

NOW, THEREFORE, in consideration of the foregoing and the material covenants hereinafter contained, the Property Owner and SANBAG formally covenant, agree and bind themselves and their successors and assigns as follows:

Attachment: SANBAG HERO ASSESSMENT CONTRACT 8-16-2016 (3145 : Amendments to the Form of the Assessment Contract Used for the

A

Section . Purpose. The Property Owner and SANBAG are entering into this Contract for the purpose of financing the installation of the Improvements identified on Exhibit A on the Property. SANBAG will not finance installation of Improvements other than those listed on Exhibit A.

Section . The Property. This Contract relates to the real property identified on Exhibit A. The Property Owner has supplied to SANBAG current evidence of its ownership of fee title to the Property and possesses all legal authority necessary to execute this Contract on behalf of the Property Owner.

Section 3. Contract to Pay Assessment; Prepayment

(a) **Payment of Assessment.** The Property Owner hereby freely and willingly agrees to pay the "Assessment," the amount of which shall be determined as provided in Section 3(b) below. SANBAG will not provide financing in an amount in excess of the Assessment. Except as otherwise set forth in this Contract, the Assessment will be paid in the installments (each, an "Assessment Installment"). The schedule of estimated maximum annual Assessment Installments are set forth in paragraph (c) below. Interest will accrue on the Assessment at the interest rate set forth on Exhibit B beginning on the date on which SANBAG issues bonds to finance the installation of the Improvements.

(b) **The Assessment.** The Assessment shall equal the total amount disbursed by SANBAG to pay for (i) the Improvements identified on Exhibit A, plus (ii) all costs, fees and interest associated therewith as reflected on Exhibit B, which total amount is also known as the Actual Disbursement Amount (defined below). In no event, however, will the amount disbursed by SANBAG exceed the Maximum Disbursement Amount set forth in Exhibit B.

(c) **Schedule of Estimated Maximum Annual Assessment Installments.** The following schedule of estimated maximum annual Assessment Installments is based upon the assumptions provided in Exhibit B hereto, including (without limitation) the Estimated Disbursement Amount, which is based upon the price of the initially selected Improvements identified in Exhibit A, which in turn provides the basis for calculating the associated costs, fees and interest appearing below and on Exhibit B.

Year (commencing on)	Interest	Principal	Estimated Annual Assessment Installment	Current Annual Administrative Assessment Fee	Total Estimated Annual Assessment
2016 - 2017*					
2017 - 2018					
2018 - 2019					
2019 - 2020					
2020 - 2021					
2021 - 2022					
2022 - 2023					
2023 - 2024					
2024 - 2025					
2025 - 2026					
2026 - 2027					
2027 - 2028					
2028 - 2029					
2029 - 2030					
2030 - 2031					

2031 - 2032					
2032 - 2033					
2033 - 2034					
2034 - 2035					
2035 - 2036					

*The Estimated Initial Tax Year shown on preceding schedule is based upon the Estimated Disbursement Date. The actual Initial Tax Year will be based upon the actual Disbursement Date.

**** Subject to change

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Upon receipt of the fully executed and final Completion Certificate (as described in the current version of the SANBAG HERO Residential Program Handbook referred to herein as the "Handbook") SANBAG shall calculate and disburse payments to those entitled to receive them (the "Actual Disbursement Amount") hereunder. If at any time after executing this Contract but before SANBAG pays the Actual Disbursement Amount, the Property Owner changes the Improvements to be installed from those originally appearing on Exhibit A, but (i) the Improvement categories and the Improvement types do not change from those originally selected, and (ii) the "Revised Estimated Disbursement Amount" (which means the amount anticipated to be the Actual Disbursement Amount based on the changed Improvements) is less than or equal to the Estimated Disbursement Amount, the parties do not need to execute the Addendum described in Section 5 below, and this Contract shall remain unmodified and the Assessment shall be calculated as described above in this Section 3(c). If, however, any such change meets the provisions of Section 5 below, then an Addendum will be required.

(d) Administrative Expenses. The Property Owner hereby acknowledges and agrees that SANBAG may add amounts to an annual installment of the Assessment in order to pay for the costs of collecting the Assessment (the "Additional Administrative Assessment").

(e) Prepayment of the Assessment. The Assessment may be prepaid, in whole or in any amount of at least \$2,500, at any time upon the payment of (i) the whole or a portion of the unpaid principal component of the Assessment, (ii) and interest on the Assessment Prepayment Amount to the second business day of the second month following the date the prepayment is made.

(f) Absolute Obligation. The Property Owner hereby agrees that the Assessment will not be subject to reduction, offset or credit of any kind in the event that the bond or bonds secured thereby are refunded or for any other reason.

e tion 4. Existing Mortgage Disclosure. The Program establishes the manner by which SANBAG may finance, pursuant to Chapter 29, the installation of Authorized Improvements, including the Improvements. The Improvements will be financed pursuant to this Assessment Contract between Property Owner and SANBAG.

BEFORE EXECUTING THIS ASSESSMENT CONTRACT, PROPERTY OWNER SHOULD CAREFULLY REVIEW ANY MORTGAGE AGREEMENT(S) OR OTHER SECURITY INSTRUMENT(S) WHICH AFFECT THE PROPERTY OR TO WHICH THE PROPERTY OWNER IS A PARTY. ENTERING INTO THIS ASSESSMENT CONTRACT WITHOUT THE CONSENT OF EXISTING LENDER(S) COULD CONSTITUTE AN EVENT OF DEFAULT UNDER SUCH AGREEMENTS OR SECURITY INSTRUMENTS. DEFAULTING UNDER AN EXISTING MORTGAGE AGREEMENT OR SECURITY INSTRUMENT COULD HAVE SERIOUS CONSEQUENCES TO THE PROPERTY OWNER, WHICH COULD INCLUDE THE ACCELERATION OF THE REPAYMENT OBLIGATIONS DUE UNDER SUCH AGREEMENT OR SECURITY INSTRUMENT.

IN ADDITION, FANNIE MAE AND FREDDIE MAC, THE OWNERS OF A SIGNIFICANT PORTION OF ALL HOME MORTGAGES, STATED THAT THEY WOULD NOT PURCHASE HOME LOANS WITH ASSESSMENTS SUCH AS THOSE OFFERED BY SANBAG. THIS MAY MEAN THAT PROPERTY OWNERS WHO SELL OR REFINANCE THEIR PROPERTY MAY BE REQUIRED TO PREPAY SUCH ASSESSMENTS AT THE TIME THEY CLOSE THEIR SALE OR REFINANCING.

If Property Owner's lender requires an impound for Property Owner's property taxes, Property Owner acknowledges that Property Owner should consider notifying such lender of the annual Assessment payment amount so such lender can adjust the Property Owner's impound amount to include the annual Assessment payment.

e tion . Addendum. The parties agree to execute an addendum to this Contract (the "Addendum") if at any time after executing this Contract but before the Actual Disbursement Amount is released for disbursement: (i) the Improvement categories or the Improvement types change from those appearing in Exhibit A; (ii) the Revised Estimated Disbursement Amount is greater than the Estimated Disbursement Amount but does not exceed the Maximum Disbursement Amount; or (iii) it becomes necessary to correct the name, capacity, title, party or clerical errors identified therein. In any such case, SANBAG, or the HERO Program on behalf of SANBAG, shall prepare an Addendum: (i) setting forth an accurate description of the Improvements installed; (ii) confirming that the Assessment does not exceed the Maximum Disbursement Amount; and (iii) as necessary, correcting the names, capacities, titles, parties and other clerical corrections appearing in the original documentation comprising this Contract. SANBAG or the HERO Program on behalf of SANBAG shall prepare and provide such Addendum to the Property Owner for review and signature. Once signed by the Property Owner, SANBAG shall execute the Addendum, which shall become part of, and be incorporated into, this Contract as if it originally appeared therein.

e tion Collection of Assessment; Lien. The Assessment, the interest and penalties thereon as a result of a delinquency in the payment of any installment of the Assessment, and the Additional Administrative Assessment shall constitute a lien against the Property until they are paid and shall be collected and shall have the lien priority as set forth in Chapter 29.

The Property Owner acknowledges that if any Assessment installment is not paid when due, SANBAG has the right to have such delinquent Assessment installment and its associated penalties and interest stripped off the secured property tax roll and immediately enforced through a judicial foreclosure action that could result in a sale of the Property for the payment of the delinquent installments, associated penalties and interest, and all costs of suit, including attorneys' fees. The Property Owner acknowledges that, if bonds are sold to finance the Improvements, SANBAG may obligate itself, through a covenant with the owners of such bonds, to exercise its judicial foreclosure rights with respect to delinquent Assessment installments under circumstances specified in such covenant.

e tion . Financing of the Improvements.

(a) Contract to Finance Improvements. SANBAG hereby agrees to use the Assessment, together with the Additional Administrative Assessment, to finance the Improvements, including the payment of SANBAG 's reasonable costs of administering the HERO Program, subject to the Property Owner's compliance with the conditions for such financing established by SANBAG.

(b) Assessment Installments. The Property Owner agrees to the issuance of bonds by SANBAG to finance the installation of the Improvements. The interest rate used to calculate the Assessment installments set forth on Exhibit B is identified on Exhibit B. If SANBAG determines in its reasonable discretion that the Assessment installments may be reduced because the applicable interest rate on the bonds issued to finance installation of the Improvements is lower than the interest rate specified in Exhibit B, or if the cost of the Improvements, as shown in a final invoice provided to SANBAG by the Property Owner, is less than the amount shown on Exhibit B, then, concurrently with the disbursement of funds to the Property Owner, SANBAG may provide the Property Owner with a schedule of annual Assessment installments that provides for annual installments that are less than those set forth in the attached Exhibit B.

e tion 8. Multiple Contractors and Improvements. Notwithstanding anything to the contrary in this Contract, if the Property Owner engages one or more contractors (each, a "Contractor," which term includes any designee thereof) to install more than one Improvement, the installation of which Improvements will not be completed simultaneously, the Property Owner and SANBAG agree as follows:

- a. Upon receipt of the initial Completion Certificate from a Contractor and the Property Owner (the "First Installation Completion Certificate") acknowledging installation of the first type or category of Improvements, then:
 - i. The "Investor" (which means any person or entity who has entered into an agreement with SANBAG to purchase bonds under the Program) shall deposit the Actual Disbursement Amount with the municipal trustee for the Program;
 - ii. SANBAG shall cause bonds to be issued and sold to the Investor in the amount equal to the Actual Disbursement Amount deposited with such municipal trustee;
 - iii. SANBAG shall cause all instruments, documents and agreements described in Section 10 of this Contract to be recorded;

- iv. SANBAG shall cause the amount reflected in the First Installation Completion Certificate to be disbursed to the Contractor who installed such Improvements; and
- v. SANBAG shall cause all administrative, recording and other fees described on line 6 of Exhibit B to be paid.
- b. Upon receipt of a subsequent Completion Certificate from the Property Owner and Contractor (each, a "Subsequent Installation(s) Completion Certificate") acknowledging installation of the subsequent types or categories of Improvements, SANBAG shall cause the municipal trustee for the Program to disburse amount(s) reflected in each such Subsequent Installation Completion Certificate to the Contractor who installed such Improvements.
- c. Upon receipt of the final Completion Certificate from the Contractor and the Property Owner (the "Final Installation Completion Certificate") acknowledging installation of the final types or categories of Improvements, then:
 - i. SANBAG shall cause the amount reflected in such Final Installation Completion Certificate to be disbursed to the Contractor who installed such Improvements; provided, however, that:
 - 1. If the remaining balance of the Actual Disbursement Amount the Investor has deposited with the municipal trustee exceeds the amount reflected in the Final Installation Completion Certificate, SANBAG shall cause such excess to be applied, at the discretion of the Investor, (i) to the Property Owner's next assessment payment due under this Contract, or (ii) to the reduction of the outstanding balance of the Assessment determined in accordance with Sections 3 of this Contract; or
 - 2. If the remaining balance of the Actual Disbursement Amount the Investor has deposited with the municipal trustee is less than the amount reflected in the Final Installation Completion Certificate, the Property Owner shall be individually responsible for paying such difference to the applicable Contractor, and such payment shall be excluded from the Assessment under this Contract.
 - d. If for any reason any one or more of the categories or types of Improvements planned to be installed under this Section 8 is not installed by the expiration date reflected in the Notice to Proceed, then the Investor shall have the option to declare the financing of the Improvements complete, in which case the municipal trustee shall be notified to apply any remaining balance of the Actual Disbursement Amount held by such municipal trustee to reduce the Property Owner's outstanding Assessment.

Section . Term: Contract Runs with the Land: Subdivision.

(a) Except as otherwise set forth in this Contract, this Contract shall expire upon the final payment or prepayment of the Assessment.

(b) This Contract establishes rights and obligations that are for the benefit of the Property and, therefore, such rights and obligations run with the land pursuant to Civil Code Section 1462.

(c) In the event the Property is subdivided while the Assessment remains unpaid, the Assessment will be assigned to the newly-created parcel on which the Improvements are located. If the Improvements no longer exist, the Assessment will be assigned to each of the newly-created parcels on a per-acre basis, unless SANBAG in its sole discretion, determines that the Assessment should be allocated in an alternate manner.

e tion . Assessment and Lien. The Property Owner hereby authorizes and directs SANBAG to cause to be recorded in the office of the County Recorder the various notices and other documents, including without limitation a Notice of Assessment, together with a copy of this Assessment Contract, required by Chapter 29 and other applicable laws to be recorded against the Property.

e tion . Notice. To the extent required by applicable law, the Property Owner hereby agrees to provide written notice to any subsequent purchaser of the Property, including any subdivision of the Property, of the obligation to pay the Assessment pursuant to this Contract.

e tion Waivers, Acknowledgment and Contract. Because this Contract reflects the Property Owner's free and willing consent to pay the Assessment following a noticed public hearing, the Property Owner hereby waives any otherwise applicable requirements of Article XIID of the California Constitution or any other provision of California law for an engineer's report, notice, public hearing, protest or ballot.

The Property Owner hereby waives its right to repeal the Assessment by initiative or any other action, or to file any lawsuit or other proceeding to challenge the Assessment or any aspect of the proceedings of SANBAG undertaken in connection with the HERO Program. The Property Owner hereby agrees that the Property Owner and its successors in interest to fee title in the Property shall be solely responsible for the installation, operation and maintenance of the Improvements. The Property Owner hereby acknowledges that the Property will be responsible for payment of the Assessment regardless of whether the Improvements are properly installed, operated or maintained as expected.

The Property Owner hereby agrees that SANBAG is entering into this Contract solely for the purpose of assisting the Property Owner with the financing of the installation of the Improvements, and that SANBAG and the Participating Entity have no responsibility of any kind for, and shall have no liability arising out of, the installation, operation, financing, refinancing or maintenance of the Improvements. Based upon the foregoing, the Property Owner hereby waives the right to recover from and fully and irrevocably releases SANBAG, the Participating Entity and any and all agents, employees, attorneys, representatives and successors and assigns of SANBAG and the Participating Entity from any and all losses, liabilities, claims, damages (including consequential damages), penalties, fines, forfeitures, costs and expenses (including all reasonable out-of-pocket litigation costs and reasonable attorney's fees), relating to the subject matter of this Contract that the Property Owner may now have or hereafter acquire against SANBAG, the Participating Entity and any and all agents, employees, attorneys, representatives and successors and assigns of SANBAG or the Participating Entity.

To the extent that the foregoing waivers and agreements are subject to Section 1542 of the California Civil Code or similar provisions of other applicable law, it is the intention of the Property Owner that the foregoing waivers and agreements will be effective as a bar to any and all losses,

liabilities, claims, damages (including consequential damages), penalties, fines, forfeitures, costs and expenses (including all reasonable out-of-pocket litigation costs and reasonable attorney's fees), of whatever character, nature and kind, known or unknown, suspected or unsuspected, and Property Owner agrees to waive any and all rights and benefits conferred upon the Property Owner by the provisions of Section 1542 of the California Civil Code or similar provisions of applicable law. Section 1542 reads as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

By initialing below, the Property Owner agrees to waive the provisions of Section 1542 in connection with the matters that are the subject of the foregoing waivers and releases. The waivers, releases and agreements set forth in this Section 12 shall survive termination of this Contract.

Section 3 Arbitration Agreement *Please read this Section ("Arbitration Agreement") carefully. It is part of this Contract and affects the Property Owner's rights. It contains A JURY TRIAL WAIVER and procedures for MANDATORY BINDING ARBITRATION AND A CLASS ACTION WAIVER.*

- a. Before asserting a claim in any proceeding Property Owner ("Property Owner" includes any successor in interest to the Property Owner) and SANBAG ("SANBAG" includes any of SANBAG's parents, subsidiaries, affiliates, agents, privities, employees, predecessors, successors, assigns, contractors and sub-contractors) agree that they shall engage in good faith attempt to resolve the claim.
- b. Arbitration Agreement. All claims and disputes arising out of or relating to the HERO Program, the Contract and/or the Improvements that cannot be resolved informally or in small claims court shall be resolved by binding arbitration on an individual basis under the terms of this Arbitration Agreement. This Arbitration Agreement applies to the Property Owner and SANBAG.
- c. Waiver of Jury Trial. PROPERTY OWNER AND SANBAG HEREBY WAIVE THEIR CONSTITUTIONAL AND STATUTORY RIGHTS TO GO TO COURT AND HAVE A TRIAL IN FRONT OF A JUDGE OR A JURY, instead electing that all claims and disputes shall be resolved by arbitration under this Arbitration Agreement. Arbitration procedures are typically more limited, more efficient and less costly than rules applicable in court and are subject to very limited review by a court.
- d. Arbitration Rules. The Federal Arbitration Act governs the interpretation and enforcement of this dispute resolution provision. Arbitration shall be initiated through JAMS, Inc., an established alternative dispute resolution provider ("ADR Provider"). If the selected provider is not available to arbitrate, the Parties shall select an alternative ADR Provider. The rules of the ADR Provider shall govern all aspects of this arbitration, except to the extent such rules are in conflict with the Contract ("Arbitration Rules") or to the extent that application of the Contract provisions would result in the unenforceability of this Arbitration Agreement. The JAMS rules governing the arbitration are available online at www.jamsadr.com or by calling JAMS at 1-800-352-5267. Any arbitration hearing will be held in the Property Owner's federal judicial district. Any judgment on the

award rendered by the arbitrator may be entered in any court of competent jurisdiction.

- e. Decision of Arbitrator. The arbitrator shall issue a written award and statement of decision describing the essential findings and conclusions on which the award is based. The arbitrator has the same authority to award relief on an individual basis that a judge in a court of law would have. The award of the arbitrator is final and binding upon the Property Owner and SANBAG.
- f. Waiver of Class or Consolidated Actions. ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE ARBITRATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS BASIS, AND ARBITRATION CLAIMS OF MORE THAN ONE PROPERTY OWNER CANNOT BE ARBITRATED OR LITIGATED JOINTLY OR CONSOLIDATED WITH THOSE OF ANY OTHER PROPERTY OWNER.
- g. Severability. If any part or parts of this Arbitration Agreement other than the waiver of class or consolidated rights are found under the law to be invalid or unenforceable, then such specific part or parts shall be of no force and effect and shall be severed and the remainder of the Arbitration Agreement shall continue in full force and effect. If the waiver of class or consolidated rights is found to be unenforceable, then as to the specific dispute in which that ruling of unenforceability was made, this entire Arbitration Agreement shall be unenforceable.
- h. Survival of Agreement. This Arbitration Agreement shall survive the termination of this Contract.
- i. Small Claims Court. Notwithstanding the foregoing, either Property Owner or SANBAG may bring an individual action in small claims court.
- j. Property Owner's Right to Opt Out of Arbitration. Property Owner may opt out of this Arbitration Agreement by sending a written election of the Property Owner's election to do so, signed by all Property Owners, within 15 days of the date of this contract. Such election shall be sent to Attn: SANBAG HERO Program Manager, San Bernardino County [Address].

By initialing below, the Property Owner acknowledges and agrees to the terms set forth in Sections 4, 12 and 13 above.

[PO] Initials: _____	Initials: _____
Initials: _____	Initials: _____

Section 4. Indemnification. The Property Owner agrees to indemnify, defend, protect, and hold harmless SANBAG, the Participating Entity and any and all agents, employees, attorneys, representatives and successors and assigns of SANBAG or the Participating Entity, from and against all losses, liabilities, claims, damages (including consequential damages), penalties, fines, forfeitures, costs and expenses (including all reasonable out-of-pocket litigation costs and reasonable attorney's fees) and any demands of any nature whatsoever related directly or indirectly to, or arising out of or in connection with (i) the Property Owner's participation in the HERO Program,

(ii) the Assessment, (iii) the Improvements, or (iv) any other fact, circumstance or event related to the subject matter of this Contract, regardless of whether such losses, liabilities, claims, damages (including consequential damages), penalties, fines, forfeitures, costs and expenses (including all reasonable out-of-pocket litigation costs and reasonable attorney's fees) accrue before or after the date of this Contract.

The provisions of this Section 14 shall survive the termination of this Contract.

e tion . Right to Inspect Property. The Property Owner hereby grants SANBAG, its agents and representatives the right to enter at any reasonable time, upon reasonable notice, to inspect the Improvements. The Property Owner further hereby grants SANBAG, its agents and representatives the right to examine and copy any documentation relating to the Improvements.

e tion . Carbon Credits. The Property Owner hereby agrees that any carbon credits attributable to the Improvements shall be owned by the HERO Program.

e tion . HERO Program Application. The Property Owner hereby represents and warrants to SANBAG that the information set forth in the HERO Program Application submitted to SANBAG in connection with Property Owner's request for financing is true and correct as of the date hereof, and that the representations set forth in the HERO Program Application with respect to the Property and the Property Owner are true and correct as of the date hereof as if made on the date hereof.

e tion 8. Amendment. Except as set forth in Section 3 or as provided for in Exhibit A pertaining to a fully executed and final Completion Certificate, this Contract may be modified only by an Addendum (as provided in Section 5) or other written agreement of SANBAG and the Property Owner.

e tion . Binding Effect; Assignment. This Contract inures to the benefit of and is binding upon SANBAG, the Property Owner and their respective successors and assigns. SANBAG has the right to assign any or all of its rights and obligations under this Contract without the consent of the Property Owner. The obligation to pay the Assessment set forth in this Contract is an obligation of the Property and no agreement or action of the Property Owner will be competent to impair in any way SANBAG's rights, including, but not limited to, the right to pursue judicial foreclosure of the Assessment lien or the right to enforce the collection of the Assessment or any installment thereof against the Property.

e tion . Exhibits. Exhibits A and B attached to this Contract are incorporated into this Contract by this reference as if set forth in their entirety in this Contract.

e tion . Severability. If any provision of this Contract is held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision of this Contract.

e tion . Corrective Instruments. SANBAG and the Property Owner agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required in order to carry out the expressed intention of this Contract.

Section 3. Governing Law: Venue. This Contract is governed by and construed in accordance with the laws of the State of California. In the event the Arbitration Agreement in Section 13 is found to be unenforceable or to not apply to a given action, such action must be instituted and proceed in the Superior Court of the County of San Bernardino, State of California; provided, however, actions to foreclose delinquent installments of the Assessment will be instituted in the superior court of the County.

Section 4. Counterparts. This Contract may be executed in several counterparts, each of which is an original and all of which constitutes one and the same instrument.

Section Monitoring and Recording of Telephone Calls. The HERO Program may monitor and/or record telephone calls for security and customer service purposes. By agreeing to this Assessment Contract the Property Owner agrees to have their telephone calls with the HERO Program monitored and/or recorded.

Section Contract Documents. Property Owner understands and acknowledges that the entire agreement between Property Owner and SANBAG includes each and every document specified in the List of Documents contained in Exhibit B to this Contract (together, the "Contract Documents").

By executing this Contract Property Owner acknowledges and agrees that:

a. Property Owner has had sufficient time to review and has reviewed each of the Contract Documents and has had the opportunity to ask any questions to SANBAG that the Property Owner may have regarding such Contract Documents.

b. Property Owner has reviewed, understands and agrees to each and every additional requirement and term contained in Appendix B to the Handbook.

c. Property Owner has reviewed, understands, agrees to and affirms each and every representation and warranty contained in the Property Owner's application and the Handbook.

Property Owner's Acknowledgments and Assurances contained in (a) the Application () this Assessment Contract () the Handbook

Property Owner must execute and return this Contract to SANBAG at the address set forth in the "Notice Information" section of Attachment A hereto so that it is received. SANBAG not later than the Contract date the Property Owner agrees to return the signed Assessment Contract to SANBAG. In addition, the HERO Program reserves the right to require the Property Owner to enter into a new Contract. A signature of the Property Owner must be notarized. A duly licensed notary public must certify the Property Owner has previously successfully completed the identification process approved by SANBAG.

HERO, SANBAG and the Property Owner have caused this Contract to be executed in their respective names by their duly authorized representatives, all as of the Effective Date. The "Effective Date" is defined as the last date entered with the signatures of the parties below.

O ner

[Property Owner Name], Signature

Date: _____ **entit eri i ation o e**

Month/Day/Year

A A : Executive Director and/or his or her designee

Name *(Please Print)*

SANBAG Signature Date of Execution by SANBAG

SAMPLE AUGUST 2016

Attachment: SANBAG HERO ASSESSMENT CONTRACT 8-16-2016 (3145 : Amendments to the Form of the Assessment Contract Used for the

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list of contract documents

The Contract shall consist of the following documents:

- This Contract and the exhibits hereto;
- Any Addendum entered into pursuant to Section 5 hereto;
- The Application;
- The Right to Cancel;
- The Completion Certificate or, pursuant to Section 8, each applicable Completion Certificate;
- The Assessment Cost and Payment Summary;
- The Notice of Assessment;
- The Payment of Contractual Assessment Required;
- The SANBAG HERO Residential Program Handbook;
- The HERO Program website located at <https://www.heroprogram.com>.

Disbursement Amounts

The "Maximum Disbursement Amount" under this Contract is \$[Qualify Amount], which means that SANBAG shall not disburse any amount that exceeds this figure.

The "Estimated Disbursement Amount" under this Contract is estimate Disbursement Amount, which was based upon the Improvements and pricing set forth on the table below in this Exhibit B. The Estimated Disbursement Date is [Expiration Date], which date is used in the table below.

Assumptions Applicable to the estimate of Maximum Annual Assessment Installments

The schedule of the estimated maximum Annual Assessment Installments provided in section 3(c) of the Contract is based on the following assumptions:

1. SANBAG disburses the Estimated Disbursement Amount to Owner.
2. Interest totaling a maximum of \$(Estimated Cap I) will accumulate until your first Payment. That amount will be added to Owner's Estimated Disbursement Amount.
3. SANBAG disburses to Owner on the Estimated Disbursement Date.
4. The Assessment Interest Rate is [Interest Rate]%.
5. The Annual Percentage Rate (APR) of your assessment is [APR]%. APR is the annual interest rate you will actually pay on your assessment, including fees required in order to participate in the HERO Program.
6. The total administrative fees, recording fees and annual assessment added to your assessment is \$(Estimated Fees).

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You have a right to pay off your assessment lien amount at any time in full, or in any amount of at least \$2,500 pursuant to Section 3(e) of the Assessment Contract. However, if you do so, you will have to pay the principal amount of the assessment to be prepaid ("Assessment Prepayment Amount") and interest on the Assessment Prepayment Amount to the second business day of the second month following the date the prepayment is made.

SAMPLE AUGUST 2016

Attachment: SANBAG HERO ASSESSMENT CONTRACT 8-16-2016 (3145 : Amendments to the Form of the Assessment Contract Used for the

Minute Action

AGENDA ITEM: 17

Date: *October 5, 2016*

Subject:

Authorize the Issuance of Bonds for Certain Solar Projects and Increase the Maximum Term to 25 Years

Recommendation:

Approve Resolution No. 17-007 authorizing the issuance of bonds to finance the installation of solar systems and increasing the maximum term from 20 years to 25 years for improvements that have a useful life of 25 years or more.

Background:

In October 2013, the Board of Directors approved a Property Assessed Clean Energy (PACE) program for both residential and commercial properties throughout San Bernardino County. That program is known as the HERO Program. The changes that would be enabled by this resolution will open up the HERO Program to be able to finance more solar leases and power purchase agreements (PPAs).

Solar projects continue to be a popular project type, accounting for over 23% of HERO Projects in San Bernardino County. There are two main options for consumers who want to install solar on their property. They can either become the owner of the system by purchasing it, or they can enter into an agreement to make payments to a third party system owner. These third party owned agreements can be structured as a lease or a power purchase agreement (collectively, Solar Agreement). In California, the most popular option for solar for residential property owners are these solar agreements (approximately 65%). The proposed changes would allow SANBAG the ability to issue bonds specifically to finance residential solar leases and power purchase agreements and would open up the HERO Program to assist more property owners' going solar for lower costs.

Currently, the HERO Program finances the purchase of solar system installations. For the purchase of a system, the HERO Program will finance the full cost of the system and the property owner will be responsible, as the system owner, for all system maintenance. For the contemplated pre-paid Solar Agreement, the HERO Program finances the prepayment of the obligation; and the property owner gets a lower cost and is not responsible for the maintenance. This resolution would allow SANBAG to create a separate tranche of bonds that would fund solar installations that will be owned by the company (third party) that enters into the Solar Agreement with the property owner.

From the consumer's perspective, there is no difference in how this financing process works over the current system. They still have a contractual assessment on their property that they pay back over time on their property tax bill. In addition to the contractual assessment, they have a Solar

Entity: COG

Board of Directors Agenda Item

October 5, 2016

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Agreement with a company that owns the solar panels on their property and is responsible for maintenance and upkeep. The value of this arrangement is that the amount that the property owner borrows from the HERO Program is lower than the purchase option because the third party owner is reducing the cost of the system (as compared to a purchase) due to their receipt of tax benefits. Furthermore, the third party owner will pay the HERO closing costs and capitalized interest due for the period between system installation and first tax payment.

Solar leases and PPAs are popular because property owners can get solar for lower costs and transfer the obligation for maintenance to the company that owns the equipment. The solar company third party owners are able to take advantage of a 30% Investment Tax Credit and accelerated depreciation, which is not realized by many homeowners. These tax advantages are factored into the Solar Agreement resulting in a lower overall cost to the homeowners.

Resolution No. 17-007 accomplishes the following:

- Authorizes the issuance of bonds in an amount not to exceed \$200 million.
- Increases the allowable maximum term from 20 years to 25 years for improvements that have a useful life of 25 years or more.
- Approves the form of the Master Indenture and Supplemental Master Indenture in substantially the form on file with the Clerk of the Board and authorizes the Executive Director or designee to make changes as necessary with the review and concurrence of Bond Counsel.
- Authorizes the Executive Director to execute the final forms of the Master Indenture and Supplemental Indenture.
- Authorizes the negotiated sale of the bonds to Renovate America, Inc. or the Solar Provider as assignee.
- Appoints the Deutsche Bank National Trust Company as the Trustee.
- Makes clear that these bonds are not obligations of SANBAG or its members pursuant to Streets and Highways Code Section 8769.

Because this action can provide a way for property owners to get solar power for their homes at a lower cost, staff is recommending approval.

Financial Impact:

This item is consistent with the adopted SANBAG budget.

Reviewed By:

This item was reviewed and unanimously recommended for approval by the General Policy Committee on September 14, 2016. General Counsel has reviewed this item and the draft resolution.

Responsible Staff:

Duane Baker, Deputy Executive Director

Approved
Board of Directors
Date: October 5, 2016

Witnessed By:

RESOLUTION NO. 17-007

**RESOLUTION OF THE BOARD OF DIRECTORS OF
SAN BERNARDINO ASSOCIATED GOVERNMENTS
AUTHORIZING THE FINANCING OF CERTAIN SOLAR
IMPROVEMENTS AND AUTHORIZING A MAXIMUM TERM OF
THE BONDS OF TWENTY-FIVE YEARS**

WHEREAS, pursuant to Chapter 29 of Part 3 of Division 7 of the Streets & Highways Code of the State of California (“Chapter 29”), the Joint Exercise of Powers Agreement of the San Bernardino Associated Governments (“SANBAG”), originally made and entered October 17, 1975, as further amended to date, and each separate Memorandum of Understanding by and between SANBAG and those parties to the Joint Powers Agreement (each, a “Participating Party”) that have elected to participate in the implementation of a property assessed clean energy (“PACE”) program to finance the installation of distributed generation renewable energy sources, energy or water efficiency improvements or electric vehicle charging infrastructure, SANBAG has undertaken proceedings to establish and has established such a PACE program to be known as the “SANBAG HERO Program” (the “HERO Program”), to assist property owners within the jurisdictional boundaries of each Participating Party (the “Program Area”) with the cost of installing distributed generation renewable energy sources, energy or water efficient improvements or electric vehicle charging infrastructure (the “Authorized Improvements”) that are permanently fixed to their property; and

WHEREAS, on February 6, 2013, the Board of Directors of the San Bernardino Associated Governments (the “Board of Directors”) adopted Resolution No. 13-038, entitled “Resolution of the Board of the San Bernardino Associated Governments Declaring its Intention to Finance Distributed Generation Renewable Energy Sources, Energy and Water Efficiency Improvements and Electric Vehicle Charging Infrastructure Through the Use of Voluntary Contractual Assessments Pursuant to Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code and Setting a Public Hearing Thereon” (the “Resolution of Intention”), to initiate such proceedings to establish the HERO Program; and

WHEREAS, by the adoption of the Resolution of Intention, the Board of Directors provided that one or more series of limited obligation improvement bonds may be issued under the Improvement Bond Act of 1915, Division 10 of the Streets and Highways Code of California (the “Bond Act”) and Chapter 29 to represent voluntary Contractual Assessments (defined below) or other financing relationships would be entered to finance such assessments; and

WHEREAS, on March 6, 2013, after holding a duly noticed public hearing at which interested persons were allowed to object to or inquire about the proposed HERO Program, the report prepared pursuant to Sections 5898.22 and 5898.23 of Chapter 29 addressing all of the matters required to be included therein (the “Program Report”) or any of its particulars, the Board of Directors adopted Resolution No. 13-044, entitled “Resolution Confirming the Report Relating to the Financing of the Installation of Distributed Generation Renewable Energy

Sources, Energy Efficiency and Water Efficiency Improvements and Electric Vehicle Charging Infrastructure and Approving and Ordering Other Related Matters,” (the “Resolution Confirming Program Report”), pursuant to which the Board of Directors, among other things, (i) confirmed and approved the Program Report, (ii) established the HERO Program and (iii) approved the form and authorized execution of agreements (“Assessment Contracts”) with the owners of property located within the boundaries of the Program Area to provide for the levy of such voluntary contractual assessments (the “Contractual Assessments”) to finance installation of Authorized Improvements; and

WHEREAS, pursuant to Chapter 29 and the Resolution Confirming Program Report, SANBAG is authorized to (i) enter into Contractual Assessments to finance the installation of Authorized Improvements on parcels in the Program Area that are deemed “Residential” as such term is defined in the Program Report (“Residential Parcels”) and (ii) enter into Contractual Assessments to finance the installation of Authorized Improvements on parcels in the Program Area that are deemed “Commercial” as such term is defined in the Program Report (“Commercial Parcels”); and

WHEREAS, on March 6, 2013, the Board of Directors also adopted its Resolution No. 13-405 entitled “Resolution of the Board of Directors of the San Bernardino Associated Governments Authorizing Issuance of the Limited Obligation Improvement Bonds, Approving and Directing the Execution of Related Documents and Approving Related Actions” (the “Original Resolution of Issuance”), pursuant to which, the Board of Directors, among other actions, (a) authorized the issuance of one or more series of limited obligation improvement bonds pursuant to Chapter 29 and the Improvement Bond Act of 1915, being Division 10 of the Streets & Highways Code of California (the “Bond Act”), upon the security of voluntary contractual assessments levied on Residential parcels only, (b) provided that each series of such bonds would be issued pursuant to a Master Indenture (each, an “Original Master Indenture”), as supplemented by one or more Supplemental Indentures (each, a “Original Supplemental Indenture”) and (c) limited the term of such series of bonds to 20 years; and

WHEREAS, the Original Resolution of Issuance further provided that SANBAG shall not issue a series of such bonds until such time as the Board of Directors has approved the issuance thereof and the terms of the sale thereof at a meeting of the Board of Directors, such meeting to be a regular meeting held pursuant to Government Code Section 54954 and the conditions for issuance of such bonds set forth in the applicable Master Indenture have been satisfied; and

WHEREAS, subsequent to the adoption of the Original Resolution of Issuance, a judicial validation action was, at the direction of the Board of Directors, prepared, filed and prosecuted in the Superior Court of the County of San Bernardino as *San Bernardino Associated Governments v. All Persons Interested, etc.*, Case No. CIVDS 1305664 (the “Validation Action”) to judicially validate, among other matters, the Original Resolution of Issuance and the issuance of bonds pursuant thereto (collectively, the “Validation Matters”); and

WHEREAS, on August 26, 2013, judgment was entered in the Validation Action (“Validation Judgment”) ordering, adjudging and decreeing, among other things, that the bonds authorized by the Original Resolution of Issuance constitute legal, valid, and binding obligations enforceable in accordance with their terms; and

WHEREAS, on October 2, 2013, the Board of Directors approved Resolution No. 14-003 authorizing the issuance of limited obligation improvement bonds to be designated as the “San Bernardino Associated Governments Limited Obligation Improvement Bonds (SANBAG HERO Program) (First Residential Property Tranche) (the “Bonds”) in one or more series (each such series of Bonds referred to as a “Series”) pursuant to Chapter 29 and the 1915 Act, in an amount not to exceed \$300,000,000, which was increased to \$600,000,000 (the “Maximum Bond Authorization”) pursuant to the adoption of Resolution No. 16-024 on May 4, 2016; and

WHEREAS, Section 5899.2 of Chapter 29 authorizes the financing the installation of distributed generation renewable energy sources (each, a “Solar System”) attached to a residential parcel pursuant to a power purchase agreement or a lease (each, a “Solar Agreement”) between the owner of such system (each, a “Solar System Provider”) and the owner of the assessed property, if the Solar Agreement complies with the provisions of Section 5899.2;

WHEREAS, as a result of the uniqueness of the requirements of Section 5899.2 applicable to the installation of Solar Systems and to facilitate the participation of Solar Providers in the HERO Program, the Board of Directors and Renovate America have determined that it would be in the best interests of the HERO Program to provide for the issuance of limited obligation improvement bonds pursuant to the Improvement Bond Act of 1915 (the “1915 Act”) and Chapter 29 to finance the installation of Solar Systems installed or caused to be installed by individual Solar Providers pursuant to Solar Agreements by and between the owners of the Participating Parcels upon which such Solar Systems are to be installed and the individual Solar Providers;

WHEREAS, there has been submitted to the Board of Directors forms of a Master Indenture and a Supplemental Indenture providing for the issuance of limited obligation improvement bonds to be designated as the “San Bernardino Associated Governments Limited Obligation Improvement Bonds (HERO Program) (<Name of Solar Provider> Solar System Tranche – Phase One) (the “Limited Obligation Improvement Bonds” or “LOI Bonds”) in one or more series (each such series of bonds referred to as a "Series") pursuant to Chapter 29, the 1915 Act, this resolution and the use of the proceeds of such bonds to finance the installation of Solar Systems provided by individual Solar Providers pursuant to Solar Agreements on Participating Parcels that are participating in the one of the HERO Programs and are located in the jurisdiction of one of the HERO Program in which such HERO Program has been implemented, and this Board of Directors, with the aid of its staff, has reviewed those documents and found them to be in proper order; and

WHEREAS, the SANBAG staff and the SANBAG HERO financing team have advised the Board of Directors that the projected volume of Limited Obligation Improvement Bonds to be issued to finance the Solar Systems installed by individual Solar Providers pursuant to Solar Agreements will be such that such Solar Providers, as the owners of such bonds, will desire to undertake securitization of such bonds thereby necessitating the approval of multiple master indentures on a regular basis as such securitizations occur and have recommended that the Board of Directors delegate to the Executive Director, or any designee of the Executive Director, the authority to approve, subject to the review of and concurrence by Best Best & Krieger LLP, as bond counsel to SANBAG for the HERO Program (“Bond Counsel”), a new master indenture for each new tranche of such bonds substantially in the form of the master indenture presented to and approved by the Board of Directors by adoption of this Resolution in order to facilitate the ongoing issuance of such bonds and administration thereof and the subsequent securitization thereof; and

WHEREAS, all conditions, things and acts required to exist, to have happened and to have been performed precedent to and in the issuance of the Limited Obligation Improvement Bonds exist, have happened and have been performed in due time, form and manner as required by the laws of the State of California, including Chapter 29 and the 1915 Act;

WHEREAS, currently the maximum term of the bonds issued under the HERO Program is 20 years, however, the useful life of Solar Systems and certain other Authorized Improvements may be in excess of 20 years;

WHEREAS, Section 6462 of the California 1915 Act authorizes the maximum term of bonds issued under such act to be 25 years; and

WHEREAS, the SANBAG staff and SANBAG HERO financing team have advised the Board of Directors that authorizing the maximum term of the bonds to 25 years for Solar Systems and Authorized Improvements that have a useful life of 25 years or greater would be beneficial to the HERO Program;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of the San Bernardino Associated Governments as follows:

Section 1. Authorization of the Issuance of the Bonds. The Board of Directors hereby authorize the issuance of one or more Series of the Limited Obligation Improvement Bonds under and pursuant to Chapter 29, the 1915 Act and this Resolution in the maximum aggregate principal amount not to exceed \$200,000,000 to finance the installation of Solar Systems to be installed or caused to be installed on Participating Parcels by Solar Providers.

Section 2. Approval of Master Indenture and Supplemental Indenture. With respect to the Limited Obligation Improvement Bonds to be issued on or after the effective date of this Resolution, the Board of Directors hereby approve the form of the master indenture (the “Initial Master Indenture”) substantially in the form on file with the Secretary,

together with any changes therein and additions thereto approved by the Executive Director, or any designee of the Executive Director (each, an “Authorized Representative”) and reviewed and concurred in by Bond Counsel, and the execution thereof by an Authorized Representative shall be conclusive evidence of the approval of any such changes or additions. The Board of Directors hereby authorizes and directs an Authorized Representative to execute the final form of the Initial Master Indenture for and in the name of SANBAG for each Series (as defined in the Initial Master Indenture) of the Limited Obligation Improvement Bonds. The Board of Directors hereby authorizes the delivery and performance of the Initial Master Indenture for each Series of the Limited Obligation Improvement Bonds.

The Board of Directors hereby approves the form of the Supplemental Indenture (as defined in the Initial Master Indenture) substantially in the form contained in the Initial Master Indenture, together with any changes therein or additions thereto approved by an Authorized Representative and reviewed and concurred in by Bond Counsel, required for the issuance of each Initial LSOI Bond, and the execution thereof by an Authorized Representative shall be conclusive evidence of the approval of any such changes or additions. The Board of Directors hereby authorizes and directs an Authorized Representative to execute the final form of each Supplemental Indenture for and in the name of SANBAG for each Series of Limited Obligation Improvement Bonds. The Board of Directors hereby authorizes the delivery and performance of each Supplemental Indenture for each Series of Limited Obligation Improvement Bonds.

The Board of Directors hereby approves the Initial Master Indenture to finance the installation of Solar Systems provided by Lifestyle Energy Financial, LLC (“Lifestyle”) through Solar Agreements entered into by Lifestyle and the owners of Participating Parcels that elect to finance such installation of Solar Systems through Lifestyle.

The Board of Directors hereby delegates to the Executive Director the authority to approve an Initial Master Indenture for such other Solar Providers as the Executive Director determines to be in the best interests of the HERO Program.

Section 3. Closure of the Initial Limited Obligation Improvement Bonds. The Executive Director or another Authorized Representative is hereby authorized to order the closure of an Initial Master Indenture and direct that no further bonds be issued pursuant to such master indenture by delivering an Officer’s Certificate (as defined in the Initial Master Indenture) to the Trustee to such effect.

Section 4. Delegation of Authority to Approve Additional Master Indentures and Order the Closure of such Master Indentures. With respect to additional future Limited Obligation Improvement Bonds to be issued following the closure of an Initial Master Indenture (each, “Future Limited Obligation Improvement Bonds”) to be issued on or after the effective date of this Resolution, the Board of Directors hereby delegate to the Executive Director or another Authorized Representative the authority to approve the master indenture for each such tranche of bonds (each, a “Future Master Indenture”) so long as such master

indenture is substantially in the form of the Initial Master Indenture, together with any changes therein and additions thereto approved by the Executive Director, or another Authorized Representative, and reviewed and concurred in by Bond Counsel, and the execution thereof by an Authorized Representative shall be conclusive evidence of the approval of any such changes or additions. The Board of Directors hereby authorize and directs an Authorized Representative to execute the final form of each such Future Master Indenture for and in the name of SANBAG for each series of the Future Limited Obligation Improvement Bonds authorized to be issued pursuant to such Future Master Indenture. The Board of Directors hereby authorize the delivery and performance of such Future Master Indenture for each series of such Future Limited Obligation Improvement Bonds.

The Board of Directors hereby delegates to the Executive Director or another Authorized Representative the authority to approve each supplemental indenture required for the issuance of each series of such Future Limited Obligation Improvement Bond (each, a “Future Supplemental Indenture”) pursuant to the applicable Future Master Indenture, together with any changes therein and additions thereto approved by the Executive Director, or another Authorized Representative, and reviewed and concurred in by Bond Counsel, and the execution thereof by an Authorized Representative shall be conclusive evidence of the approval of any such changes or additions. The Board of Directors hereby authorizes and directs an Authorized Representative to execute the final form of each Future Supplemental Indenture for and in the name of SANBAG for each series of Future Limited Obligation Improvement Bonds. The Board of Directors hereby authorizes the delivery and performance of each such Future Supplemental Indenture for each series of Future Limited Obligation Improvement Bonds.

Proposed provisions of any Future Master Indenture that constitute substantive revisions to the Initial Master Indenture shall be subject to the approval of the Board of Directors.

The Executive Director or another Authorized Representative is hereby authorized to order the closure of any Future Master Indenture and direct that no further bonds be issued pursuant to such master indenture by delivering a certificate of SANBAG to such effect as provided for in the applicable Future Master Indenture to the trustee under such Future Master Indenture.

Section 5. Sale of the Limited Obligation Improvement Bonds. SANBAG Board of Directors hereby authorizes the negotiated sale of the Limited Obligation Improvement Bonds to Renovate America, Inc. or the Solar Provider, as assignee thereof approved by Executive Directors (the “Limited Obligation Improvement Bonds Purchaser”) provided that the conditions for issuance of each such Limited Obligation Improvement Bond set forth in the applicable Master Indenture and the applicable Supplemental Indenture have been satisfied. Each Limited Obligation Improvement Bond shall be sold to the Limited Obligation Improvement Bonds Purchaser pursuant to the applicable Master Indenture and the Supplemental Indenture applicable to such bond or Series thereof. The Board of Directors hereby delegates to the Executive Director or another Authorized

Representative the authority to establish and agree with the Limited Obligation Improvement Bonds Purchaser to the final terms for each Limited Obligation Improvement Bond or Series thereof including, but not limited to, the principal amount thereof, the interest rate on such Limited Obligation Improvement Bond or Series thereof and the redemption provisions.

Section 6. Appointment of Trustee. Deutsche Bank National Trust Company is appointed as Trustee pursuant to each Master Indenture and each Supplemental Indenture, to take any and all actions provided for therein to be taken by the Trustee.

Section 7. Form of Limited Obligation Improvement Bonds. The form of Limited Obligation Improvement Bonds as set forth in the form of each Supplemental Indenture is approved. The Treasurer of SANBAG and the Secretary of the Board of Directors are authorized and directed to execute by manual or facsimile signature, in the name and on behalf of SANBAG, the Limited Obligation Improvement Bonds in either temporary or definitive form and to deliver or cause the delivery of each Limited Obligation Improvement Bond to the applicable Limited Obligation Improvement Bonds Purchaser pursuant to the applicable Master Indenture.

Section 8. No Obligation of SANBAG or its Regular Members. Pursuant to Streets and Highways Code Section 8769, this Board of Directors does hereby determine that SANBAG will not obligate itself to advance funds from the SANBAG treasury to cure any deficiency in the Redemption Fund (as such term is defined in the applicable Master Indenture) for the Limited Obligation Improvement Bonds established pursuant to such Master Indenture. The Board of Directors further declares and determines that no Regular Member shall be obligated to advance funds from the treasury of such Regular Member or Associate Member to cure any such deficiency in such Redemption Fund.

Section 9. Conditions of Approval. The approvals, authorization and direction given by this Resolution are conditioned upon the satisfaction of the requirements of hereof and of each Master Indenture with respect to the issuance and sale of the Limited Obligation Improvement Bonds. The Authorized Officers and shall not take any action with respect to the execution and delivery of a Supplemental Indenture or the issuance, sale or delivery of any Limited Obligation Improvement Bond unless and until such conditions are satisfied; provided, however, that upon satisfaction of such conditions as to any Limited Obligation Improvement Bond, this Resolution shall be fully effective and shall be carried out as to such Limited Obligation Improvement Bonds without the further approval or action of the Board of Directors.

Section 10. Official Actions. Each Authorized Representative is hereby authorized and directed, for and in the name and on behalf of SANBAG, to do any and all things and take any and all actions, including execution and delivery of any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the issuance and sale of the Limited

Obligation Improvement Bonds and any of the other transactions contemplated by the documents approved pursuant to this Resolution. All actions heretofore taken by the officers and agents of SANBAG with respect to the establishment of the HERO Program and the sale and issuance of the Limited Obligation Improvement Bonds are hereby approved, confirmed and ratified.

Section 11. The Board of Directors hereby authorizes the maximum term of the bonds to be 25 years for Solar Systems and Authorized Improvements having a useful life of 25 years or more. Each Authorized Representative is hereby authorized to amend the Program Report and any and all agreements and documents to reflect such authorization.

Section 10. Effective Date. This Resolution shall take effect upon the date of its adoption.

PASSED AND ADOPTED at a Meeting of the Board of Directors of the San Bernardino Associated Governments held this ___ day of _____, 2016.

Robert A. Lovingood, President

ATTEST:

Vicki Watson,
Clerk of the Board

Attachment: 17-007 Resolution Authorizing an Increase in Maximum Bond Authorization-c1 (3143 : Authorize the Issuance of Bonds for

Minute Action

AGENDA ITEM: 18

Date: *October 5, 2016*

Subject:

State and Federal Legislative Platform Update

Recommendation:

Receive and file the current State and Federal Legislative Platforms as the foundation for the development of the 2017/2018 platforms and provide direction as necessary.

Background:

SANBAG's 2015-2016 State and Federal Legislative Platforms were adopted on November 5, 2015 in preparation for the 2015-2016 State Legislative Session and the 114th Congress. In recognition of the two-year legislative cycle, the platforms were adopted with the intent to guide staff's analyses and recommendations on legislative and regulatory items under consideration through December 2016.

In July 2015, the SANBAG Board of Directors further authorized the Legislative Ad Hoc Committee (comprised of the Board President, Vice President/General Policy Committee Chair, and Immediate Past President) to take positions on state legislation on behalf of the Board of Directors when that proposed position is consistent with the current adopted legislative platform. The positions taken by the Legislative Ad Hoc Committee are then presented to the General Policy Committee at the next meeting. Bills that are particularly noteworthy or fall outside of the scope of the legislative platform are taken through the Board and Committee process for action.

The platforms have served as the foundation for understanding the perspective of the SANBAG Board of Directors on various key issues that are anticipated to be considered during the course of the legislative session. The platforms are periodically updated to coincide with the beginning of a new two-year session to reflect new issues, updates to existing issues, and removal of issues no longer under consideration.

Staff will work internally, incorporating Board input, to prepare revised, draft State and Federal Legislative Platforms to be presented to the General Policy Committee for feedback, and distribute the draft documents to additional stakeholders for input. This process will allow for feedback on existing platform items and for consideration of any proposed additions to the platforms. Following this outreach, proposed 2017-2018 final Platforms will be presented to the General Policy Committee and Board of Directors for consideration.

The 2015-2016 platforms are provided as a tool to solicit comments and suggestions for next year's platform. The State Legislative Platform is included as Attachment A and Federal Legislative Platform is included as Attachment B.

Entity: CMA, COG, CTA, CTC, SAFE

Board of Directors Agenda Item
October 5, 2016
Page 2

Financial Impact:

This item has no impact on the Fiscal Year 2016/2017 SANBAG Budget

Reviewed By:

This item was presented to the General Policy Committee for review on September 14, 2016.

Responsible Staff:

Otis Greer, Director of Legislative and Public Affairs

Approved
Board of Directors
Date: October 5, 2016

Witnessed By:

SANBAG 2015-2016 State Legislative Platform

The legislative platform serves as the basis to proactively engage in policy and legislative initiatives that will enable the San Bernardino Associated Governments (SANBAG) to deliver projects and programs that meet the needs of our region. This document also guides staff recommendations to the SANBAG Board of Directors on state legislative, regulatory, and administrative matters that are anticipated to be addressed in the coming legislative session.

SANBAG will collaborate with regional and statewide stakeholder groups to advance the legislative program including, but not limited to, the Southern California Consensus Group, Mobility 21, California Association of Councils of Governments, the Self-Help Counties Coalition, the California Transit Association, the Southern California Regional Rail Authority, and the High Desert Corridor Joint Powers Authority.

Key Issues

In the coming legislative session, SANBAG anticipates a number of key issues to be considered including initiatives related to Cap and Trade funding distributions and innovative project delivery mechanisms.

Cap and Trade

- a) Support the use of auction revenue from fuels to implement the AB 32 regulatory program and Sustainable Communities Strategies as required under SB 375 to reduce greenhouse gas (GHG) emissions from transportation allowing for local flexibility on project selection, considerations of the cost-effectiveness and technological feasibility, and promote innovation, collaboration, economic development and sustainability.
- b) Continue to advocate that project funding determinations be targeted at the regional, level reflecting each region's transportation funding structures under statewide criteria for evaluating GHG impacts.
- c) Support actions that assist local governments with meeting regional GHG reduction goals including, but not limited to, grants, incentive funding, and economic development tools that support transit oriented development.
- d) Support an implementation program that includes a performance-based approach to maximize regional flexibility with improved modeling and verification systems to ensure effective results.
- e) Advocate that the distribution of funds arising from transportation sources should fund a broad array of projects that are geographically balanced rather than focus exclusively on a single or limited set of specified projects.

Innovative Project Delivery

SANBAG will advocate that innovative financing opportunities remain available for county transportation commissions to leverage local dollars, accelerate construction and job creation, and provide mobility options for the traveling public.

- a) Support the consideration of public-private partnerships (P3s) in the development of transportation improvements.
- b) Work to ensure that existing innovative project delivery methods such as design-build, construction manager/general contractor, and other tools are available and effective for a broad variety of projects including highways, transit, and local streets and roads.

- c) Support measures that expand the use of design-build and P3s, with expanded flexibility, reduced multi-level approval and reporting requirements for projects that are largely locally funded or locally controlled, and an extended timeline for use of the authority.
- d) Advocate for reforms to ensure projects are delivered faster, with increased flexibility and better coordination.
- e) Support legislation and/or administrative reforms to enhance project delivery, including contracting out to the private sector, as appropriate.
- f) Oppose efforts to impose additional mandates, hurdles, and requirements, beyond those already in existence, on lead agencies using alternative project delivery mechanisms.
- g) Projects selected for alternative project delivery mechanisms should be based on locally driven alternatives and needs and should not require state approval when funded primarily with local funds.
- h) Support process and timeline improvements to reduce the overall state review time.
- i) Support efforts to ensure the streamlining provisions of MAP-21 are implemented in a timely manner and in a way that provides the maximum benefit to project delivery schedules.
- j) Oppose efforts to impose state requirements without the consent of the local agency for the expenditure of locally raised revenues, including Measure I and potential toll revenues.
- k) Oppose legislation that seeks to divert local revenues for state purposes.
- l) Support efforts to preserve local flexibility in the administration of toll facilities.
- m) Oppose any requirements to allow specific vehicle classes to have unrestricted access to carpool or toll facilities.

I. State/Local Fiscal Issues

- a) SANBAG will advocate for stable State funding, indexed for population growth, for transportation projects in San Bernardino County.
- b) Oppose unfunded mandates on local governments.
- c) Support priority state funding for projects supported by voter-approved transportation local sales tax measures.
- d) Support efforts to maintain and protect transportation and transit funding as approved under the gas tax swap and as protected under Proposition 22. Oppose the diversion of transportation revenues for non-transportation purposes.
- e) Oppose efforts to link existing transportation funding sources to the achievement of AB 32 objectives. Such priorities should be funded with new or enhanced funding sources rather than the reprioritization of existing, already oversubscribed sources.
- f) Support budget and California Transportation Commission allocations to fully fund projects for San Bernardino County included in the State Transportation Improvement Program, State Highway Operation and Protection Program, bond programs, and the Measure I Expenditure Plan.
- g) Support the implementation of Moving Ahead for Progress in the 21st Century (MAP-21) in an equitable manner at established funding levels with respect for the roles and responsibilities in existence in each region guiding project selection and discretion in allocation decisions.
- h) Support retention of decision making, project selection, and funding authority at the county transportation commission level governing the use of all related funding sources.
- i) Oppose legislative or regulatory actions that rely on regional transportation agencies to raise revenue for transportation or planning purposes.
- j) Support legislation to provide funding for innovative, intelligent/advanced transportation, goods movement, demand management, active transportation, and air quality programs which relieve congestion, improve air quality, and enhance economic development.

- k) Oppose an unreasonable increase in the administrative fees levied by the Board of Equalization for the collection and administration of county transportation sales tax measures and seek relief if necessary.
- l) Support state policies that assure timely allocation of transportation revenue and allow for regions to advance projects with local funds as needed.
- m) Support legislation that will incentivize counties without a voter approved tax measure for transportation to become “self-help” counties and recognizes/rewards the investment in the state’s transportation system made by self-help counties.
- n) Support the resolution of outstanding Buy America implementation issues to ensure that projects are able to move forward without unreasonable delays and cost increases.

II. Council of Governments

- a) Support local control of the Ontario International Airport in recognition of the benefits of goods movement and passenger travel to San Bernardino County and the Inland Empire.
- b) Support efforts for Council of Government development and funding.
- c) Monitor legislation related to incentives for the development of affordable housing and transit-oriented developments
- d) Support legislative and regulatory actions that incentivize the attraction, retention, and growth of businesses and employment in San Bernardino County.

III. Goods Movement

- a) Support the development of the state freight plan, which recognizes the unique needs of San Bernardino County and its significant role in freight movement. The plan should not only recognize the economic benefits of the freight industry but should also include proposals to mitigate the associated congestion, air quality and community impacts and a recognition of the regions parallel transportation systems through a corridor based approach.
- b) Support legislation that reduces freight-related impacts to San Bernardino County, including a particular focus on impacts to disadvantaged communities.
- c) Ensure that goods movement project selection and prioritization authority is maintained at the local level.
- d) Monitor any state container fee legislation to ensure that San Bernardino County goods movement projects are funded and that San Pedro Bay Ports are not placed at a competitive disadvantage that would harm the overall Southern California economy.
- e) Oppose legislation that allows triple trailers in urbanized areas of San Bernardino County because of safety concerns, with the exception of border cities and/or bump stations, or dedicated truck lanes (e.g. Barstow/Needles).
- f) Support legislation to reduce road damage from heavy trucks by reduced axle loading rather than an exclusive focus on gross vehicle weight.
- g) Support recognition of the importance of San Bernardino County to the overall goods movement systems as part of any investment plan.
- h) Support freight-related funding programs similar to the Trade Corridor Improvement Fund, providing such a program would not divert funding from existing transportation programs.

IV. Energy, Air Quality & the Environment

- a) Support incentives to transition to alternative fuels and electric vehicles (EVs), including tax benefits and other incentives.
- b) Support cost effective and technologically feasible conversion and replacement of public transit fleets to alternative fuels and EVs.

- c) Support programs to provide refueling/recharging infrastructure for alternative fuel or electric vehicles.
- d) Support Property Assessed Clean Energy (PACE) program financing.
- e) Support utility planning and upgrades to electrical infrastructure in support of fleet conversion and possible rail electrification programs.
- f) Monitor regional proposals aimed at Cap and Trade and its focus on infrastructure impacts.
- g) Support maximum regional project selection capabilities for Active Transportation Projects.
- h) Continue to support the independence of the Mobile Source Air Pollution Reduction Review Committee, and the protection of AB 2766 funding.
- i) Oppose legislative action that would reduce SANBAG's discretion in allocating Congestion Mitigation and Air Quality (CMAQ) funds.
- j) Work in partnership with the South Coast Air Quality Management District and the Mojave Desert Air Quality Management District to promote job creation and retention, protect the public health, and work to improve the overall quality of life for San Bernardino County residents.
- k) Support legislation to streamline the environmental review and project development process to avoid potentially duplicative and unnecessary steps, while maintaining critical environmental protections.
- l) Partner with key stakeholders to advocate for the postponement of federal air quality standard deadlines in the South Coast Basin in order to allow for a more realistic implementation timeframe given the current forecast of available technology and funding options.
- m) Support revisions to the California Environmental Quality Act (CEQA) that expedite project delivery while maintaining critical environmental protections.
- n) Support a review of existing state and federal environmental and planning laws to reduce unnecessary and duplicative provisions.
- o) Oppose additional CEQA review and process requirements that delay projects and increase costs while achieving little to no additional environmental benefits.
- p) Oppose provisions that allow the CEQA process to be used to achieve non-environmental goals or to slow or delay projects that otherwise meet adopted environmental standards and include required mitigation measures.

V. Highways & Roads

- a) Support current program funding for Freeway Service Patrol, ride-sharing and call boxes, consistent with the level of growth and utilization.
- b) Support equitable funding and resources for San Bernardino County freeway landscaping and maintenance.
- c) Monitor the use of National Environmental Policy Act oversight authority delegated to the California Department of Transportation to ensure that local and state projects are receiving equal benefits and reduced project review times.
- d) Participate in studies of market-based pricing measures to relieve traffic congestion, improve air quality and/or fund transportation alternatives.
- e) Encourage the new State Transportation Agency to develop a mechanism for reporting on the performance of the new agency and the quality of the state and local project delivery programs and services, particularly in light of new requirements to locally fund state services such as oversight, project initiation documents, and other items.
- f) Monitor the implementation of the California Transportation Infrastructure Priorities (CTIP) and State Smart Transportation Initiative (SSTI) programs. Oppose any efforts to shift local funding to interregional and statewide needs, the possible restructuring of the STIP allocation process to shift funds away from local agencies, and any efforts to impede or remove local flexibility and control over local revenues, and project selection/administration authority.

VI. Transit & Commuter Rail

- a) Advocate that transit operations continue to have a strong state funding role as a vital service that improves mobility and helps meet federal and state mandates.
- b) Oppose additional requirements for increased service levels unless they are agreed to by the transit operator or appropriately funded.
- c) Advocate for a safe, appropriately funded, and growing bus and rail system in Southern California with equitable distribution of funds and flexibility in the administration of the programs to meet the needs of each region.
- d) Support state funding for Positive Train Control.
- e) Support legislation and programs that facilitate (or remove obstacles to) transit oriented development near rail and bus rapid transit stations.
- f) Advocate for high speed, and higher speed, rail investment in San Bernardino County and connectivity with local and regional transit.
- g) Support increased funding for higher speed commuter rail and improved transit connectivity as feeder services for High Speed Rail (HSR).
- h) Assure a SANBAG role in the planning for HSR and advocate for the full evaluation of all viable routes serving San Bernardino County before a final alternative is chosen.
- i) Advocate priority for the L.A.-San Diego via the Inland Empire HSR route.
- j) Advocate to secure funding for the completion of all connectivity projects complementary to the development of HSR.
- k) Support incentives for ridesharing and/or reimbursement for transit passes.
- l) Support state funding for commuter rail operations.
- m) Support appropriate funding levels from state sources to support transit operations that help to achieve AB 32 and SB 375 goals. The state should also recognize that, absent a new source of state funding, agencies will be unable to fully fund the level of service required to meet those goals in the future.
- n) Oppose legislation that seeks to mandate that SANBAG fund or operate specific transportation projects in San Bernardino County.
- o) Advocate to preserve SANBAG's decision making authority over transportation projects that are constructed and operated in San Bernardino County.
- p) Oppose all efforts that threaten the viability of SANBAG's Measure I Transit Program by requiring uncontrolled expenditures on an individual project or group of projects.
- q) Ensure that planning efforts for major transit investments in San Bernardino County should be done by or in consultation with SANBAG.
- r) Work with stakeholders to update bus axle weight standards.

VII. General

- a) Oppose legislation that could threaten the timely delivery of projects in the Measure I Expenditure Plan or interferes with the authority to administer any Measure I programs and services.
- b) Oppose legislative and regulatory efforts to reduce SANBAG's ability to efficiently and effectively contract for goods and services, conduct business for the good of the organization, and limit or transfer risk or liability.
- c) Monitor changes to the Brown Act that relate to the use of new technologies for communication with the public and with members of the Board of Directors, as well as changes to legislation related to public records and information requests.

SANBAG 2015-2016 Federal Legislative Platform

The legislative platform serves as the basis to proactively engage in policy and legislative initiatives that will enable the San Bernardino Associated Governments (SANBAG) to deliver projects and programs that meet the needs of our region. This document also guides staff recommendations to the SANBAG Board of Directors on federal legislative, regulatory, and administrative matters that are anticipated to be addressed.

SANBAG will continue to partner with public and private sector entities to support common objectives in Washington DC and foster the unity of the Southern California region.

I. Funding

- a) Seek the highest level of federal transportation dollars to California and San Bernardino County for SANBAG projects and programs including, but not limited to: interstate highways; transit capital and operations in order to help to meet federal environmental goals; intercity commuter, and higher speed rail; goods movement; intelligent transportation systems and new technologies that maximize existing infrastructure; safety, maintenance, and operations funding for all modes; and regional airport ground access and development needs.
- b) Support extending and expanding the federal Surface Transportation bill, Moving Ahead for Progress in the 21st Century (MAP-21).
- c) Support regional consensus building efforts for potential new funding strategies for transportation.
- d) Oppose efforts to eliminate or erode contract authority for the Highway Trust Fund without identifying a new dedicated, sustainable revenue source of an equal or greater amount.
- e) Support efforts to maintain the principle that transportation-based revenue should be reserved only for transportation purposes.
- f) Oppose any reduction in transportation programs in order to meet deficit reduction goals or fund other projects and programs. If funding is reduced, it should occur concurrently with reductions in federal regulatory and oversight provisions.
- g) Support the Transportation Infrastructure Finance and Innovation Act program which provides Federal credit assistance in the form of direct Treasury loans, loan guarantees, and lines of credit to finance highway, rail, and green energy projects of national and regional significance.
- h) Support Build America Bonds and America Fast Forward programs to help states and localities pursue needed capital for infrastructure.
- i) Advocate for the protection of current transportation revenues, additional flexibility for existing revenues, and an accelerated national investment in infrastructure.
- j) Support the implementation of MAP-21 at established funding levels with respect for the roles and responsibilities in existence in each region for project selection and discretion in allocation decisions. Additionally ensure that any extension of MAP-21 or any new reauthorization effort align programs with traditional roles and responsibilities for each region with respect to project selection and allocation decisions, as appropriate.
- k) Ensure that the streamlining provisions of MAP-21 are implemented in a timely manner and in a manner that provides the maximum benefits to project delivery schedules. Seek to include provisions in the next surface transportation bill to ensure that as MAP-21 rulemaking continues, a mechanism exists to evaluate the implementation efforts and suggest modifications as needed.

II. Council of Governments

- a) Support efforts for Council of Government development and funding.
- b) SANBAG will work with the Congressional delegation and local stakeholders to aggressively advocate for legislation, budget actions or proposals that transfer Ontario International Airport to local control in recognition of the benefits of its goods movement and passenger travel to San Bernardino County and the State of California.
- c) Support legislation and administrative actions that enable the implementation of the Property Assessed Clean Energy (PACE) program in San Bernardino County.
- d) Support the rescission of Federal Housing Financing Authority guidance regarding Fannie Mae and Freddie Mac's discontinuation of mortgage guarantees in order to grow and sustain the PACE program in San Bernardino County.
- e) Support initiatives, legislation, and regulatory actions that incentivize the attraction, retention, and growth of businesses and employment in San Bernardino County.
- f) Support efforts to ensure that any legislation creating a National Recreation Area (NRA) in the San Gabriel and San Bernardino Mountains and surrounding urban areas should include a governance structure with representatives from at least the impacted cities, as well as the County and/or the San Bernardino Associated Governments; the protection of existing land use authorities, private property rights, water rights, transportation needs, and ability to develop future infrastructure as needed; and fully evaluates the potential impacts of including any additional elements such as a Wilderness or Wild and Scenic designation before these new layers are included in legislation.

III. Goods Movement

- a) SANBAG will advocate for federal investment in goods movement infrastructure, and policies that properly recognize Southern California and San Bernardino County's role as the nation's premier containerized freight gateway.
- b) Support targeted funding for goods movement projects of national significance that are beyond the funding capacity of local and state transportation programs and budgets (e.g. dedicated exclusive clean truck lanes).
- c) Advocate that any federal goods movement program is funded at a level that is commensurate with national needs and ensure that such funds are protected from diversion for other uses through the designation of a trust fund.
- d) Ensure that revenues generated by any fee that is levied on freight be specifically designated to fund projects that mitigate congestion, air quality, and community impacts directly associated with the movement of freight, and a clear causal relationship should exist between the freight system on which fees are levied and the impacts to be mitigated.
- e) Ensure that revenue collected on freight be administered in partnership with local and regional elected officials and entities impacted by freight movement. SANBAG should be included in any governance structure dealing with revenue collected from freight moved through San Bernardino County.
- f) Support development of a national/regional freight movement plan with clearly defined ports and corridors and inland improvement needs to provide for timely, reliable freight transport, timely implementation of freight-related strategies needed for attainment of federal health-based air quality standards and mitigation of freight-related impacts in communities.
- g) Ensure that federal goods movement legislation imposes no unfunded mandates for administration or oversight regarding new revenue mechanisms and to retain control over project implementation at the local level.

- h) Support the expansion and update of the Primary Freight Network to allow for a fully connected system that accurately reflects the path and nature of goods movement travel in our region.
- i) Oppose legislation that allows triple trailers in urbanized areas of San Bernardino County because of safety concerns with the exception of border cities and/or bump stations, or dedicated truck lanes (e.g. Barstow/Needles).
- j) Support legislation to reduce road damage from heavy trucks by reduced axle loading rather than an exclusive focus on gross vehicle weight.
- k) Participate in national dialogue on freight policy and its focus on improving the performance of the freight network and advocate for improving Southern California's freight strategy.
- l) As part of defining the national freight network, seek recognition of the unique network of parallel corridors in Southern California and recognize the entire corridor as part of the national network rather than focusing on centerlane miles of individual facilities.
- m) Support recognition of the importance of inland ports to overall goods movement systems as part of any investment plan.

IV. Project Delivery & Innovation

- a) Advocate for reforms that will accelerate project procurement, promote flexibility and innovation in financing, and respect local control.
- b) Support the expanded use of design-build project delivery for federally funded highway and surface transportation projects.
- c) Support the streamlining of federal reporting/monitoring requirements to reduce project delivery times without eliminating critical oversight mechanisms.
- d) Support authority for regional transportation entities to implement pricing measures on federal-aid highways if desired for that region.
- e) Support local options to privatize various aspects of transportation that would maximize available federal funding (e.g. P3s).
- f) Support measures that would provide regional flexibility in meeting the operational requirements for high occupancy vehicle lanes.
- g) Advocate for the implementation and further inclusion of recommendations for project streamlining initiatives as included in the Orange County Transportation Authority's Breaking Down Barriers report.
- h) Support the resolution of outstanding Buy America implementation issues to ensure that projects are able to move forward without unreasonable delays and cost increases.

V. Energy, Air Quality, & the Environment

- a) Advocate that any federal revenue generated from taxes or fees on energy products used for transportation are utilized for transportation purposes.
- b) Support utility planning and upgrades of electrical infrastructure to support fleet conversion and possible rail electrification programs.
- c) Monitor national Cap and Trade policies as they relate to infrastructure impacts.
- d) Monitor the use of National Environmental Policy Act (NEPA) oversight authority delegated to the California Department of Transportation to ensure that local and state projects are receiving equal benefits and reduced project review times.
- e) Protect funding sources for congestion relief and pollution reduction related to the transportation sector.

- f) Support efforts to secure funds to facilitate the conversion of public sector fleets to alternative fuels to meet local, state and federal fleet conversion mandates, and provide for the replacement of aging alternative fuel fleets.
- g) Support tax benefits and/or incentives for private sector transportation demand management programs and alternative fuel programs.
- h) Ensure that federal goods movement legislation considers and underscores federal responsibilities for facilitation of international trade and interstate commerce, and regulation of interstate commerce in ways consistent with attainment of federal air quality standards and NEPA.
- i) Support efforts to increase the amount and proportion of Congestion Mitigation and Air Quality (CMAQ) funds received by the State of California and ensure that the funds flow to county transportation commissions such as SANBAG for the appropriate South Coast and Mojave Desert Air Basin areas.
- j) Support streamlined environmental revisions that remove duplication of state and federal processes when state regulations and environmental protections exceed federal requirements.
- k) Participate in the development of livability and sustainability programs for the citizens of San Bernardino County.
- l) Oppose additional review and process requirements that delay projects and increase costs while achieving little to no additional environmental benefits.
- m) Monitor federal regulatory efforts to ensure that any new environmental requirements placed on local agencies are accompanied by the funding necessary for implementation.
- n) Support the postponement of federal air quality standard deadlines in the South Coast Basin in order to allow for a more realistic implementation timeframe given the current forecast of available technology and funding options.

VI. Transit & Commuter Rail

- a) Advocate for policies that keep our rail systems safe and increase federal investment in commuter rail services.
- b) Advocate that federal funding programs for Positive Train Control (PTC) and rail safety programs include eligibility to seek reimbursements for past expenditures on systems in operation.
- c) Ensure that various technologies for PTC are compatible across the nation.
- d) Advocate that the appropriate local or regional entity, such as SANBAG, be partners in on-going federal policy discussions to alter the liability cap for commuter rail accidents.
- e) Support legislation to change and/or exempt level boarding access requirements for existing commuter rail systems.
- f) Support policies that recognize the importance and fund commuter rail and transit connectivity to High Speed Rail.
- g) Support the inclusion of San Bernardino County projects in the New and Small Starts programs.
- h) Work to secure the greatest commuter tax benefits possible to incentivize the use of transit options.
- i) Expand eligible uses for federal transit funds to provide maximum flexibility to local agencies to fund capital and operations needs.

Minute Action

AGENDA ITEM: 19

Date: *October 5, 2016*

Subject:

National Trails Highway Resurfacing Project Funding Agreement

Recommendation:

That the Board, acting in its capacity as the San Bernardino County Transportation Authority:

- A. Allocate \$3,402,303 in North Desert Subarea Major Local Highway Program funds to the County of San Bernardino for the National Trails Highway Resurfacing Project.
- B. Approve Contract 16-1001554 for the National Trails Highway Resurfacing Project.
- C. Approve a Fiscal Year 2016/2017 budget amendment to increase Sub-task 0516 MSI Mt/Desert Apportionment and Allocation Fund in the amount of \$3,402,303 from Measure I North Desert Fund-Major Local Highway Program funds.

Background:

San Bernardino County has requested North Desert Major Local Highway Program (MLHP) funding for the National Trails Highway Resurfacing Project. Staff is recommending an allocation of \$3,402,303 for construction of this project, as approved by subarea representatives on July 21, 2016.

The National Trails Highway project is located on two segments of National Trails Highway: Segment 1 is between Fort Cady Road and Lavic Road (18.3 miles) and Segment 2 is between 4.43 miles west of Amboy Road to 17 miles east of Amboy Road (21.43 miles). The scope of work for Segment 1 is Maintenance overlay (just under 1") and for Segment 2 is scrub seal. The work will be performed by the County's own forces as a maintenance project. The overlay project is scheduled to begin in Fall 2016, with completion in 2017. Segment 2 is expected to begin in mid-2017.

National Trails Highway is a culturally historic highway and an important detour route for I-40 functionally. However, due to its length (over 120 miles east of Barstow), and relative low average daily traffic, it has been cost prohibitive to keep it under proper maintenance. Many segments of the road have fallen into disrepair. Segment 1 is chosen for its very poor pavement conditions. Segment 2 was chosen for a safety improvement project (pavement marker) awarded by the Highway Safety Improvement Program (HSIP) and the scrub seal is proper preparation work prior to installing pavement markers.

It should be noted that on July 6, 2016, the SANBAG Board approved a swap of federal earmark funds in the amount of \$602,343 from a County project for Measure I MLHP currently programmed on the City of Barstow's First Avenue Bridge project. It is anticipated that this swap will be approved by the Federal Highway Administration in October.

Entity: CTA

Board of Directors Agenda Item

October 5, 2016

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Financial Impact:

This item is not consistent with the Fiscal Year 2016/2017 Budget and requires a budget amendment (see Recommendation C).

Reviewed By:

This item was reviewed and unanimously recommended for approval by the Mountain/Desert Policy Committee on September 16, 2016. SANBAG General Counsel and Procurement Manager have reviewed this item and draft contract.

Responsible Staff:

Andrea Zureick, Director of Fund Administration

Approved
Board of Directors
Date: October 5, 2016

Witnessed By:

General Contract Information

Contract No: 16-1001554 Amendment No.: _____ Vendor No.: 01907
 Vendor/Customer Name: _____ County of San Bernardino Sole Source? Yes No
 Description: National Trails Highway Resurfacing Project Funding Agreement
 Start Date: 10/05/2016 Expiration Date: 08/31/2019 Revised Expiration Date: _____
 Has Contract Term Been Amended? No Yes - Please Explain _____
 List Any Related Contracts Nos.: _____ None

Dollar Amount			
Original Contract	\$ 3,402,303.00	Original Contingency	\$ -
Revised Contract (Inclusive of Prior Amendments)	\$ -	Revised Contingency (Inclusive of Prior Amendments)	\$ -
Current Amendment	\$ -	Contingency Amendment	\$ -
TOTAL CONTRACT VALUE	\$ 3,402,303.00	TOTAL CONTINGENCY VALUE	\$ -
		TOTAL DOLLAR AUTHORITY (Contract Value and Contingency)	\$ 3,402,303.00

Contract Authorization

Executive Director Date: _____
 Executive Director Action: _____
 Board of Directors Date: 10/05/2016
 Board of Directors Action: Approve Agreement 16-1001554

Contract Management: Payable/Miscellaneous

Invoice Warning: 20% Renewals: _____ Type: Capital PAA Other
 Retention: % Maximum Retention: \$ _____
 Services: Construction Intrgrnt/MOU/COOP A & E Services Other Professional Services
 Disadvantaged Business Enterprise (DBE) Goal _____ %

Contract Management: Receivable

E-76 and/or CTC Date _____ (Attach Copy) Program Supplement No.: _____
 Finance Letter Reversion Date: _____ EA No.: _____

All of the above MUST be submitted to FINANCE including originals, amendments and miscellaneous transaction changes

Additional Information

Project Manager: Ellen Pollema

Attachment: 16-1001554 CSS [Revision 1] (3032 : National Trails Highway Resurfacing Project Funding Agreement)

PROJECT FUNDING AGREEMENT NO. 16-1001554

BETWEEN

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

AND

COUNTY OF SAN BERNARDINO

FOR

NATIONAL TRAILS HIGHWAY RESURFACING PROJECT

THIS Project Funding Agreement (“Agreement”) is made and entered into this 5th day of October, 2016 by and between the San Bernardino County Transportation Authority (hereinafter referred to as “AUTHORITY”) and the COUNTY OF SAN BERNARDINO (hereinafter referred to as “COUNTY”). AUTHORITY and COUNTY shall be individually or collectively, as applicable, known as “Party” or “Parties.”

RECITALS

- A. The Measure I 2010-2040 Expenditure Plan and the North Desert Subarea transportation planning partners have identified projects eligible for partial funding from Measure I 2010-2040 North Desert Subarea Major Local Highway Program (“MLHP”); and
- B. National Trails Highway Resurfacing Project in the County of San Bernardino (“PROJECT”) is one of the projects identified as eligible for such funding and is described more fully in Attachment A; and
- C. AUTHORITY has determined that the PROJECT is eligible to receive the North Desert Subarea MLHP funds; and
- D. On October 5, 2016, AUTHORITY’s Board of Directors approved allocation of \$3,402,303 in North Desert Subarea MLHP funds for the PROJECT; and
- E. This Agreement is to be carried out in accordance with the policies in the Measure I 2010-2040 Strategic Plan; and
- F. Parties desire to proceed with the PROJECT in a timely manner; and

G. The PROJECT will resurface National Trails Highway Segment 1 between Fort Cady Road and Lavic Road (18.3 miles) and Segment 2 between 4.43 miles west of Amboy Road to 17 miles east of Amboy Road (21.43 miles); and

H. This Agreement is intended to delineate the duties and funding responsibilities of the Parties for the PROJECT; and

I. AUTHORITY and COUNTY are entering into this Agreement with the understanding that AUTHORITY will reimburse COUNTY for eligible PROJECT expenditures with MLHP funds.

NOW, THEREFORE, AUTHORITY and COUNTY agree to the following:

SECTION I

AUTHORITY AGREES:

1. To reimburse COUNTY for the actual cost of the PROJECT up to a maximum of \$3,402,303 in MLHP funds. An estimate of costs for the PROJECT is provided in Attachment B. AUTHORITY shall have no further responsibilities to provide any funding for PROJECT exceeding this amount unless an amendment to this Agreement is approved by the Parties.
2. To reimburse COUNTY within thirty (30) days after COUNTY submits an original and two copies of the signed invoices in the proper form covering those actual allowable PROJECT expenditures that were incurred by COUNTY up to a maximum of \$3,402,303, consistent with the invoicing requirements of the Measure I 2010-2040 Strategic Plan, including backup information. Invoices may be submitted to AUTHORITY as frequently as monthly.
3. When conducting an audit of the costs claimed under the provisions of this Agreement, to rely to the maximum extent possible on any prior audit of COUNTY performed pursuant to the provisions of State and Federal laws. In the absence of such an audit, work of other auditors will be relied upon to the extent that work is acceptable to AUTHORITY when planning and conducting additional audits.
4. AUTHORITY shall assign a project liaison for the purpose of attending Project Development Team (PDT) meetings.

SECTION II

COUNTY AGREES:

1. To be the lead agency for this PROJECT and to diligently undertake and complete in a timely manner the Scope of Work for the PROJECT as shown in Attachment A.

2. To be responsible for expending that portion of allocated MLHP funds on eligible PROJECT expenses for an amount not to exceed \$3,402,303 in MLHP funds unless this Agreement is amended and approved increasing PROJECT costs. Reimbursement by AUTHORITY shall be in accordance with Section I, Paragraph 2. Additionally, expenses relative to time spent on the PROJECT by COUNTY staff are considered eligible PROJECT expenses and may be charged to the PROJECT, subject to AUTHORITY's guidelines.
3. To abide by all AUTHORITY, COUNTY, State, and Federal laws, regulations, policies and procedures pertaining to the PROJECT.
4. To prepare and submit to AUTHORITY an original and two copies of signed invoices for reimbursement of eligible PROJECT expenses. Invoices may be submitted to AUTHORITY as frequently as monthly.
5. To maintain all source documents, books and records connected with its performance under this Agreement for a minimum of five (5) years from the date of the Final Report of Expenditures submittal to AUTHORITY or until audit resolution is achieved, whichever is later, and to make all such supporting information available for inspection and audit by representatives of AUTHORITY during normal business hours at COUNTY's Department of Public Works. Copies will be made and furnished by COUNTY upon written request by AUTHORITY.
6. To establish and maintain an accounting system conforming to Generally Accepted Accounting Principles (GAAP) to support COUNTY's requests for reimbursement, payment vouchers, or invoices which segregate and accumulate costs of PROJECT work elements and produce monthly reports which clearly identify reimbursable costs, matching fund costs, indirect cost allocation, and other allowable expenditures by COUNTY.
7. To prepare a Final Report of Expenditures, including a final invoice reporting the actual eligible PROJECT costs expended for those activities described in the work activities, and to submit that Final Report of Expenditures and final invoice no later than one hundred twenty (120) days following the completion of those expenditures. An original and two copies of the Final Report of Expenditures shall be submitted to AUTHORITY and must state that these PROJECT funds were used in conformance with this Agreement and for those PROJECT-specific work activities described.
8. To cooperate in having a PROJECT-specific audit completed by AUTHORITY, at AUTHORITY's option and expense, upon completion of the PROJECT. The audit must state that all funds expended on the PROJECT were used in conformance with this Agreement.
9. To repay to AUTHORITY any reimbursement for Measure I costs that are determined by subsequent audit to be unallowable within one hundred twenty (120) days of

COUNTY receiving notice of audit findings, which time shall include an opportunity for COUNTY to respond to and/or resolve the findings. Should the findings not be otherwise resolved and COUNTY fail to reimburse moneys due AUTHORITY within one hundred twenty (120) days of audit findings, or within such other period as may be agreed between both Parties, the AUTHORITY reserves the right to withhold future payments due COUNTY from any source under AUTHORITY's control.

10. To include AUTHORITY in Project Development Team (PDT) meetings if and when such meetings are held and in related communications on PROJECT progress, to provide at least quarterly schedule updates to AUTHORITY, and to consult with AUTHORITY on critical issues relative to the PROJECT.
11. As an eligible PROJECT expense, to post signs at the boundaries of the PROJECT noting that PROJECT is funded with Measure I funds. Signs shall bear the logos of AUTHORITY and COUNTY.

SECTION III

IT IS MUTUALLY AGREED:

1. To abide by all applicable Federal, State and Local laws and regulations pertaining to the PROJECT, including policies in the applicable program in the Measure I 2010-2040 Strategic Plan, as amended, as of the Effective Date of this Agreement.
2. The final PROJECT cost may ultimately exceed current estimates of PROJECT cost. Any additional eligible costs resulting from unforeseen conditions over the estimated total of the PROJECT cost, shall be borne by COUNTY unless prior authorization has been approved by the AUTHORITY Board of Directors pursuant to Section III, Paragraph 3 of this Agreement;
3. In the event COUNTY determines PROJECT work may exceed the not to exceed amount identified in Section I, Paragraph 1, COUNTY shall inform AUTHORITY of this determination and thereafter the Parties shall work together in an attempt to agree upon an amendment to the PROJECT amounts identified in this Agreement. In no event, however, shall AUTHORITY be responsible for PROJECT costs in excess of the PROJECT amounts identified herein absent a written amendment to this Agreement that is approved by the Parties.
4. Eligible PROJECT reimbursements shall include only those costs incurred by COUNTY for PROJECT-specific work activities that are described in this Agreement and shall not include escalation or interest.
5. Neither AUTHORITY nor any officer or employee thereof is responsible for any injury, damage or liability occurring or arising by reason of anything done or omitted to be done by COUNTY under or in connection with any work, authority or jurisdiction delegated to COUNTY under this Agreement. It is understood and

agreed that, pursuant to Government Code Section 895.4, COUNTY shall fully defend, indemnify and save harmless AUTHORITY, its officers and employees from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by COUNTY under or in connection with any work, authority or jurisdiction delegated to COUNTY under this Agreement. COUNTY's indemnification obligation applies to AUTHORITY's "active" as well as "passive" negligence but does not apply to AUTHORITY's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

6. Neither COUNTY nor any officer or employee thereof is responsible for any injury, damage or liability occurring or arising by reason of anything done or omitted to be done by AUTHORITY under or in connection with any work, authority or jurisdiction delegated to AUTHORITY under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, AUTHORITY shall fully defend, indemnify and save harmless COUNTY, its officers and employees from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by AUTHORITY under or in connection with any work, authority or jurisdiction delegated to AUTHORITY under this Agreement. AUTHORITY's indemnification obligation applies to COUNTY's "active" as well as "passive" negligence but does not apply to COUNTY's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.
7. This Agreement will be considered terminated upon reimbursement of eligible costs by AUTHORITY or August 31, 2019, whichever is sooner, provided that the provisions of Paragraphs 5, 6, 7, 8, and 9 of Section II, and Paragraphs 5 and 6 of Section III, shall survive the termination of this Agreement. The Agreement may also be terminated by AUTHORITY, in its sole discretion, in the event the PROJECT work described in Attachment A has not been initiated by COUNTY within twelve (12) months of the Effective Date of this Agreement.
8. AUTHORITY may terminate this Agreement if COUNTY fails to perform according to the terms of this Agreement and if this failure jeopardizes the delivery of the PROJECT according to the terms herein.
9. The Recitals to this Agreement are true and correct and are incorporated into this Agreement.
10. Attachment A, The National Trails Highway Resurfacing Project (Description of Project and Milestones), and Attachment B, National Trails Highway Resurfacing Project (Summary of Estimated Costs), are attached to and incorporated into this Agreement.
11. This Agreement may be signed in counterparts, each of which shall constitute an original.

12. This Agreement is effective and shall be dated on the date executed by AUTHORITY.

In witness whereof, the Parties have executed this Agreement by their authorized signatories below.

**SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY**

COUNTY OF SAN BERNARDINO

By: _____
Robert A. Lovingood, President
Board of Directors

By: _____
James Ramos, Chairman

Date: _____

Date: _____

APPROVED AS TO FORM

APPROVED AS TO FORM:

By: _____
Eileen Monaghan Teichert
AUTHORITY General Counsel

By: _____
Scott Runyan
Deputy County Counsel

Date: _____

By: _____
Jeffery Hill
Procurement Manager

Date: _____

Attachment: 16-1001554 National Trails Hwy Funding Agmt [Revision 2] (3032 : National Trails Highway Resurfacing Project Funding

Attachment A

NATIONAL TRAILS HIGHWAY RESURFACING PROJECT COUNTY OF SAN BERNARDINO Description of Project and Milestones

Project Title	
National Trails Highway Resurfacing	
Location, Project Limits, Description, Scope of Work <input type="checkbox"/> See page 2	
<p>The project is located on 2 segments of National Trails Highway: Segment 1 between Fort Cady Road and Lavic Road (18.3 miles) and Segment 2 between 4.43 miles west of Amboy Road to 17 miles east of Amboy Road (21.43 miles). The scope of work for Segment 1 is Maintenance overlay (just under 1") and for Segment 2 is scrub seal. The work will be performed by County forces as a maintenance project.</p>	
<input type="checkbox"/> Includes ADA Improvements <input type="checkbox"/> Includes Bike/Ped Improvements	
Component	Implementing Agency
PA&ED	County of San Bernardino
PS&E	County of San Bernardino
Right of Way	County of San Bernardino
Construction	County of San Bernardino
Purpose and Need <input type="checkbox"/> See page 2	
<p>National Trails Highway is a historic highway of cultural significance that also functions as an important detour route for I-40. However due to its length (over 120 miles east of Barstow), and relative low ADT, it has been costly to provide proper maintenance. Many segments of the road have fallen into disrepair. Segment 1 is chosen for its very poor pavement condition. Segment 2 was chosen because of a safety improvement project (raised pavement markers) that was awarded HSIP funds and the scrub seal is a proper preparation prior to installing the pavement markers.</p>	
Project Benefits <input type="checkbox"/> See page 2	
<p>The project will improve the pavement condition of Segment 1 and extend the life of the pavement in Segment 2 by approximately 15 years.</p>	
<input type="checkbox"/> Supports Sustainable Communities Strategy (SCS) Goals <input type="checkbox"/> Reduces Greenhouse Gas Emissions	
Project Milestone	Proposed
Project Study Report Approved	N/A
Begin Environmental (PA&ED) Phase	08/01/16
Circulate Draft Environmental Document	Document Type CE N/A
Draft Project Report	N/A
End Environmental Phase (PA&ED Milestone)	09/15/16
Begin Design (PS&E) Phase	N/A
End Design Phase (Ready to List for Advertisement Milestone)	N/A
Begin Right of Way Phase	N/A
End Right of Way Phase (Right of Way Certification Milestone)	N/A
Begin Construction Phase (Contract Award Milestone)	10/01/16
End Construction Phase (Construction Contract Acceptance Milestone)	11/30/17
Begin Closeout Phase	02/01/18
End Closeout Phase (Closeout Report)	08/30/18

Attachment: 16-1001554 National Trails Hwy Funding Agmt [Revision 2] (3032 : National Trails Highway Resurfacing Project Funding

ATTACHMENT B
NATIONAL TRAILS HIGHWAY RESURFACING PROJECT
COUNTY OF SAN BERNARDINO

Summary of Estimated Costs

Component	Total Cost	AUTHORITY SHARE* MLHP Funds	COUNTY Local Funds
PA&ED	\$10,000		\$10,000
PS&E	\$0		
Right of Way	\$0		
Construction	\$3,590,000	\$3,402,303	\$187,657
Total	\$3,600,000	\$3,402,303	\$197,657

*AUTHORITY's Share can be from sources under control of AUTHORITY including but not limited to Measure I Major/Local Highways program, State Transportation Improvement Program (STIP), Surface Transportation Program (STP), or other funds without necessitating an amendment of this agreement.

Minute Action

AGENDA ITEM: 20

Date: *October 5, 2016*

Subject:

Ten-Year Delivery Plan Proposed Project List - Mountain/Desert Subareas

Recommendation:

That the Board review the Mountain/Desert subareas proposed project lists for the 2016 Update to the Ten-Year Delivery Plan as listed in Attachments 1 and 2.

Background:

Development of the 2016 Update to the Ten-Year Delivery Plan (Delivery Plan) is currently underway and is anticipated for final approval in early 2017. One component of the update is developing the proposed project lists for the Mountain/Desert subareas Major Local Highways (MLH) Programs and Project Development/Traffic Management Systems (PD/TMS) Programs.

In March 2014, the SANBAG Board adopted the first update to the Measure I 2010-2040 Ten-Year Delivery Plan. The Delivery Plan is developed within the policy framework established by the voter-approved Measure I Expenditure Plan and the Measure I 2010-2040 Strategic Plan and provides a transparent list of projects that will be delivered during the ten-year period. Additionally, it enables SANBAG to meet the requirements of bond rating agencies for the future sale of bonds and provides the basis for the preparation of SANBAG's annual budget for capital projects. The proposed project list defines the current assumptions related to scope, schedule, and estimated project costs.

The Delivery Plan is intended to be a living document that is updated at least every two years to capture revisions to projects and assumptions, actual revenue received, and actions taken by the SANBAG Board. For the Victor Valley Subarea, staff is working extensively with Montague DeRose and Associates, LLC to develop a bonding strategy that will accelerate project delivery in accordance with Board-defined priorities.

The list of proposed projects is comprised of the projects that were identified in the 2014 Delivery Plan or those that have been defined as priorities since adoption of that plan. SANBAG staff has worked closely with City, Town, and County staff from all the Mountain/Desert subareas and incorporated project changes, additions, or deletions for the 2016 Delivery Plan project lists.

A preliminary step in developing the proposed project list in the 2016 Delivery Plan requires revenue forecasts in order to scale the Measure I Programs to revenue expectations. A combination of inflation and real growth are assumed in calculating Measure I revenue growth and escalates construction costs at a rate relative to the revenue inflation rates. Real growth data is based on a study completed in January 2016 by Dr. John Husing, a regional economic expert. Inflation rates are set at a rate that creates a reasonable estimate of overall revenue growth per recommendation of SANBAG's consultant, HdL Companies. Cost escalation rates typically

Entity: CTC

follow inflation rates but at a higher base. SANBAG staff calculated total Measure I revenue projections through 2039/2040 using a combination of data from Dr. Husing and HdL Companies. The total Measure I revenue projection is \$6.9 billion (escalated), or \$5.4 billion in 2016 dollars.

Mountain/Desert Major Local Highways (MLH) Programs

Eligible uses of MLH Program funds include improving major streets and highways serving as primary routes of travel within subareas, leveraging other state and federal funds for transportation projects, and performing planning/project reports. MLH Programs are funded with 25% of the revenue collected within the subareas. Total MLH revenue projections and available funding by Mountain/Desert subarea for the period contained in the 2016 Delivery Plan, from FY 2015/2016 through FY 2024/2025, are shown in Table 1. Measure I Strategic Plan Policies 40013/VVMLH-28 and 40017/MDMLH-24 require reserving an amount equal to 20% of annual revenue. The reserve amount has been subtracted from the total revenue to determine total available funding per subarea.

TABLE 1
TOTAL MAJOR LOCAL HIGHWAYS PROGRAM REVENUE BY SUBAREA

Mountain/Desert subarea	09/10 - 14/15 Actual Revenue	15/16 - 24/25 Projected Revenue	09/10 - 24/25 Bond Revenue*	09/10 - 24/25 Total Revenue	20% Annual Reserve 24/25	09/10-24/25 Total Available Funding
Colorado River	\$263,449	\$694,593	\$0	\$958,042	(\$16,093)	\$941,949
Morongo Basin	\$2,658,763	\$6,548,100	\$0	\$9,206,863	(\$148,882)	\$9,057,981
Mountains	\$2,308,710	\$5,804,180	\$0	\$8,112,890	(\$133,790)	\$7,979,100
North Desert	\$7,745,114	\$16,696,693	\$0	\$24,441,807	(\$391,232)	\$24,050,575
Victor Valley	\$18,763,999	\$50,962,986	\$7,377,695	\$77,104,681	(\$1,207,288)	\$75,897,394

*Bond revenue represents the total of bond proceeds less interest and debt service.

City, Town, and County staff were asked to submit prioritized lists of eligible projects, including cost estimates, local and public share funding needs, and delivery schedules. Based upon the projected available funding, SANBAG staff assisted City, Town, and County staff in developing proposed project lists for 2016 Delivery Plan subarea allocations.

Equitable shares of allocations among jurisdictions were considered in developing each subarea MLH project list. For the Victor Valley Subarea, Strategic Plan Policy 40013/VVMLH-2(c) states, “*Allocations shall be made with an objective of allowing projects from each jurisdiction of the subarea to be developed during each 10 year period of the Measure’s life....*” For the Rural subareas, Strategic Plan Policy 40017/MDMLH-2(a) states, “*Allocations through the term of the Measure shall be made factoring in geographic equity through the subarea as adjusted to the account for the time-value of money....*” City, Town, and County staff were generally in agreement that project programming through FY 2024/2025 should seek to achieve equitable fair-share allocations of MLH funds among jurisdictions. This applies only to MLH funds; no formal policy has been developed concerning the allocation of federal and state funding within subareas.

By subarea, Table 2 below shows the completed and proposed project funding totals for each jurisdiction through FY 2024/2025. Attachment 1 lists completed and proposed MLH projects by Mountain/Desert subarea, jurisdiction, and funding availability. Note that projects proposed for inclusion in the 2016 Delivery Plan that have already received an allocation from the SANBAG Board are indicated with an asterisk.

TABLE 2
COMPLETED AND PROPOSED PROJECT MLHP FUNDING TOTALS BY JURISDICTION

COLORADO RIVER SUBAREA		Total Project Cost	Total MLH Funds	Total SANBAG Fed/State	Total Local Funds	Total Other Funds
Needles	MLH PROJECTS THRU FY 24/25	\$5,728,130	\$408,290	\$0	\$3,339,840	\$1,980,000
SB County	MLH PROJECTS THRU FY 24/25	\$0	\$0	\$0	\$0	\$0
Total Subarea MLH thru FY24/25		\$5,728,130	\$408,290	\$0	\$3,339,840	\$1,980,000

MORONGO BASIN SUBAREA		Total Project Cost	Total MLH Funds	Total SANBAG Fed/State	Total Local Funds	Total Other Funds
Twentynine Palms	MLH PROJECTS THRU FY 24/25	\$9,966,202	\$2,750,000	\$400,000	\$3,155,390	\$3,660,812
Yucca Valley	MLH PROJECTS THRU FY 24/25	\$8,995,941	\$2,790,941	\$1,501,000	\$3,264,000	\$1,440,000
SB County	MLH PROJECTS THRU FY 24/25	\$2,811,000	\$2,811,000	\$0	\$0	\$0
Other	MLH PROJECTS THRU FY 24/25	\$578,382	\$578,382	\$0	\$0	\$0
Total Subarea MLH thru FY24/25		\$22,351,525	\$8,930,323	\$1,901,000	\$6,419,390	\$5,100,812

MOUNTAINS SUBAREA		Total Project Cost	Total MLH Funds	Total SANBAG Fed/State	Total Local Funds	Total Other Funds
Big Bear	MLH PROJECTS THRU FY 24/25	\$6,110,000	\$2,400,000	\$1,200,000	\$2,510,000	\$0
SB County	MLH PROJECTS THRU FY 24/25	\$4,930,076	\$3,000,000	\$1,301,774	\$628,302	\$0
Total Subarea MLH thru FY24/25		\$11,040,076	\$5,400,000	\$2,501,774	\$3,138,302	\$0

NORTH DESERT SUBAREA		Total Project Cost	Total MLH Funds	Total SANBAG Fed/State	Total Local Funds	Total Other Funds
Barstow	MLH PROJECTS THRU FY 24/25	\$99,173,277	\$11,085,282	\$16,963,406	\$1,995,365	\$69,129,224
SB County	MLH PROJECTS THRU FY 24/25	\$26,092,735	\$11,627,463	\$0	\$2,500,000	\$11,965,272
Total Subarea MLH thru FY24/25		\$125,266,012	\$22,712,745	\$16,963,406	\$4,495,365	\$81,094,496

VICTOR VALLEY SUBAREA		Total Project Cost	Total MLH Funds	Total SANBAG Fed/State	Total Local Funds	Total Other Funds
Adelanto	MLH PROJECTS THRU FY 24/25	\$56,846,647	\$17,638,293	\$38,608,354	\$0	\$600,000
Apple Valley	MLH PROJECTS THRU FY 24/25	\$80,320,903	\$19,573,457	\$6,407,000	\$31,753,891	\$22,586,555
Hesperia	MLH PROJECTS THRU FY 24/25	\$114,509,264	\$28,595,988	\$38,544,553	\$45,343,077	\$2,892,903
Victorville	MLH PROJECTS THRU FY 24/25	\$110,230,131	\$32,046,036	\$31,436,281	\$38,828,618	\$7,919,196
SB County	MLH PROJECTS THRU FY 24/25	\$65,179,080	\$22,738,637	\$3,670,982	\$16,253,461	\$22,516,000
Other	MLH PROJECTS THRU FY 24/25	\$95,215,535	\$4,397,535	\$19,882,000	\$0	\$70,936,000
Total Subarea MLH thru FY24/25		\$522,301,560	\$124,989,946	\$138,549,170	\$132,179,048	\$127,450,654

Board of Directors Agenda Item

October 5, 2016

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For each subarea, Table 3 shows by jurisdiction, its fair-share MLH funding, the total of MLH funding that already has been committed through agreements or the 2014 Delivery Plan, additional MLH funding requests based on the submitted locally-prioritized project lists, and the jurisdictions' available fair-share MLH funding balance at the end of FY 2024/2025.

TABLE 3
MAJOR LOCAL HIGHWAYS PROGRAM FUNDING SHARES BY JURISDICTION

Mountain/Desert subarea	AGENCY FAIR-SHARE MLH THRU FY24/25	COMMITTED MLH FUNDING THRU FY24/25	ADDITIONAL MLH REQUESTED THRU FY24/25	TOTAL MLH FUNDING THRU FY24/25	FAIR-SHARE MLH BALANCE AS OF FY24/25
Colorado River					
Needles	\$470,974	\$408,290	\$0	\$408,290	\$62,684
SB County	\$470,974	\$0	\$0	\$0	\$470,974
Other	\$0	\$0	\$0	\$0	\$0
TOTALS	\$941,949	\$408,290	\$0	\$408,290	\$533,659
Morongo Basin *					
Twentynine Palms	\$2,826,533	\$1,050,000	\$1,700,000	\$2,750,000	\$76,533
Yucca Valley	\$2,826,533	\$911,000	\$1,879,941	\$2,790,941	\$35,592
SB County	\$2,826,533	\$1,411,000	\$1,400,000	\$2,811,000	\$15,533
Other	\$578,382	\$578,382	\$0	\$578,382	\$0
TOTALS	\$9,057,981	\$3,950,382	\$4,979,941	\$8,930,323	\$127,658
Mountains					
Big Bear	\$3,989,550	\$2,400,000	\$0	\$2,400,000	\$1,589,550
SB County	\$3,989,550	\$3,000,000	\$0	\$3,000,000	\$989,550
Other	\$0	\$0	\$0	\$0	\$0
TOTALS	\$7,979,100	\$5,400,000	\$0	\$5,400,000	\$2,579,100
North Desert					
Barstow	\$12,025,287	\$11,085,282	\$0	\$11,085,282	\$940,005
SB County	\$12,025,287	\$1,550,228	\$10,077,235	\$11,627,463	\$397,824
Other	\$0	\$0	\$0	\$0	\$0
TOTALS	\$24,050,575	\$12,635,510	\$10,077,235	\$22,712,745	\$1,337,830
Victor Valley **					
Adelanto	\$14,299,972	\$17,638,293	\$0	\$17,638,293	(\$3,338,321)
Apple Valley	\$14,299,972	\$13,183,432	\$6,390,025	\$19,573,457	(\$5,273,485)
Hesperia	\$14,299,972	\$5,745,781	\$22,850,207	\$28,595,988	(\$14,296,017)
Victorville	\$14,299,972	\$6,104,712	\$25,930,224	\$32,034,936	(\$17,734,965)
SB County	\$14,299,972	\$6,326,088	\$16,003,036	\$22,329,124	(\$8,029,152)
Other	\$4,397,535	\$3,947,535	\$450,000	\$4,397,535	\$0
TOTALS	\$75,897,394	\$52,945,841	\$71,623,493	\$124,569,333	(\$48,671,940)

* The SANBAG Board and the Morongo Basin subarea have not established a policy or agreement, respectively, requiring an equal split of Measure I between jurisdictions. The shares shown are for reference only.

** The negative fair-share balances in the Victor Valley Subarea are based on projected revenue through FY 2024/2025 and indicate that bonding will be necessary to deliver the proposed projects. Bonding analysis is underway and will be addressed in a future item.

Project Development/Traffic Management Systems (PD/TMS) Programs

Eligible projects in PD/TMS Programs include corridor studies, project study reports, projects to improve traffic flow and maximize use of traffic facilities, congestion management, commuter assistance programs and programs which contribute to environmental enhancement associated with highway facilities. PD/TMS Programs are funded by 2% of the revenue collected within the subarea. Total PD/TMS revenue projections and available funding by Mountain/Desert subarea for the period contained in the 2016 Delivery Plan, from FY 2015/2016 through FY 2024/2025, are shown in Table 4. A 20% annual reserve is not required for PD/TMS revenue.

**TABLE 4
TOTAL PROJECT DEVELOPMENT/TRAFFIC MANAGEMENT SYSTEM PROGRAM REVENUE BY
SUBAREA**

Mountain/Desert subarea	09/10 - 14/15 Actual	15/16 - 24/25 Projected	09/10 – 24/25 Total	20% Annual Reserve 24/25	09/10-24/25 Total Available Funding
Colorado River	\$21,128	\$55,567	\$76,695	n/a	\$76,695
Morongo Basin	\$212,974	\$523,848	\$736,822	n/a	\$736,822
Mountains	\$185,378	\$464,334	\$649,712	n/a	\$649,712
North Desert	\$554,844	\$1,335,735	\$1,890,580	n/a	\$1,890,580
Victor Valley	\$1,545,547	\$4,077,039	\$5,622,586	n/a	\$5,622,586

PD/TMS Programs are managed on a pay-as-you-go basis. Completed and proposed PD/TMS project funding totals for each jurisdiction through FY 2024/2025 are found in Table 5 below. Attachment 2 lists completed PD/TMS projects by Mountain/Desert subarea, jurisdiction, and funding availability by fiscal year through FY 2015/2016. Note that projects proposed for inclusion in the 2016 Delivery Plan that have already received an allocation from the SANBAG Board are indicated with an asterisk.

**TABLE 5
COMPLETED AND PROPOSED PROJECT PD/TMS FUNDING TOTALS BY JURISDICTION**

Agency	Project Name	Total Project Cost	Total MLH Funds	Total SANBAG Fed/State	Total Local Funds	Total Other Funds
COLORADO RIVER SUBAREA						
Needles	PD/TMS PROJECTS THRU FY 24/25	\$0	\$0	\$0	\$0	\$0
SB County	PD/TMS PROJECTS THRU FY 24/25	\$0	\$0	\$0	\$0	\$0
Total	Subarea PD/TMS thru FY24/25	\$29,544	\$29,544	\$0	\$0	\$0
MORONGO BASIN SUBAREA						
Twentynine Palms	PD/TMS PROJECTS THRU FY 24/25	\$0	\$0	\$0	\$0	\$0
Yucca Valley	PD/TMS PROJECTS THRU FY 24/25	\$0	\$0	\$0	\$0	\$0
SB County	PD/TMS PROJECTS THRU FY 24/25	\$0	\$0	\$0	\$0	\$0
Other	PD/TMS PROJECTS THRU FY 24/25	\$203,075	\$203,075	\$0	\$0	\$0
Total	Subarea PD/TMS thru FY24/25	\$203,075	\$203,075	\$0	\$0	\$0
MOUNTAINS SUBAREA						
Big Bear	PD/TMS PROJECTS THRU FY 24/25	\$0	\$0	\$0	\$0	\$0
SB County	PD/TMS PROJECTS THRU FY 24/25	\$0	\$0	\$0	\$0	\$0
Other	PD/TMS PROJECTS THRU FY 24/25	\$179,974	\$179,974	\$0	\$0	\$0
Total	Subarea PD/TMS thru FY24/25	\$179,974	\$179,974	\$0	\$0	\$0

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NORTH DESERT SUBAREA						
Barstow	PD/TMS PROJECTS THRU FY 24/25	\$0	\$0	\$0	\$0	\$0
SB County	PD/TMS PROJECTS THRU FY 24/25	\$0	\$0	\$0	\$0	\$0
Other	PD/TMS PROJECTS THRU FY 24/25	\$138,575	\$138,575	\$0	\$0	\$0
Total	Subarea PD/TMS thru FY24/25	\$138,575	\$138,575	\$0	\$0	\$0

VICTOR VALLEY SUBAREA						
Adelanto	PD/TMS PROJECTS THRU FY 24/25	\$0	\$0	\$0	\$0	\$0
Apple Valley	PD/TMS PROJECTS THRU FY 24/25	\$0	\$0	\$0	\$0	\$0
Hesperia	PD/TMS PROJECTS THRU FY 24/25	\$0	\$0	\$0	\$0	\$0
Victorville	PD/TMS PROJECTS THRU FY 24/25	\$0	\$0	\$0	\$0	\$0
SB County	PD/TMS PROJECTS THRU FY 24/25	\$0	\$0	\$0	\$0	\$0
Other	PD/TMS PROJECTS THRU FY 24/25	\$3,713,988	\$3,713,988	\$0	\$0	\$0
Total	Subarea PD/TMS thru FY24/25	\$3,713,988	\$3,713,988	\$0	\$0	\$0

For each subarea, Table 6 shows by jurisdiction, its fair-share funding, the total of PD/TMS funding that already has been committed through agreements or the 2014 Delivery Plan, additional PD/TMS funding requests based on the submitted prioritized project lists, and the jurisdictions' available fair-share PD/TMS funding balance at the end of FY 2024/2025.

TABLE 6

PROJECT DEVELOPMENT/TRAFFIC MANAGEMENT SYSTEM PROGRAM FUNDING SHARES BY JURISDICTION

Mountain/Desert subarea	AGENCY FAIR-SHARE PD/TMS THRU FY24/25	COMMITTED PD/TMS FUNDING THRU FY24/25	ADDITIONAL PD/TMS REQUESTED THRU FY24/25	TOTAL PD/TMS FUNDING THRU FY24/25	FAIR-SHARE PD/TMS BALANCE AS OF FY24/25
Colorado River					
Needles	\$23,576	\$0	\$0	\$0	\$23,576
SB County	\$23,576	\$0	\$0	\$0	\$23,576
Other	\$29,544	\$29,544	\$0	\$29,544	\$0
TOTALS	\$76,695	\$29,544	\$0	\$29,544	\$47,152
Morongo Basin					
Twentynine Palms	\$177,916	\$0	\$0	\$0	\$177,916
Yucca Valley	\$177,916	\$0	\$0	\$0	\$177,916
SB County	\$177,916	\$0	\$0	\$0	\$177,916
Other	\$203,075	\$203,075	\$0	\$203,075	\$0
TOTALS	\$736,822	\$203,075	\$0	\$203,075	\$533,747
Mountains					
Big Bear	\$234,869	\$0	\$0	\$0	\$234,869
SB County	\$234,869	\$0	\$0	\$0	\$234,869
Other	\$179,974	\$179,974	\$0	\$179,974	\$0
TOTALS	\$649,712	\$179,974	\$0	\$179,974	\$469,738
North Desert					
Barstow	\$876,003	\$0	\$0	\$0	\$876,003
SB County	\$876,003	\$0	\$0	\$0	\$876,003
Other	\$138,575	\$138,575	\$0	\$138,575	\$0
TOTALS	\$1,890,580	\$138,575	\$0	\$138,575	\$1,752,005
Victor Valley					
Adelanto	\$381,720	\$0	\$0	\$0	\$381,720

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Apple Valley	\$381,720	\$0	\$0	\$0	\$381,720
Hesperia	\$381,720	\$0	\$0	\$0	\$381,720
Victorville	\$381,720	\$0	\$0	\$0	\$381,720
SB County	\$381,720	\$0	\$0	\$0	\$381,720
Other	\$3,713,988	\$3,713,988	\$0	\$3,713,988	\$0
TOTALS	\$5,622,586	\$3,713,988	\$0	\$3,713,988	\$1,908,598

Financial Impact:

This item has no financial impact on the adopted budget.

Reviewed By:

This item was reviewed and unanimously recommended for approval by the Mountain/Desert Policy Committee on September 16, 2016.

Responsible Staff:

Andrea Zureick, Director of Fund Administration

Approved
Board of Directors
Date: October 5, 2016

Witnessed By:

MEASURE I MOUNTAIN/DESERT SUBAREAS
MAJOR LOCAL HIGHWAYS PROGRAM PROJECTS BY JURISDICTION

Agency	Project Name	Completed	Total Project Cost	Total MLH Funds	Total SANBAG Fed/State	Total Local Funds	Total Other Funds
COLORADO RIVER SUBAREA							
Needles							
Completed	None		\$0	\$0	\$0	\$0	\$0
Proposed	* Needles Connector	2016/2017	\$5,728,130	\$408,290	\$0	\$3,339,840	\$1,980,000
Total Needles			\$5,728,130	\$408,290	\$0	\$3,339,840	\$1,980,000
SB County							
Completed	None		\$0	\$0	\$0	\$0	\$0
Proposed	TBD		\$0	\$0	\$0	\$0	\$0
Total SB County			\$0	\$0	\$0	\$0	\$0
Total Colorado River Subarea MLH Projects			\$5,728,130	\$408,290	\$0	\$3,339,840	\$1,980,000
MORONGO BASIN SUBAREA							
Twentynine Palms							
Completed	* SR62: Canyon Road to Easy Street, widening	2012/2013	\$2,054,302	\$300,000	\$0	\$0	\$1,754,302
Completed	* National Park Road	2014/2015	\$1,700,000	\$200,000	\$400,000	\$250,000	\$850,000
Completed	* SR62/Encelia Traffic Signal	2014/2015	\$400,000	\$200,000	\$0	\$0	\$200,000
Completed	* SR62/Lear Traffic Signal	2014/2015	\$500,000	\$250,000	\$0	\$0	\$250,000
Proposed	* SR62/Encelia to Larrea Project AEA	2014/2016	\$1,161,900	\$100,000	\$0	\$455,390	\$606,510
Proposed	SR62 Street Improvement Project (Phase 2: Encelia to Larrea 4-lane improvements)	2021/2022	\$4,150,000	\$1,700,000	\$0	\$2,450,000	\$0
Total Twentynine Palms			\$9,966,202	\$2,750,000	\$400,000	\$3,155,390	\$3,660,812
Yucca Valley							
Completed	* SR62: Apache Trail to Palm Ave	2014/2015	\$2,886,000	\$135,000	\$723,000	\$588,000	\$1,440,000
Completed	* SR62: LaHonda to Dumosa	2014/2015	\$2,594,000	\$90,000	\$778,000	\$1,726,000	\$0
Completed	* SR62/Dumosa Traffic Signal #1	2014/2015	\$521,000	\$471,000	\$0	\$50,000	\$0
Completed	* SR62/Dumosa Traffic Signal #2	2015/2016	\$215,000	\$215,000	\$0	\$0	\$0
Proposed	Yucca Trail and Warren Vista Intersection Safety Improvements	2018/2019	\$686,242	\$461,242	\$0	\$225,000	\$0
Proposed	SR62/Sage Ave. Intersection Safety Improvements	2019/2020	\$705,113	\$480,113	\$0	\$225,000	\$0
Proposed	Yucca Trail and Joshua Lane Intersection Safety Improvements	2022/2023	\$623,687	\$398,687	\$0	\$225,000	\$0
Proposed	Yucca Trail and Palomar Ave. Intersection Safety Improvements	2022/2023	\$764,899	\$539,899	\$0	\$225,000	\$0
Total Yucca Valley			\$8,995,941	\$2,790,941	\$1,501,000	\$3,264,000	\$1,440,000
SB County							
Completed	None		\$0	\$0	\$0	\$0	\$0
Proposed	* Park Boulevard resurfacing	2016/2017	\$1,411,000	\$1,411,000	\$0	\$0	\$0
Proposed	Amboy Road Resurfacing Project 1 (15 miles)	2024/2025	\$1,400,000	\$1,400,000	\$0	\$0	\$0
Total SB County			\$2,811,000	\$2,811,000	\$0	\$0	\$0
Other							
Completed	* SR62/Rotary Way Traffic Signal	2013/2014	\$552,340	\$552,340	\$0	\$0	\$0
Completed	* Lear Ave: Montezuma to Pole Line Study	2013/2014	\$26,042	\$26,042	\$0	\$0	\$0
Total Other			\$578,382	\$578,382	\$0	\$0	\$0
Total Morongo Basin Subarea MLH Projects			\$22,351,525	\$8,930,323	\$1,901,000	\$6,419,390	\$5,100,812

Attachment: Att 1 - 2016 MD 10Yr Plan MLH List (3140 : 10 Year Delivery Plan Proposed Project List)

MEASURE I MOUNTAIN/DESERT SUBAREAS
MAJOR LOCAL HIGHWAYS PROGRAM PROJECTS BY JURISDICTION

Agency	Project Name	Completed	Total Project Cost	Total MLH Funds	Total SANBAG Fed/State	Total Local Funds	Total Other Funds
MOUNTAINS SUBAREA							
Big Bear							
Completed	* Village "L" Street Improvements (Village and Pine Knot)	2013/2014	\$4,910,000	\$1,200,000	\$1,200,000	\$2,510,000	\$0
	Village "L" Street Improvements (Village and Pine Knot) - Advanced						
Proposed	* Expenditure Agreement	2015-2022	\$1,200,000	\$1,200,000	\$0	\$0	\$0
Total Big Bear			\$6,110,000	\$2,400,000	\$1,200,000	\$2,510,000	\$0
SB County							
Completed	* Maple Lane	2012/2013	\$1,930,076	\$0	\$1,301,774	\$628,302	\$0
Proposed	* Arrowbear Road bridge replacement	2018/2019	\$3,000,000	\$3,000,000	\$0	\$0	\$0
Total SB County			\$4,930,076	\$3,000,000	\$1,301,774	\$628,302	\$0
Total Mountains Subarea MLH Projects			\$11,040,076	\$5,400,000	\$2,501,774	\$3,138,302	\$0
NORTH DESERT SUBAREA							
Barstow							
Completed	* Lenwood Road Grade Separation (Barstow)	2014/2015	\$28,870,044	\$3,581,662	\$16,361,063	\$1,995,365	\$6,931,954
Proposed	* First Avenue Bridge over BNSF	2019/2020	\$42,732,800	\$4,324,749	\$602,343	\$0	\$37,805,708
Proposed	* First Avenue Bridge over Mojave River	2020/2021	\$27,570,433	\$3,178,871	\$0	\$0	\$24,391,562
Total Barstow			\$99,173,277	\$11,085,282	\$16,963,406	\$1,995,365	\$69,129,224
SB County							
Completed	* Lenwood Road Grade Separation (County)	2014/2015	\$2,500,000	\$0	\$0	\$2,500,000	\$0
Proposed	* Baker Boulevard Bridge	2020/2021	\$13,515,500	\$1,550,228	\$0	\$0	\$11,965,272
Proposed	National Trails Highway, Ft. Cady to Lavic	2016/2017	\$2,800,000	\$2,800,000	\$0	\$0	\$0
Proposed	Ft. Irwin Road Chip Seal Project	2022/2023	\$3,077,235	\$3,077,235	\$0	\$0	\$0
Proposed	National Trails Highway resurfacing	2024/2025	\$4,200,000	\$4,200,000	\$0	\$0	\$0
Total SB County			\$26,092,735	\$11,627,463	\$0	\$2,500,000	\$11,965,272
Total North Desert Subarea MLH Projects			\$125,266,012	\$22,712,745	\$16,963,406	\$4,495,365	\$81,094,496
VICTOR VALLEY SUBAREA							
Adelanto							
Proposed	* US395/Widening Project: Phase 1	2012/2013	\$56,846,647	\$17,638,293	\$38,608,354	\$0	\$600,000
Total Adelanto			\$56,846,647	\$17,638,293	\$38,608,354	\$0	\$600,000
Apple Valley							
Completed	* Yucca Loma Bridge	2015/2016	\$35,539,893	\$9,585,952	\$6,407,000	\$19,546,941	\$0
Proposed	* Yucca Loma Road	2016/2017	\$13,294,400	\$3,597,480	\$0	\$4,396,920	\$5,300,000
Proposed	Apple Valley Road/SR18 Realignment	2017/2018	\$4,909,267	\$2,209,170	\$0	\$2,700,097	\$0
Proposed	Bear Valley Road Bridge over Mojave River	2018/2019	\$19,526,212	\$1,007,845	\$0	\$1,231,811	\$17,286,555
Proposed	Yucca Loma Road/Apple Valley Blvd. to Rincon Rd.	2018/2019	\$7,051,132	\$3,173,009	\$0	\$3,878,123	\$0
Total Apple Valley			\$80,320,903	\$19,573,457	\$6,407,000	\$31,753,891	\$22,586,555
Hesperia							
Completed	* I-15 Rancho Road Interchange	2014/2015	\$58,912,653	\$5,745,781	\$38,544,553	\$12,596,672	\$2,892,903
Proposed	Rancho Road from Topaz Ave. to 7th Ave.	2019/2020	\$25,532,629	\$10,493,911	\$0	\$15,038,719	\$0
Proposed	Main Street Widening from Hwy 395 to 11th Ave.	2023/2024	\$30,063,982	\$12,356,297	\$0	\$17,707,686	\$0
Total Hesperia			\$114,509,264	\$28,595,988	\$38,544,553	\$45,343,077	\$2,892,903

Attachment: Att 1 - 2016 MD 10Yr Plan MLH List (3140 : 10 Year Delivery Plan Proposed Project List)

MEASURE I MOUNTAIN/DESERT SUBAREAS
MAJOR LOCAL HIGHWAYS PROGRAM PROJECTS BY JURISDICTION

Agency	Project Name	Completed	Total Project Cost	Total MLH Funds	Total SANBAG Fed/State	Total Local Funds	Total Other Funds
Victorville							
Completed	* I-15 LaMesa/Nisqualli Interchange	2013/2014	\$69,242,000	\$4,864,247	\$27,854,728	\$32,823,025	\$3,700,000
Proposed	* Green Tree Extension (PS&E/ROW City Share)	2017/2018	\$4,822,018	\$1,240,465	\$3,581,553	\$0	\$0
Proposed	Green Tree Extension (Const. City Share)	2018-2020	\$36,166,113	\$25,941,324	\$0	\$6,005,593	\$4,219,196
Total Victorville			\$110,230,131	\$32,046,036	\$31,436,281	\$38,828,618	\$7,919,196
SB County							
Completed	* Rancho Road at Escondido Intersection	2013/2014	\$2,652,461	\$1,006,393	\$0	\$1,646,068	\$0
Completed	* Yates Road (Yucca Loma Corridor)	2015/2016	\$10,492,330	\$5,319,695	\$3,305,000	\$1,867,635	\$0
Proposed	* Green Tree Extension (PS&E/ROW County share)	2017/2018	\$365,982	\$0	\$365,982	\$0	\$0
Proposed	Rancho Road: Mariposa to Hesperia CL	2019/2020	\$13,249,503	\$7,750,959	\$0	\$5,498,544	\$0
Proposed	Rock Springs Road Bridge over the Mojave River	2018/2019	\$34,757,742	\$5,239,466	\$0	\$7,002,276	\$22,516,000
Proposed	Green Tree Extension (Const. County share)	2018/2019	\$3,661,062	\$3,422,124	\$0	\$238,938	\$0
Total SB County			\$65,179,080	\$22,738,637	\$3,670,982	\$16,253,461	\$22,516,000
Other							
Completed	* SR138, widen two to four lanes - Phase 1	2015/2016	\$87,181,000	\$0	\$16,245,000	\$0	\$70,936,000
Proposed	* High Desert Corridor	2014/2015	\$3,947,535	\$3,947,535	\$0	\$0	\$0
	* I-15 Widening Project, Phase 2	2016/2017	\$3,637,000	\$0	\$3,637,000	\$0	\$0
Proposed	* High Desert Corridor R/W Preservation	2015/2016	\$450,000	\$450,000	\$0	\$0	\$0
Total Other			\$95,215,535	\$4,397,535	\$19,882,000	\$0	\$70,936,000
Total Victor Valley Subarea MLH Projects			\$522,301,560	\$124,989,946	\$138,549,170	\$132,179,048	\$127,450,654

* Allocation has been approved by SANBAG Board

Attachment: Att 1 - 2016 MD 10Yr Plan MLH List (3140 : 10 Year Delivery Plan Proposed Project List)

PROJECT DEVELOPMENT/TRAFFIC MANAGEMENT SYSTEMS PROGRAM PROJECTS BY JURISDICTION

Agency	Project Name	Completed	Total Project Cost	Total MLH Funds	Total SANBAG Fed/State	Total Local Funds	Total Other Funds
COLORADO RIVER SUBAREA							
Needles	None		\$0	\$0	\$0	\$0	\$0
	<i>Total Needles</i>		\$0	\$0	\$0	\$0	\$0
SB County	None		\$0	\$0	\$0	\$0	\$0
	<i>Total SB County</i>		\$0	\$0	\$0	\$0	\$0
Other							
<i>Proposed thru 24/25</i> *	Mtn/Des Planning & Project Development	2016-2025	\$29,544	\$29,544	\$0	\$0	\$0
	<i>Total Other</i>		\$29,544	\$29,544	\$0	\$0	\$0
Total Colorado River Subarea PD/TMS Projects			\$29,544	\$29,544	\$0	\$0	\$0
MORONGO BASIN SUBAREA							
Twentynine Palms	None		\$0	\$0	\$0	\$0	\$0
	<i>Total Twentynine Palms</i>		\$0	\$0	\$0	\$0	\$0
Yucca Valley	None		\$0	\$0	\$0	\$0	\$0
	<i>Total Yucca Valley</i>		\$0	\$0	\$0	\$0	\$0
SB County	None		\$0	\$0	\$0	\$0	\$0
	<i>Total SB County</i>		\$0	\$0	\$0	\$0	\$0
Other							
<i>Completed</i> *	Morongo Basin Traffic Study	2014/2015	\$64,500	\$64,500	\$0	\$0	\$0
<i>Proposed thru 24/25</i> **	Subregional Planning	2016-2025	\$35,971	\$35,971	\$0	\$0	\$0
<i>Proposed thru 24/25</i> **	Mtn/Des Planning & Project Development	2016-2025	\$102,604	\$102,604	\$0	\$0	\$0
	<i>Total Other</i>		\$203,075	\$203,075	\$0	\$0	\$0
Total Morongo Basin Subarea PD/TMS Projects			\$203,075	\$203,075	\$0	\$0	\$0
MOUNTAINS SUBAREA							
Big Bear	None		\$0	\$0	\$0	\$0	\$0
	<i>Total Big Bear</i>		\$0	\$0	\$0	\$0	\$0
SB County	None		\$0	\$0	\$0	\$0	\$0
	<i>Total SB County</i>		\$0	\$0	\$0	\$0	\$0
Other							
<i>Underway</i> *	Mountain Area Traffic Study	2016/2017	\$144,003	\$144,003	\$0	\$0	\$0
<i>Proposed thru 24/25</i> **	Subregional Planning	2016-2025	\$35,971	\$35,971	\$0	\$0	\$0
	<i>Total Other</i>		\$179,974	\$179,974	\$0	\$0	\$0
Total Mountains Subarea PD/TMS Projects			\$179,974	\$179,974	\$0	\$0	\$0

Attachment: Att 2 - 2016 MD 10Yr Plan PDTMS List (3140 : 10 Year Delivery Plan Proposed Project List)

PROJECT DEVELOPMENT/TRAFFIC MANAGEMENT SYSTEMS PROGRAM PROJECTS BY JURISDICTION

Agency	Project Name	Completed	Total Project Cost	Total MLH Funds	Total SANBAG Fed/State	Total Local Funds	Total Other Funds
NORTH DESERT SUBAREA							
Barstow	None		\$0	\$0	\$0	\$0	\$0
	Total Barstow		\$0	\$0	\$0	\$0	\$0
SB County	None		\$0	\$0	\$0	\$0	\$0
	Total SB County		\$0	\$0	\$0	\$0	\$0
Other							
<i>Proposed thru 24/25</i>	** Subregional Planning FY16/17	2016-2025	\$35,971	\$35,971	\$0	\$0	\$0
<i>Proposed thru 24/25</i>	** Mtn/Des Planning & Project Develop FY16/17	2016-2025	\$102,604	\$102,604	\$0	\$0	\$0
	Total Other		\$138,575	\$138,575	\$0	\$0	\$0
	Total North Desert Subarea PD/TMS Projects		\$138,575	\$138,575	\$0	\$0	\$0
VICTOR VALLEY SUBAREA							
Adelanto	None		\$0	\$0	\$0	\$0	\$0
	Total Adelanto		\$0	\$0	\$0	\$0	\$0
Apple Valley	None		\$0	\$0	\$0	\$0	\$0
	Total Apple Valley		\$0	\$0	\$0	\$0	\$0
Hesperia	None		\$0	\$0	\$0	\$0	\$0
	Total Hesperia		\$0	\$0	\$0	\$0	\$0
Victorville	None		\$0	\$0	\$0	\$0	\$0
	Total Victorville		\$0	\$0	\$0	\$0	\$0
SB County	None		\$0	\$0	\$0	\$0	\$0
	Total SB County		\$0	\$0	\$0	\$0	\$0
Other							
<i>Completed</i>	* SANBAG Alternative Financing Study	2014/2015	\$120,312	\$120,312	\$0	\$0	\$0
<i>Completed</i>	* SANBAG Traveler Services	2014/2015	\$73,798	\$73,798	\$0	\$0	\$0
<i>Completed</i>	* SANBAG Congestion Management	2014/2015	\$44,462	\$44,462	\$0	\$0	\$0
<i>Underway</i>	* High Desert Corridor Passenger Rail Rev Study	2015/2016	\$200,000	\$200,000	\$0	\$0	\$0
<i>Underway</i>	* High Desert Corridor	2014/2015	\$500,000	\$500,000	\$0	\$0	\$0
<i>Proposed</i>	** Vanpool Program FY16/17	2016/2017	\$20,600	\$20,600	\$0	\$0	\$0
<i>Proposed</i>	** Traveler Services FY16/17	2016/2017	\$104,100	\$104,100	\$0	\$0	\$0
<i>Proposed thru 24/24</i>	** Congestion Management Program FY16/17	2016-2025	\$272,601	\$272,601	\$0	\$0	\$0
<i>Proposed thru 24/25</i>	** Subregional Planning FY16/17	2016-2025	\$1,872,873	\$1,872,873	\$0	\$0	\$0
<i>Proposed thru 24/25</i>	** Mtn/Des Planning & Project Develop FY16/17	2016-2025	\$505,242	\$505,242	\$0	\$0	\$0
	Total Other		\$3,713,988	\$3,713,988	\$0	\$0	\$0
	Total Victor Valley Subarea PD/TMS Projects		\$3,713,988	\$3,713,988	\$0	\$0	\$0

* Allocation has been approved by SANBAG Board

**2016/2017 allocation has been approved by SANBAG Board in FY2016/2017 Budget, amounts include proposed future allocations

Minute Action

AGENDA ITEM: 21

Date: *October 5, 2016*

Subject:

SR210/Base Line Avenue Term Loan Agreement with the City of Highland

Recommendation:

That the Board, acting in its capacity as the San Bernardino County Transportation Authority:

Approve Contract No. 16-1001555, a term loan agreement in amount not to exceed \$800,010 with the City of Highland for the Right of Way Phase of the State Route 210/Base Line Interchange Project which contains a provision that a \$2,750 loan fee for Lender's additional costs of administering the Term Loan will be paid by the City upon execution of the agreement.

Background:

On February 6, 2013, the City of Highland (City) and SANBAG entered into Contract No. C13027 setting forth the funding and other obligations of the City and SANBAG for the Project Approval and Environmental Document (PA&ED) Phase for the Interchange at Base Line and State Route 210 in the City of Highland.

To date, there have been four modifications to Contract C13027:

- Amendment 1 dated August 27, 2013, modified the scope of the contract to include a combined Project Study Report-Project Report (PSR-PR) in lieu of PA&ED.
- Amendment 2 dated June 18, 2015, extended the expiration date to December 31, 2016.
- Amendment 3 dated December 3, 2015, identified the funding responsibilities and a request that SANBAG provide project management services for the PSR-PR and Environmental Document (ED) and Plans, Specifications and Estimate (PS&E) phases of the project. In that amendment, the cost for these phases is estimated at \$2,974,780, which is to be funded with 41.90% Development Impact Fees (DIF) funds provided by the City and 58.10% public share funds provided by SANBAG from the Valley Interchange Program. The DIF share of the PSR-PR, ED and PS&E phases is estimated to be \$1,246,433 with \$252,822 having already been paid to SANBAG, leaving a balance of \$993,611.
- Amendment 4 is subject to approval by the Board of Directors at their October 5, 2016, meeting. The agreement identifies the funding responsibilities and contains a request that SANBAG provide project management services for the Right of Way (ROW) phase of the project. The cost for this phase is estimated at \$2,864,000, which is to be funded with 41.90% DIF funds provided by the City and 58.10% public share funds provided by SANBAG from the Valley Interchange Program. The DIF share of the ROW phase is estimated at \$1,200,015.

In February 2016, the SANBAG Board approved Contract No. 16-1001330, a term loan agreement in an amount not to exceed \$662,407 with the City of Highland for the PSR-PR and PS&E phases of the project.

Entity: CTA

Board of Directors Agenda Item

October 5, 2016

Page 2

The City has now requested that SANBAG loan the City two-thirds of its estimated local DIF share for the ROW phase of the project. The City's one-third deposit of the DIF share due upon the Effective Date of the Agreement is \$400,005. SANBAG's loan of two-thirds of the DIF share balance is \$800,010 and will be paid from the City's Major Street Program - Arterial funds. There will be a \$2,750 loan fee assessed for processing of this agreement.

The City has also indicated that they anticipate in the future they will request a loan for up to two-thirds of the DIF share of the construction phase.

The loan follows the established Development Mitigation Fair Share Loans and Loan Repayment program under Valley Freeway Interchange Program Measure I Strategic Plan Policy 40005/VFI-23.2 and loan template approved by the Board July 7, 2014. As project costs are incurred, SANBAG will send an invoice to the City identifying two-thirds of the City's ROW cost incurred to date and concurrently deduct an amount equal to the invoiced amount from the City's Major Street Program funds, which will then be applied to the ROW project cost under Task 0803.

On an annual basis, the City shall transfer to SANBAG all Uncommitted DIF collected in the prior Fiscal Year until the Loan Amount is paid in full. The total of Committed DIF as identified in Exhibit B is \$16,105,000. The City has indicated that they anticipate significant DIF in the future from proposed development and anticipate repayment of this loan and any future loan for the SR210/Base Line Project within the ten years specified in the loan agreement.

In accordance with the term loan agreement and Policy 40005/VFI-23.2.f, if the City has not repaid the Major Street Program funds by the end of the 10-year term, the term will need to be renegotiated and the City would need to continue to repay the loan until it is retired. If it becomes clear that the full repayment will not occur by the end of Measure I 2010-2040 due to lack of development, the remainder of the loan obligation would need to be fulfilled using the City's Measure I Local Street funds, since interchange-related expenditures are not an eligible use of Major Street Program funds. Reassignment of the payback funds would be part of the renegotiated loan agreement.

Financial Impact:

This item is consistent with the Fiscal Year 2016/2017 Budget.

Reviewed By:

The item was reviewed and recommended for approval (19-0-0) with a quorum of the Board present at the Board of Directors Metro Valley Study Session on August 11, 2016. SANBAG General Counsel and Procurement Manager have reviewed this item and the draft agreement.

Responsible Staff:

Andrea Zureick, Director of Fund Administration

Approved
Board of Directors
Date: October 5, 2016

Witnessed By:

General Contract Information

Contract No: 16-1001555 Amendment No.: _____ Vendor No.: 01011
 Vendor/Customer Name: _____ City of Highland Sole Source? Yes No
 Description: SR210/Baseline Term Loan Agreement for ROW Phase
 Start Date: 10/05/2016 Expiration Date: 06/30/2040 Revised Expiration Date: _____
 Has Contract Term Been Amended? No Yes - Please Explain _____
 List Any Related Contracts Nos.: C13027, 16-1001330

Dollar Amount			
Original Contract	\$802,760	Original Contingency	\$ -
Revised Contract <i>(Inclusive of Prior Amendments)</i>		Revised Contingency <i>(Inclusive of Prior Amendments)</i>	\$ -
Current Amendment		Contingency Amendment	\$ -
TOTAL CONTRACT VALUE	\$802,760	TOTAL CONTINGENCY VALUE	\$ -
		TOTAL DOLLAR AUTHORITY <i>(Contract Value and Contingency)</i>	\$802,760

NOTE: Includes \$2,750 loan fee.

Contract Authorization

Executive Director Date: _____
 Executive Director Action: _____
 Board of Directors Date: 10/05/2016
 Board of Directors Action: Approve term loan agreement amendment 16-1001330-01

Contract Management: Payable/Miscellaneous

Invoice Warning: 20% Renewals: _____ Type: Capital PAA Other
 Retention: % Maximum Retention: \$ _____
 Services: Construction Intrgrnt/MOU/COOP A & E Services Other Professional Services
 Disadvantaged Business Enterprise (DBE) Goal _____ %

Contract Management: Receivable

E-76 and/or CTC Date _____ (Attach Copy) Program Supplement No.: _____
 Finance Letter Reversion Date: _____ EA No.: _____

All of the above MUST be submitted to FINANCE including originals, amendments and miscellaneous transaction changes

Additional Information

Project Manager: Ellen Pollema

Attachment: 16-1001555 CSS [Revision 2] (3031 : SR210/Base Line Term Loan Agreement)

MEASURE I VALLEY FREEWAY INTERCHANGE PROGRAM

TERM LOAN AGREEMENT

(Policy 40005 VFI 23-2)

CITY OF HIGHLAND

STATE ROUTE 210/BASE LINE INTERCHANGE PROJECT (ROW PHASE)

CONTRACT 16-1001555

This Term Loan Agreement, nominally dated October 5, 2016, is entered into on the Effective Date by and between the City of Highland, a California municipal corporation (Borrower) and the San Bernardino County Transportation Authority (Lender). Borrower and Lender may, from time to time in this Agreement, be referred to individually as a “Party” and collectively as the “Parties.”

RECITALS

- A. On December 5, 2012, Lender’s Board of Directors established a Development Mitigation Fair Share Loans and Loan Repayment program under Valley Freeway Interchange Program Measure I Strategic Plan Policy 40005, sub-policy VFI-23.
- B. On February 6, 2013, Borrower and Lender entered into Contract No. C13027 setting forth the funding and other obligations of Borrower and Lender for the Preliminary Engineering and Environmental Document (PA&ED) Phase of the State Route 210/Base Line Interchange Project (Project) in the City of Highland.
- C. On September 4, 2013, Borrower and Lender entered into Amendment No. 1 to C13027 delineating roles, responsibilities and funding commitments relative to the preparation of the Project Study Report/Project Report for the Project.
- D. On June 18, 2015, Borrower and Lender entered into Amendment No. 2 to C13027 extending the termination date to December 31, 2016.
- E. On February 3, 2016, Borrower and Lender entered into Amendment No. 3 to C13027 restating the roles, responsibilities and funding commitments relative to the Planning, Environmental (PA&ED) and Plans, Specifications and Estimate (PS&E) Phases.
- F. On October 5, 2016, Borrower and Lender entered into Amendment No. 4 to C13027 restating the roles, responsibilities and funding commitments relative to the PA&ED, PS&E and Right of Way (ROW) activities of the Project.

G. Under Contract No. C13027 Borrower is obligated to fund its Local Share of estimated PA&ED, PS&E, and ROW Phase Costs (defined below) in an amount not to exceed \$2,446,448.

H. Under Contract No. 16-1001330 Lender loaned Borrower two-thirds of its estimated Local Share of the PA&ED and PS&E Phase Costs, less \$252,822 that had been paid through Fiscal Year 2014/2015, in an amount not to exceed \$662,407.

I. Borrower has now requested that Lender loan Borrower two-thirds of its estimated ROW Phase Local Share (under the terms of sub-policy VFI-23-2) in an amount not to exceed \$800,010.

In consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt of which is acknowledged by the Parties to this Agreement, it is agreed as follows:

ARTICLE ONE--DEFINITIONS

The following terms used in this Agreement shall have the meanings set out below and these definitions shall be applicable to both the singular and plural forms of the defined terms:

Agreement means this Term Loan Agreement, nominally dated October 5, 2016, entered into between Borrower and Lender, as it may be amended from time to time.

Agreement Termination Date means the date as described in Section 3.9.

Borrower means the City of Highland, a California city and municipal corporation.

Collateral means Borrower's Uncommitted Development Impact Fees, Valley Major Street Program – Arterial Sub-Program Funds, and Borrower's Local Street Program Pass-Through Funds up to the Loan Amount, as more fully described in Exhibit "A". Borrower's Local Street Program Pass-Through Funds in excess of the Loan Amount are not Collateral.

Contract No. C13027 means the Contract between the City of Highland and the San Bernardino County Transportation Authority for the PA&ED, PS&E and ROW Phases of SR210/Base Line Interchange Project, as amended by Amendments 1, 2, 3 and 4.

Contract No. 16-1001330 means the Term Loan Agreement between the City of Highland and the San Bernardino County Transportation Authority for two-thirds of the Local Share of the the PA&ED and PS&E Phase Costs in an amount not to exceed \$662,407.

Cost Buy-Down for Project means Federal, State or other funds, besides Local Share and Public Share funds, which buy down the Project Costs pursuant to Valley Freeway Interchange Policy 40001 IV. I. 1, after which the Local Share and Public Share are applied.

Development Impact Fees or **DIF** means the revenues generated by Borrower's locally-adopted development financing mechanism to mitigate development's impacts on transportation by making fair share contributions for transportation facilities needed as result of development, as required by Measure I, including without limitation proceeds from a Community Facilities District or other development-based sources.

Development Mitigation Annual Report means the annual report prepared by local jurisdictions in the urbanized areas of San Bernardino County as part of the SANBAG Development Mitigation Program that provides information on what development has occurred, the amount of development mitigation revenue collected and the amount of development mitigation revenue expended on projects contained in the Nexus Study.

Draw means an advance made by Lender from Borrower's Measure I Valley Major Street Program – Arterial Sub-Program Funds in order to pay for Borrower's ROW Phase Local Share as part of the Loan Amount.

Effective Date means the date this Agreement is executed by Lender.

Lender means the San Bernardino County Transportation Authority.

Lien means any voluntary or involuntary security interest, mortgage, pledge, claim, charge, encumbrance, intra-fund borrowing commitment, covering all or any part of the Collateral.

Loan Amount means the total amount of all Draws outstanding and unpaid by Borrower, up to an amount not to exceed \$800,010.

Loan Due Date means the last day of the tenth (10th) year subsequent to the issuance of the Notice of Completion for the Project.

Loan Fee means Two-Thousand Seven Hundred Fifty Dollars (\$2,750) payable by Borrower to Lender for Lender's additional costs of administering the Term Loan.

Local Share means the sum of: (1) Project Costs minus Cost Buy-Down for Project, times the development contribution percentage set forth in the SANBAG Nexus Study of forty-one and nine-tenths percent (41.9%); plus (2) SANBAG management and oversight costs for the Project, times the development contribution percentage set forth in the SANBAG Nexus Study of forty-one and nine-tenths percent (41.9%).

Local Street Program Pass-Through Funds means the Measure I program in all subareas that provides funds through a pass-through mechanism directly to local jurisdictions for expenditure on street and road construction, repair, maintenance and other eligible local transportation priorities including local streets, major highways, state highway improvements, freeway interchanges, transit, and other improvements/programs to maximize use of transportation facilities.

Measure I means the one-half of one percent ($\frac{1}{2}\%$) retail transactions and use tax statutorily dedicated to transportation planning, design, construction, operation and maintenance only, in San Bernardino County as authorized by the San Bernardino County voters' passage of Ordinance 89-01 in 1989 and reauthorized by the San Bernardino County voters' passage of Ordinance 04-01 in 2004.

Nexus Study means that study approved by the SANBAG Board on February 3, 2016, and updated every two years, which sets forth the Local Share percentages for transportation improvements based on the estimates of Project Costs and the growth data provided by local jurisdictions.

Person means a natural person or a corporation, government entity or subdivision, agency, trust, estate, partnership, cooperative or association.

Project means the State Route 210/Base Line Interchange Project in the City of Highland, as more fully described in Contract No. C13027 and Amendment Nos. 1, 2,3 and 4.

Public Share means the share of Project Costs assigned as SANBAG's contribution calculated as the Project Costs minus the Cost Buy-Down Funds and minus the Local Share for the Project.

ROW Phase means the Right of Way work for the Project.

ROW Phase Costs means the estimated cost of the ROW Phase, which is estimated to be One million two hundred thousand fifteen dollars (\$1,200,015).

ROW Phase Local Share means the sum of: (1) ROW Phase Costs minus Cost Buy-Down for ROW Phase, times the development contribution percentage set forth in the SANBAG Nexus Study of forty-one and nine-tenths percent (41.9%); plus (2) SANBAG management and oversight costs for the ROW Phase, times the development contribution percentage set forth in the SANBAG Nexus Study of forty-one and nine-tenths percent (41.9%). The ROW Phase Local Share is estimated to be \$1,200,015.

ROW Phase Local Share Deposit means one-third of the ROW Phase Local Share which is Four hundred thousand five dollars (\$400,005). The funding source for the ROW Phase Local Share Deposit is Development Impact Fees.

SANBAG means the San Bernardino Associated Governments, acting in its capacity as the San Bernardino County Transportation Authority.

Term Loan means Lender's lending of money to Borrower under the terms of this Agreement from the defined source of funds and for the defined purposes as more specifically described in Article Two.

Uncommitted Development Impact Fees means those Development Impact Fees received by or to be received by Borrower during the term of this Agreement that, as of the Effective Date, Borrower has not previously committed to expend on the transportation projects listed in Exhibit “B”.

Valley Freeway Interchange Policy means the Valley Freeway Interchange (VFI) Program Measure I 2010-2040 Strategic Plan set forth in Policy 40005 adopted by the SANBAG Board April 1, 2009, as revised December 5, 2012 and February 5, 2014.

Valley Major Street Program – Arterial Sub-Program means the Measure I program in the Valley subarea that provides funds through an equitable share reimbursement mechanism directly to local jurisdictions for expenditures incurred for components of any arterial project listed within the first two years of their current Capital Project Needs Analysis. For the purposes of this Agreement the Project must be included in the Capital Project Needs Analysis. Amount of Valley Major Street Program – Arterial Sub-Program funds available are determined by equitable share allocation amounts to individual local jurisdictions each fiscal year with a cumulative fund balance carried forward equal to the amount for which the local jurisdiction has not sought reimbursement..

ARTICLE TWO—TERM LOAN

2.1 Term Loan. On the terms and conditions set forth herein, Lender hereby agrees to lend the Loan Amount to Borrower for the purpose of assisting Borrower in satisfying its obligation to pay its ROW Phase Local Share. On or before the Agreement Termination Date (unless extended in accordance with Subarticle 3.7), Borrower promises to pay Lender the principal sum of the Loan Amount.

2.2 Term Loan Draws. As the ROW Phase moves forward, SANBAG shall send an invoice to Borrower, not more frequently than monthly, invoicing Borrower for two-thirds of Borrower’s ROW Phase Local Share incurred to date. Concurrently Lender shall make a Draw in an amount equal to the invoiced amount. Each Draw shall become principal on the Loan Amount, and the Valley Major Street Program – Arterial Sub-Program funds available to the Borrower shall be reduced by the amount of the Draw. The total of all Draws shall not exceed the Loan Amount.

2.3 Source of Loan Draws. The sole source of any Draws shall be Borrower’s Valley Major Street Program – Arterial Sub-Program funds.

2.4 Use of Proceeds. Measure I strictly limits the recipients of, the projects eligible for, and the uses of Measure I proceeds, including Valley Major Street Program – Arterial Sub-Program and Local Street Program Pass-Through Funds. Borrower understands and agrees that Draws shall be credited toward Borrower’s account with SANBAG for payment of Borrower’s ROW Phase Local Share, and Draws shall not be paid directly to Borrower,

Borrower's creditors, assigns, or any Person, and shall not be used for any purpose unauthorized by Measure I.

ARTICLE THREE—GENERAL CREDIT PROVISIONS

3.1 Conditions Precedent. As conditions precedent to Lender making the Term Loan to Borrower, Borrower shall:

3.1.1 Pay Lender the Loan Fee upon Borrower's execution of this Agreement; and

3.1.2 Not later than thirty (30) calendar days after SANBAG invoices Borrower for the ROW Phase Local Share Deposit, Borrower shall pay SANBAG the ROW Phase Local Share Deposit of \$400,005, from Uncommitted Development Impact Fees or other lawful, non-Measure I sources of funds.

3.1.3 Deliver to Lender a certified copy of a Resolution of Borrower's legislative body: authorizing execution of this Agreement by Borrower's duly authorized representative; and approving this Agreement.

3.2 Records of Draws. Draws shall be evidenced by entries in accounting records maintained by Lender.

3.3 Collateral. Borrower shall grant Lender a first priority Lien in the Collateral, as more fully described in Exhibit "A". Borrower shall execute all such documents as Lender deems useful or necessary from time to time to perfect and maintain its Lien in the Collateral.

3.4 Repayment of Loan Amount.

3.4.1 Borrower shall repay the Loan Amount to Lender by the following means: Not later than September 30 of each year after the first Draw has been made by Lender, Borrower shall transfer to Lender all Uncommitted Development Impact Fees collected by Borrower in the prior Fiscal Year until the Loan Amount is paid in full.

3.4.2 Borrower shall commence repayment of the Loan Amount on the earlier of the date Borrower receives Uncommitted Development Impact Fees or the date SANBAG issues a Notice of Completion of the Project.

3.4.3 All payments of the Loan Amount received by Lender shall be entered in SANBAG's records as a reduction of the Loan Amount.

3.5 Release of Valley Major Street Program – Arterial Sub-Program. Within thirty (30) calendar days after Lender's receipt of a Term Loan payment from Borrower, Lender shall release to Borrower Valley Major Street Program – Arterial Sub-Program Funds that have been withheld as a Draw under Subarticle 2.2 in an amount equal to Borrower's Term Loan payment.

3.6 Loan Due Date. The remaining balance of the Loan Amount shall be due and payable upon the Loan Due Date.

3.7 Loan Extension. If the Loan Amount is unpaid ninety (90) calendar days prior to the Loan Due Date and Borrower is not in breach of this Agreement, Borrower and Lender shall negotiate in good faith an extension of the Loan Due Date as is necessary to enable Borrower to repay the Loan Amount from Uncommitted Development Impact Fees.

3.8 Expiration of Measure I. If the Loan Amount is not paid in full as of two years before the expiration of Measure I due to insufficient Uncommitted Development Impact Fees collected by Borrower, Borrower and Lender shall negotiate a Loan repayment plan using Measure I Local Street Program Pass-Through Funds. If the Loan Amount is not paid in full as of the expiration date of Measure I due to insufficient Uncommitted Development Impact Fees collected by Borrower, Borrower's obligations to make any further Term Loan payments shall cease, this Agreement shall terminate, Lender shall release its security interest in the Collateral and Lender shall have no further obligation to pay Borrower its Measure I Local Street Program Pass-Through Funds.

3.9 Agreement Termination. This Agreement shall terminate upon the earliest to occur of 1) repayment in full of the Term Loan; 2) termination of the Agreement pursuant to Section 7.2; or 3) the expiration of Measure I.

ARTICLE FOUR—REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants that as of the Effective Date and the dates of each of the Draws:

4.1 Authorization, Validity and Enforceability. The execution, delivery and performance of this Agreement are within Borrower's powers, have been duly authorized, and are not in conflict with Borrower's charter (if applicable), and this Agreement constitutes a valid and binding obligation of Borrower, enforceable in accordance with its terms.

4.2 Compliance with Applicable Laws. Borrower has complied with its charter (if applicable), all laws, ordinances, and other governmental regulations now or later in force and effect in entering into this Agreement.

4.3 No Conflict. The execution, delivery, and performance by Borrower of the terms of this Agreement are not in conflict with any law, rule, regulation, order or directive, or any indenture, agreement, or undertaking to which Borrower is a party or by which Borrower may be bound or affected.

4.4 No Litigation, Claims or Proceedings. There is no litigation, claim, proceeding or dispute pending, or to the knowledge of Borrower, threatened against or affecting the Collateral or Borrower's ability to enter into this Agreement, except as disclosed in writing to Lender prior to the Effective Date.

4.5 Correctness of Financial Statements. Borrower's Comprehensive Annual Financial Report for Fiscal Year 2014/2015 which has been delivered to Lender fairly and accurately reflects Borrower's financial condition as of June 30, 2015, and since that date, there has been no material adverse change in Borrower's financial condition.

4.6 DIF Committed Projects list. Borrower represents and warrants to Lender that the DIF Committed Projects, attached to this Agreement as Exhibit "B", is a true, correct and complete listing of the projects for which Borrower has previously committed to expend Development Impact Fees, and of the DIF amounts committed to those projects as of the Effective Date of this Agreement.

4.7 Reaffirmation of Representations. Each Draw accepted by Borrower shall be deemed a confirmation by Borrower that all representations and warranties contained herein or otherwise made by Borrower to Lender are then accurate in all material respects as though made on the date of such Draw.

4.8 Continuing disclosure. The Borrower shall notify the Lender of potential bankruptcies, changes in general fund balances or revenues greater than 20% from the prior year, operational changes that impact the Borrower's budget by greater than 20% and any new debt issuances.

4.9 Title to Collateral. Except as disclosed to Lender pursuant to this Agreement, Borrower has good and clear title to the Collateral, and the Collateral is not subject to any Liens.

ARTICLE FIVE—AFFIRMATIVE COVENANTS

During the term of this Agreement and until its performance of all obligations to Lender, Borrower promises and will:

5.1 Notice to Lender. Promptly give notice to Lender of:

5.1.1 Any litigation or threatened litigation or administrative or regulatory proceeding arising out of or related to this Agreement;

5.1.2 Any Event of Default; and

5.1.3 Receipt of Uncommitted Development Impact Fees, including the sources and amounts of the Uncommitted Development Impact Fees received.

5.2 Borrower grants Lender a first position security interest in the Collateral. Borrower shall execute all such documents as Lender deems useful or necessary from time to time to perfect and maintain its first position security interest in the Collateral.

5.3 Records. Maintain adequate books, papers, records, accounting records, files, reports, and all other material relating to the Project and the Development Impact Fees. Borrower shall, upon request, make all such materials available to Lender or its designee at any

reasonable time during the term of the Contract and for three (3) years from the Agreement Termination Date for auditing, inspection, and copying.

5.4 Five-Year Measure I Capital Project Needs Analysis Disclosure. Include in its Five-Year Measure I Capital Project Needs Analysis the amount of this Loan, the use of the Loan funds and the Borrower's plan for repayment of the Loan.

5.5 Five-Year Measure I CIP Disclosure. Include in its Five-Year Measure I Capital Improvement Plan the amount of this Loan, the use of the Loan funds, and Borrower's plan for repayment of the Loan.

5.6 General Credit Provisions. Comply with and perform all of Borrower's payment and other obligations under Article Two - Term Loan, and Article Three - General Credit Provisions.

5.7 Compliance with Laws. Comply with all laws, rules, regulations, orders or directives of any governmental or regulatory authority and with all material agreements to which Borrower is a party, that relate to or impact Borrower's performance under this Agreement.

ARTICLE SIX—NEGATIVE COVENANTS

During the term of this Agreement and until the performance of all obligations to Lender, Borrower will not, without prior written consent of Lender:

6.1 Liens. Create, incur, assume or permit to exist any Lien, or grant any other Person or entity a pledge, in any of the Collateral, except Liens in favor of Lender pursuant to Subarticle 3.3.

6.2 Transfer of Collateral. Borrower covenants not to directly or indirectly assign, transfer, pledge, convey, hypothecate or encumber the Collateral in whole or in part, voluntarily, by operation of law, or otherwise without first obtaining the written consent of SANBAG. SANBAG's exercise of consent shall be within its sole discretion. Any purported assignment without SANBAG's prior written consent shall be void and of no effect, and shall constitute a material breach of this Agreement.

6.3 Non-Assignment of Agreement. Borrower shall not assign this Agreement in whole or in part, voluntarily, by operation of law, or otherwise without first obtaining the written consent of SANBAG. SANBAG's exercise of consent shall be within its sole discretion. Any purported assignment without SANBAG's prior written consent shall be void and of no effect, and shall constitute a material breach of this Agreement. Subject to the foregoing, the provisions of this Agreement shall extend to the benefit of and be binding upon the successors and assigns of the Parties.

ARTICLE SEVEN—EVENTS OF DEFAULT

7.1 Event of Default.

An event of default is any breach or default of any covenant, representation or warranty of this Agreement which can be cured by the payment of money and which either Party does not cure within a fifteen (15) calendar day period commencing on the date when such amount was due and payable (“Monetary Event of Default”); or any other breach or default (“Non-Monetary Event of Default”) by either Party of any covenant, representation or warranty of this Agreement which is not a Monetary Event of Default or which is not defined in this section and which the defaulting Party does not cure within a thirty (30) calendar day period commencing on the date of the occurrence of the breach or default (the “Applicable Cure Period”), or in the event such Event of Default cannot reasonably be cured within such time, which the defaulting Party does not commence to cure within the Applicable Cure Period and thereafter diligently and continuously proceed with such cure to completion and complete the same within a period determined to be reasonable by the non-defaulting Party.

7.2 Remedies. Upon the occurrence of any uncured Event of Default, the following shall apply:

7.2.1 At Lender’s sole discretion, Lender may take any or all of the following actions:

7.2.1.1 cease making further Draws;

7.2.1.2 at Lender’s sole discretion withhold Valley Major Street Program – Arterial Sub-Program Funds or Local Street Program Pass-Through Funds equivalent to the Loan Amount outstanding at the time of Default;

7.2.1.3 terminate this Agreement, without further notice to Borrower;

7.2.1.4 pursue proceedings at law or equity to recover the Collateral or to otherwise enforce the terms of this Agreement against Borrower;

7.2.1.5 disqualify Borrower from further participation in SANBAG’s Development Mitigation Fair Share Loans and Loan Repayment program under Valley Freeway Interchange Program Measure I Strategic Plan Policy 40005, sub-policy VFI-23.1;

7.2.1.6 exercise any and all rights and remedies available at law or equity.

7.2.2 At Borrower’s sole discretion, Borrower may take any or all of the following actions:

7.2.2.1 terminate this Agreement, without further notice to Lender;

7.2.2.2 pursue proceedings at law or equity to enforce the terms of this Agreement against Lender.

7.2.3 In the event of any litigation, whether in a court of law, administrative hearing, arbitration, or otherwise, arising from or related to this Agreement, the prevailing Party shall be entitled to recover from the non-prevailing Party all reasonable costs incurred, including staff time, court costs, attorneys' fees and all other related expenses in such litigation.

ARTICLE EIGHT—GENERAL PROVISIONS

8.1 Notices. Any notice given by any Party to this Agreement shall be in writing and personally deliver, deposited in the United States mail, postage prepaid, or sent by facsimile transmission, and addressed as follows:

To: Borrower

City of Highland
Attention: City Manager
27215 Base Line Street
Highland, CA 92346
Fax No.: 909-862-3180

To: Lender

SANBAG
Attention: Executive Director
1170 W. Third Street
San Bernardino, CA 92410
Fax No.: (909) 885-4407

Each Party may change the address to which notices, requests and other communications are to be sent by giving written notice of such change to each other Party.

8.2. No Waiver. Any waiver, permit, consent or approval by a Party of any Event of Default or breach of any provision, representation, warranty or covenant of this Agreement must be in writing and shall be effective only to the extent set forth in writing. No waiver of any breach or default shall be deemed a waiver of any later breach or default of the same or any other provision of this Agreement. Any failure or delay on the part of a Party in exercising any power, right or privilege under this Agreement shall not operate as a waiver thereof, nor shall any single or partial exercise of any such power, right or privilege preclude any further exercise thereof.

8.4 Rights Cumulative. All rights and remedies existing under this Agreement are cumulative to, and not exclusive of, any other rights or remedies available under this Agreement or applicable law.

8.5 Unenforceable Provisions. Any provision of this Agreement which is prohibited or unenforceable, shall be so only as to the extent of such prohibition or unenforceability, but all the remaining provisions of the Agreement shall remain valid and enforceable.

8.6 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

8.7 Indemnification. Neither Lender nor any officer or employee thereof is responsible for any injury, damage or liability occurring or arising by reason of anything done or omitted to be done by Borrower under or in connection with this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, Borrower shall fully defend, indemnify and save harmless Lender, its officers and employees from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by Borrower under or in connection with any work, authority or jurisdiction delegated to Borrower under this Agreement.

8.8 Reimbursement. Borrower shall reimburse Lender for all costs and expenses expended or incurred by Lender in any arbitration, judicial reference, legal action, or otherwise in connection with: (a) collecting any sum which becomes due Lender under this Agreement, or (b) the protection, preservation or enforcement of any rights of Lender under this Agreement.

8.9 Execution in Counterparts. This Agreement may be executed in any number of counterparts which, when taken together, shall constitute but one agreement.

8.10 Further Assurances. At any time and from time to time upon the request of Lender, Borrower will execute and deliver such further documents and do such other acts as Lender may reasonably request in order to effect fully the purposes of the Agreement and provide for the payment of the Loan and preservation of Lender's security interest in the Collateral.

8.11 Headings. The headings and captions of Articles and subarticles of this Agreement are for the convenience of reference only and shall not constitute a part of the text nor alter or otherwise affect the meaning thereof.

8.12 Construction of Agreement. Both Parties have been represented or had the full opportunity to be represented by legal counsel of their own choosing in the negotiation and preparation of this Contract. Therefore, the language in all parts of this Contract will be construed, in all cases, according to its fair meaning, and not for or against either Party.

8.13 Exhibits. Exhibit "A"--Collateral and Exhibit "B"—DIF Committed Projects, are attached to and incorporated into this Agreement by this reference.

8.14 Entire Agreement. This Agreement is intended by the Parties as the final expression of their agreement and therefore contains the entire agreement between the Parties and supersedes all prior understandings or agreements, written or oral, concerning the subject matter hereof. All previous proposals, offers, and other communications, written or oral,

relative to this Agreement, are superseded except to the extent that they have been incorporated into this Agreement.

8.15 Amendments. This Agreement may be amended only in a writing duly authorized and executed by both Borrower and Lender.

-----SIGNATURES ON FOLLOWING PAGE-----

Attachment: 16-1001555 City of Highland requested changes 09-19-2016 [Revision 1] (3031 : SR210/Base Line Term Loan Agreement)

IN WITNESS WHEREOF, Borrower and Lender have executed this Agreement below.

CITY OF HIGHLAND

**SAN BERNARDINO COUNTY
TRANSPORTATION
AUTHORITY**

By: _____
Larry McCallon, Mayor

By: _____
Robert A. Lovingood
President, Board of Directors

Date: _____

Date: _____

APPROVED AS TO FORM

APPROVED AS TO FORM

Craig Steele
City Attorney

Eileen Monaghan Teichert
General Counsel

ATTEST

By: _____
Betty Hughes, City Clerk

Jeffery Hill, Procurement Manager

Attachment: 16-1001555 City of Highland requested changes 09-19-2016 [Revision 1] (3031 : SR210/Base Line Term Loan Agreement)

**EXHIBIT “A”—COLLATERAL
COLLATERAL FOR TERM LOAN AGREEMENT NO. 16-1001555**

1. Any and all of the City of Highland Uncommitted Development Impact Fees received by or to be received by the City of Highland, including the proceeds from and interest on such fees and accounts into which such fees are deposited. Uncommitted Development Impact Fees are the revenues generated by City of Highland locally-adopted development financing mechanism to mitigate development’s impacts on transportation by making fair share contributions for transportation facilities needed as result of development, as required by Measure I, including without limitation proceeds from a Community Facilities District or other development-based sources, but do not include such revenues generated to pay the development share for the projects identified in Exhibit “B”.

2. Any and all of City of Highland Measure I Local Streets Program Pass-Through Funds up to the amount of Eight hundred thousand ten dollars (\$800,010). Local Streets Program Pass-Through Funds means the San Bernardino County Transportation Authority-administered Measure I program that provides funds through a pass-through mechanism directly to the City of Highland for expenditure on street and road construction, repair, maintenance and other eligible local transportation priorities including local streets, major highways, state highway improvements, freeway interchanges, transit, and other improvements/programs to maximize use of transportation facilities.

3. Any and all of City of Highland Measure I Valley Major Street Program – Arterial Sub-Program Funds up to the amount of Eight hundred thousand ten dollars (\$800,010). Valley Major Street Program – Arterial Sub-Program Funds means the San Bernardino County Transportation Authority-administered Measure I program that provides funds through a reimbursement mechanism directly to the City of Highland for expenditure on Nexus Study Arterial projects.

EXHIBIT “B”—DIF COMMITTED PROJECTS & DIF AMOUNTS COMMITTED

ITEM	DIF COMMITTED PROJECT	DIF AMOUNT COMMITTED	STATUS
1	Greenspot Road (Church St. to Alta Vista Dr.) and Base Line (Webster St. to Church St.) Bikeway and Safety Improvements	\$ 200,000	Construction
2	5th Street (Victoria Ave. to Palm Ave.) Improvements	\$ 1,000,000	Construction
3	Palm Avenue/Cypress Street Intersection Traffic Signal	\$ 240,000	Design
4	Boulder Avenue (San Manuel Village Entrance to Greenspot Rd.) Improvements	\$ 265,000	Design
5	3rd Street (Victoria Ave. to Palm Ave.) Improvements	\$ 85,000*	Design
6	Orange Street Bridge Replacement at Plunge Creek Overflow	\$ 536,000	Environmental
7	SR-210/Base Line Interchange Ramps and Street Improvements	\$ 2,686,400*	Environmental
8	Victoria Avenue (3rd St. to 6th St.) Improvements	\$ 1,225,000*	Design
9	Deleted	\$ 0	---
10	Palm Avenue (3rd St. to 5th St.) Improvements	\$ 1,040,000	Design
11	3rd Street (Palm Ave. to 5th St.) Extension and Improvements	\$ 3,530,000**	Design
12	Boulder Avenue (Greenspot Rd. to S. City Limits) Improvements	\$ 108,000	Environmental
13	Palm Avenue (Base Line to Highland Ave.)	\$ 1,350,000	Feasibility Study
14	SR-210/5th Street Interchange Ramps and Street Improvements	\$ 3,840,000	Not Started
	TOTAL:	\$ 16,105,000	
*	IVDA Mitigation Payment		
**	DIF and IVDA Mitigation Payment		

Minute Action

AGENDA ITEM: 22

Date: *October 5, 2016*

Subject:

California Transit Security Grant Program Applications

Recommendation:

That the Board:

- A. Rescind the SANBAG Board of Directors' prior authorization to submit the Fiscal Year 2014/2015 California Transit Security Grant Program Grant Application for the Southern California Regional Rail Authority Passenger Car Refurbishment Project.
- B. Authorize staff to submit a Modification Request to the California Office of Emergency Services for the Fiscal Year 2013/2014 California Transit Security Grant Program Grant, transferring \$154,560 from the Southern California Regional Rail Authority Passenger Car Refurbishment Project to the Redlands Passenger Rail Project.
- C. Authorize staff to submit the Fiscal Year 2014/2015, Fiscal Year 2015/2016, and Fiscal Year 2016/2017 California Transit Security Grant Program Grant Applications for an amount up to \$5,256,993 for the Redlands Passenger Rail Project.
- D. Acting in its capacity as the San Bernardino County Transportation Commission, adopt Resolution No. 17-005 authorizing the Executive Director and/or his designee to execute such documentation and take such actions as necessary for the Commission to obtain California Transit Security Grant Program Funds and comply with the terms of the California Transit Security Grant Program administered by the California Office of Emergency Services.

Background:

Through the issuance of general obligation bonds under the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, funding was made available to agencies and transit operators for capital projects and expenditures that provide increased protection against security and safety threats and support the development of disaster response transportation systems. The California Office of Emergency Services (Cal OES) administers such funds deposited in the Transit System Safety, Security and Disaster Response Account (TSSSDRA) under the California Transit Security Grant Program (CTSGBP), California Transit Assistance Fund (CTAF).

Government Code Section 8879.57(a)(1) requires that funds from the CTAF, made available upon appropriation by the Legislature, be allocated to the agencies that are eligible to receive State Transit Assistance (STA) funds pursuant to Sections 99313 and 99314 of the Public Utilities Code (PUC). The CTSGBP funds available to SANBAG under both PUC Sections 99313 and 99314 total \$1,752,331 per fiscal year for the life of the program. The last year of appropriation is Fiscal Year 2016/2017.

Entity: CTC

Board of Directors Agenda Item

October 5, 2016

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On June 3, 2015, the SANBAG Board of Directors authorized staff to submit the Fiscal Years 2012/2013, 2013/2014, and 2014/2015 CTSGP grant applications totaling \$463,680 for the Southern California Regional Rail Authority (SCRRA) Passenger Car Refurbishment Project. The Fiscal Year 2012/2013 funds lapsed while the grant application was being processed and those funds were replaced with an alternate source, so only the Fiscal Year 2013/2014 grant application has been submitted. Due to project delays, however, SCRRA will not be able to utilize the CTSGP funds within the required time frame of the grant and the SANBAG Board has taken action in September 2015 and July 2016 to rescind and replace the remaining \$309,120 in CTSGP funds. Because the Fiscal Year 2013/2014 grant application has already been submitted for the SCRRA project, staff must submit a grant modification request to assign those funds to another project.

Staff recommends rescinding the authorization from the Board of Directors to submit the Fiscal Year 2014/2015 grant application for the Passenger Car Refurbishment Project; authorizing staff to submit a grant modification request for the Fiscal Year 2013/2014 grant, transferring funds from the Passenger Car Refurbishment Project to the Redlands Passenger Rail Project in the amount of \$154,560; and authorizing staff to submit grant applications, in the amount of \$5,256,993, for the CTSGP funds available from Fiscal Years 2014/2015, 2015/2016, and 2016/2017 for the Redlands Passenger Rail Project. It should be noted that Omnitrans is also an eligible recipient of these grant funds, and while they have projects that would be eligible for these funds, staff will recommend an alternate fund source that will be more efficient to manage for those projects.

Financial Impact:

This item has no impact on the adopted SANBAG Fiscal Year 2016/2017 budget.

Reviewed By:

This item was reviewed by the Transit Committee on September 15, 2016, acting as a committee of the whole without a quorum present. Following discussion, the Committee recommended placement of this item on the Consent Calendar. This item and the draft resolution were reviewed by SANBAG General Counsel.

Responsible Staff:

Andrea Zureick, Director of Fund Administration

Approved
Board of Directors
Date: October 5, 2016

Witnessed By:

RESOLUTION NO. 17-005

A RESOLUTION OF THE SAN BERNARDINO COUNTY TRANSPORTATION COMMISSION AUTHORIZING THE EXECUTIVE DIRECTOR TO APPLY TO THE CALIFORNIA OFFICE OF EMERGENCY SERVICES FOR CALIFORNIA TRANSIT SECURITY GRANT PROGRAM FUNDS UP TO \$3,504,662 UNDER GRANT IDENTIFICATION NUMBER 6761-0002 AND TO EXECUTE NECESSARY DOCUMENTATION TO OBTAIN THE FUNDS AND ENSURE CONTINUED COMPLIANCE WITH THE REQUISITE ASSURANCES, AND STATE AND FEDERAL LAWS

WHEREAS, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 authorizes the issuance of general obligation bonds for specified purposes, including, but not limited to, funding made available for capital projects that provide increased protection against security and safety threats, and for capital expenditures to increase the capacity of transit operators to develop disaster response transportation systems; and

WHEREAS, the California Governor's Office of Emergency Services (Cal OES) administers such funds deposited in the Transit System Safety, Security, and Disaster Response Account under the California Transit Security Grant Program (CTSGP); and

WHEREAS, the San Bernardino County Transportation Commission (Commission) is a public entity established under the laws of the state of California and is eligible to receive CTSGP funds; and

WHEREAS, Commission will apply for Fiscal Year 2015/2016 CTSGP funds in an amount up to \$1,752,331 under grant identification number 6761-0002 and Fiscal Year 2016/2017 CTSGP funds in an amount up to \$1,752,331 under grant identification number 6761-0002; and

WHEREAS, Commission recognizes that it is responsible for compliance with all Cal OES CTSGP grant assurances, and state and federal laws, including, but not limited to, laws governing the use of bond funds; and

WHEREAS, Cal OES requires Commission to complete and submit a Governing Body Resolution for the purposes of identifying agent(s) authorized to act on behalf of Commission to execute documents and take actions necessary to obtain CTSGP funds from Cal OES and ensure continued compliance with Cal OES CTSGP assurances, and state and federal laws.

NOW, THEREFORE, the San Bernardino County Transportation Commission does hereby find, determine, resolve and order as follows:

Section 1. The above recitals are true and correct and are incorporated in full by this reference.

Section 2. Raymond Wolfe, Executive Director of San Bernardino Associated Governments or his designee, is hereby authorized to execute such documentation for and on

behalf of Commission, and take such actions necessary to obtain and comply with the terms of a CTSGP grant to Commission up to \$3,504,662, administered by the California Office of Emergency Services under the CTSGP.

Section 3. This Resolution shall take effect upon adoption.

PASSED AND ADOPTED at a meeting of the San Bernardino County Transportation Commission held on October 5, 2016, by the following vote:

AYES:

NOES:

ABSENT:

Robert A. Lovingood, Commission Chairperson

ATTEST:

Vicki Watson
Clerk of the Commission

Minute Action

AGENDA ITEM: 23

Date: *October 5, 2016*

Subject:

Green Tree Boulevard Loan Agreement with the City of Victorville

Recommendation:

That the Board, acting in its capacity as the San Bernardino County Transportation Authority:

Approve Contract No. 16-1001481, a term loan agreement in an amount not to exceed \$12,511,320 with the City of Victorville for the Green Tree Boulevard Extension Project, pursuant to Victor Valley Policy 40013 VVMLH-32 which contains a provision that a \$2,750 loan fee for Lender's additional costs of administering the Term Loan will be paid by the City upon execution of the agreement.

Background:

San Bernardino County Transportation Authority (SANBAG) approved in concept a loan to the City of Victorville for two-thirds of the estimated local Development Impact Fees (DIF) share for the Green Tree Boulevard Extension Project to facilitate project delivery. On May 4, 2016, the SANBAG Board approved a term loan agreement with the City of Victorville for this project in an amount of \$12,541,940 that has not yet been executed by the City of Victorville. Subsequent to this action, the City of Victorville approved repurposing \$4.2 million of federal earmark funds to the project, which per the terms of Measure I will reduce both the DIF and Public Share, thus reducing the loan amount required. In addition, the most recently completed cost estimate shows an increase of approximately \$4 million in the total project cost since May 2016.

Contract No. 16-1001481 has been modified from that presented to the Board in May 2016 to reflect the addition of the earmark funds to the project and the updated construction cost estimate. Per the terms of the loan program, the City will be responsible for one-third of the reduced DIF share, or \$6,255,660, and SANBAG will loan two-thirds of the reduced DIF share, or \$12,511,320. The loan, plus any accrued bonding costs that may be included in the loan if bonding is required, will be applied to the City's share of Victor Valley Major Local Highway Program funds.

The loan follows the Development Mitigation Fair Share Loans and Loan Repayment Program under Victor Valley Policy 40013/VVMLH-32 and the loan template dated May 4, 2016, recommended for Board approval. Besides the DIF loan principal amount, there are additional costs to the City. There is a \$2,750 loan fee for administrative costs, and the City of Victorville will be responsible for the pro rata share of any costs incurred by SANBAG associated with bonds issued to fund the loan, including interest expense.

Entity: CTA

Board of Directors Agenda Item

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A preliminary analysis of Measure I Major Local Highway Program fund needs in the 2016 update to the Ten-Year Delivery Plan indicates that bonding will be necessary to accommodate this loan. SANBAG will bond for up to the loan amount against the City's equitable share of Measure I Major Local Highway Program funds, with the debt service to be paid by those funds. DIF funds will reimburse the Major Local Highway Program fund as they are collected and will credit the City's equitable share of those funds.

Per the agreement, on an annual basis the City will transfer to SANBAG all uncommitted DIF collected in the prior fiscal year until the loan amount is paid in full. The total of Committed DIF as identified in Exhibit B is \$6.7 million plus 15% of future Road DIF revenue for Credit Agreement obligations.

In accordance with the term loan agreement and Policy 40013/VVMLH-32, if full repayment does not occur by the end of Measure I 2010-2040, the repayment obligation to the Major Local Highway Program will be considered fulfilled given that sufficient development has not occurred.

Note that SANBAG will not be obligated to fund the loan until bond costs associated with funding the loan amount have been quantified and the City has passed a Resolution approving those bond costs.

Financial Impact:

This item is consistent with the Fiscal Year 2016/2017 SANBAG Budget.

Reviewed By:

This item was reviewed and unanimously recommended for approval by the Mountain/Desert Policy Committee on September 16, 2016. This item and the draft loan agreement have been reviewed by SANBAG General Counsel and Procurement Manager.

Responsible Staff:

Andrea Zureick, Director of Fund Administration

Approved
Board of Directors
Date: October 5, 2016

Witnessed By:

General Contract Information

Contract No: 16-1001481 Amendment No.: 0 Vendor No.: 02324
 Vendor/Customer Name: _____ City of Victorville Sole Source? Yes No
 Description: Green Tree Boulevard Extension Term Loan Agreement
 Start Date: 10/05/2016 Expiration Date: 6/30/2030 (est) Revised Expiration Date: _____
 Has Contract Term Been Amended? No Yes - Please Explain _____
 List Any Related Contracts Nos.: 15-1001115

Dollar Amount

Original Contract	\$ 12,514,070.00	Original Contingency	\$ -
Revised Contract (Inclusive of Prior Amendments)	\$ -	Revised Contingency (Inclusive of Prior Amendments)	\$ -
Current Amendment	\$ -	Contingency Amendment	\$ -
TOTAL CONTRACT VALUE	\$ 12,514,070.00	TOTAL CONTINGENCY VALUE	\$ -
		TOTAL DOLLAR AUTHORITY (Contract Value and Contingency)	\$ 12,514,070.00

Contract Authorization

Executive Director Date: _____
 Executive Director Action: _____
 Board of Directors Date: 10/05/2016
 Board of Directors Action: Approve Agreement No. 16-1001481 with City of Victorville

Contract Management: Payable/Miscellaneous

Invoice Warning: 20% Renewals: _____ Type: Capital PAA Other
 Retention: % Maximum Retention: \$ -
 Services: Construction Intrgrnt/MOU/COOP A & E Services Other Professional Services
 Disadvantaged Business Enterprise (DBE) Goal _____ %

Contract Management: Receivable

E-76 and/or CTC Date _____ (Attach Copy) Program Supplement No.: _____
 Finance Letter Reversion Date: _____ EA No.: _____

All of the above MUST be submitted to FINANCE including originals, amendments and miscellaneous transaction changes

Additional Information

Project Manager: Ellen Pollema Loan amount = \$12,511,320, Loan Fee = \$2,750

Attachment 16-1001481 CSS Green Tree Term Loan (3066 : Green Tree Boulevard Loan Agreement)

MEASURE I VICTOR VALLEY SUBAREA MAJOR LOCAL HIGHWAYS PROGRAM

TERM LOAN AGREEMENT

(Policy 40013 VVMLH-32)

CITY OF VICTORVILLE

GREEN TREE BOULEVARD EXTENSION PROJECT

CONTRACT 16-1001481

This Term Loan Agreement, nominally dated September 7, 2016, is entered into on the Effective Date by and between the City of Victorville (Borrower), and the San Bernardino County Transportation Authority (Lender). Borrower and Lender may, from time to time in this Agreement, be referred to individually as a “Party” and collectively as the “Parties.

RECITALS

- A. On January 6, 2016, Lender’s Board of Directors established a Development Mitigation Fair Share Loans and Loan Repayment program under VICTOR VALLEY MAJOR LOCAL HIGHWAYS PROGRAM Measure I Strategic Plan Policy 400013, sub-policy VVMLH-32.
- B. On February 11, 2015, Borrower and Lender entered into Contract No. 15-1001115 setting forth the funding and other obligations of Borrower and Lender for all phases of the Green Tree Boulevard Extension Project in the City of Victorville.
- C. Under Contract No. 15-1001115 Borrower is obligated to fund the Local Share of estimated Project Costs (defined below) which amount is currently estimated to be \$18,766,980 based upon projected 2019 construction costs.
- D. Pursuant to a separate Project Local Share funding agreement between Borrower, Town of Apple Valley (the “Town”) and the County of San Bernardino (the “County”) to be entered into prior to or simultaneously with this Agreement, Town and County are obligated to contribute to the Local Share as follows: Town is obligated to contribute \$3,981,600 based on the Nexus Study Fair Share of the La Mesa/Nisqualli interchange actual construction costs and the County is obligated to contribute an estimated amount of \$1,040,901 which amount is comprised of \$325,000 as established by the Nexus Study Fair Share for the La Mesa/Nisqualli

interchange and approximately \$716,901 which is the Nexus Study Fair Share for the estimated cost of the improvements within the County's jurisdiction related to the Project.

E. Borrower's obligations and Lender's rights under this Loan Agreement shall not be impaired, impacted or affected in any way by Town and County's performance, or failure to perform or make payments, under the Project Local Share funding agreement.

F. Borrower has requested that Lender loan Borrower two-thirds of the estimated Local Share of Project Costs (under the terms of sub-policy VVMLH-32) in an amount currently estimated to be \$12,511,320 from Borrower's Major Local Highway Program funds.

In consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt of which is acknowledged by the Parties to this Agreement, it is agreed as follows:

ARTICLE ONE--DEFINITIONS

The following terms used in this Agreement shall have the meanings set out below and these definitions shall be applicable to both the singular and plural forms of the defined terms:

Agreement means this Term Loan Agreement, nominally dated September 7, 2016, entered into between Borrower and Lender, as it may be amended from time to time.

Agreement Termination Date means the date as described in Section 3.9.

Bond Costs means the pro rata share of any reasonable costs associated with the issuance of any bonds needed to fund Draws. Pursuant to Measure I Policy 40013, VVMLH-32, subsection L.6.j any additional cost of administration of the loan or the bond incurred by SANBAG will be included as a cost to be borne by the Borrower jurisdiction and may be included in the loan.

Borrower means the City of Victorville, a California city and municipal corporation.

Collateral means Borrower's Uncommitted Development Impact Fees and Victor Valley Major Local Highways Program funds up to the Loan Amount, as more fully described in Exhibit "A".

Contract No. 15-1001115 means the Contract between the City of Victorville and the San Bernardino County Transportation Authority for the Plans Specifications and Estimate, Right-of-Way, and Construction Phases of Green Tree Boulevard Extension Project.

Cost Buy-Down for Project means Federal, State or other funds, besides Local Share and Public Share funds, which buy down the Project Costs pursuant to Victor Valley Major Local Highways Program Policy 40013 IV.J. after which Local Share and Public Share are applied.

Development Impact Fees or **DIF** means the revenues generated by Borrower's locally-adopted development financing mechanism to mitigate development's impacts on transportation by making fair share contributions for transportation facilities needed as a result of development, as required by Measure I, including without limitation proceeds from a Community Facilities District or other development-based sources.

Development Mitigation Annual Report means the annual report prepared by local jurisdictions in the urbanized areas of San Bernardino County as part of the SANBAG Development Mitigation Program that provides information on what development has occurred, the amount of development mitigation revenue collected and the amount of development mitigation revenue expended on projects contained in the Nexus Study.

Draw means an advance made by Lender from Borrower's Major Local Highways Program funds or Measure I bond funds in order to pay for the Local Share of Project Costs as part of the Loan Amount.

Effective Date means the date this Agreement is executed by Lender.

Lender means the San Bernardino County Transportation Authority.

Lien means any voluntary or involuntary security interest, mortgage, pledge, claim, charge, encumbrance, intra-fund borrowing commitment, covering all or any part of the Collateral.

Loan Amount means the total amount of all Draws outstanding and unpaid by Borrower, currently estimated to be \$12,511,320 but which amount will be adjusted when actual construction costs for the Project are known.

Loan Due Date means the last day of the tenth (10th) year subsequent to the issuance of the Notice of Completion for the Project.

Loan Fee means Two-Thousand Seven Hundred Fifty Dollars (\$2,750) payable by Borrower to Lender for Lender's additional costs of administering the Term Loan.

Local Share means the sum of: (1) Project Costs minus Cost Buy-Down for Project, times the development contribution percentage set forth in the SANBAG Nexus Study (forty-nine percent (49%) for portions of the project within the City of Victorville and seventeen and eight-tenths percent (17.8%) for portions of the project within the County of San Bernardino. The Local Share is estimated to be \$18,766,980. Pursuant to a separate Project Local Share funding agreement between Borrower, Town and County, Town and County are responsible to Borrower for payment of their portions of the Local Share.

Local Share Project Cost Deposit means one-third of the Local Share for the Project, which is currently estimated to be six million, two hundred fifty-five thousand, six hundred sixty

dollars (\$6,255,660). Pursuant to a separate Project Local Share funding agreement between Borrower, Town and County, Town and County are responsible to Borrower for payment of their portions of the Borrower's Local Share Project Cost Deposit. The funding source for the Local Share Project Cost Deposit is Development Impact Fees.

Local Streets Program Funds means the Measure I program in all subareas that provides funds through a pass-through mechanism directly to local jurisdictions for expenditure on street and road construction, repair, maintenance and other eligible local transportation priorities including local streets, major highways, state highway improvements, freeway interchanges, transit, and other improvements/programs to maximize use of transportation facilities.

Major Local Highways Program Policy means the MLH Program Measure I 2010-2040 Strategic Plan set forth in Policy 40013 adopted by the SANBAG Board April 1, 2009, as revised July 7, 2010, March 4, 2015, and January 6, 2016.

Measure I means the one-half of one percent ($1/2\%$) retail transactions and use tax statutorily dedicated to transportation planning, design, construction, operation and maintenance only, in San Bernardino County as authorized by the San Bernardino County voters' passage of Ordinance 89-01 in 1989 and reauthorized by the San Bernardino County voters' passage of Ordinance 04-01 in 2004.

MLH means Major Local Highways.

Nexus Study means that study approved by the SANBAG Board on February 3, 2016, and updated every two years, which sets forth the Local Share percentages for transportation improvements based on the estimates of Project Costs and the growth data provided by local jurisdictions.

Person means a natural person or a corporation, government entity or subdivision, agency, trust, estate, partnership, cooperative or association.

Project means the Green Tree Boulevard Extension Project in the City of Victorville, as more fully described in Contract No. 15-1001115.

Project Costs means the total cost of the Project, which are currently estimated to be \$45,083,625.

Project Phase means the Preliminary Engineering and Environmental Document, Plans, Specifications and Estimate work, Right-of-Way work, or Construction work for the Project.

Public Share means the share of Project Costs assigned as SANBAG’s contribution calculated as the Project Costs minus the Cost Buy-Down Funds and minus the Local Share for the Project.

SANBAG means the San Bernardino County Transportation Authority.

Term Loan means Lender’s lending of money to Borrower under the terms of this Agreement from the defined source of funds and for the defined purposes as more specifically described in Article Two.

Uncommitted Development Impact Fees means those Development Impact Fees received by or to be received by Borrower during the term of this Agreement for which, as of the Effective Date, Borrower has not made previous commitments as listed in Exhibit “B”.

Victor Valley Major Local Highways Program or Major Local Highways Program means the Measure I program in the Victor Valley subarea more fully described in Policy 40013 that provides funds through a reimbursement mechanism directly to local jurisdictions for expenditures incurred for components of any project allocated Victor Valley Major Local Highways Program funding by the SANBAG Board of Directors. The amount of Victor Valley Major Local Highways Program funds available to each jurisdiction in the Victor Valley subarea shall be approximately equivalent over the life of Measure I.

ARTICLE TWO—TERM LOAN

2.1 Term Loan. On the terms and conditions set forth herein, Lender hereby agrees to lend the Loan Amount to Borrower for the purpose of assisting Borrower in satisfying its obligation to pay the Local Share of Project Costs. On or before the Agreement Termination Date (unless extended in accordance with Subarticle 3.7), Borrower promises to pay Lender the principal sum of the Loan Amount.

2.2 Term Loan Draws. As the Project moves forward, Borrower shall send an invoice to SANBAG with adequate documentation as required by Measure I policies, not more frequently than monthly, invoicing SANBAG for two-thirds of the Local Share of Project Costs incurred by Borrower to date. Lender shall make a payment to Borrower which shall be a Draw in an amount equal to the invoiced amount. Each Draw shall become principal on the Loan Amount, and the Source of Loan Draws shall be reduced by the amount of the Draw. The total of all Draws shall not exceed the Loan Amount.

2.3 Source of Loan Draws. The sole sources of any Draws shall be Borrower’s Victor Valley Major Local Highways Program funds or Measure I bond funds.

2.4 Use of Proceeds. Measure I strictly limits the recipients of, the projects eligible for, and the uses of Measure I proceeds, including Victor Valley Major Local Highways Program and

Local Streets Program funds. Borrower understands and agrees that Draws paid shall be used by Borrower solely for payment of the Local Share of Project Costs, and Draws shall not be paid directly to Borrower's creditors, assigns, or any Person, and shall not be used for any purpose unauthorized by Measure I.

ARTICLE THREE—GENERAL CREDIT PROVISIONS

3.1 Conditions Precedent. As conditions precedent to Lender making the Term Loan to Borrower, Borrower shall:

3.1.1 Pay Lender the Loan Fee upon Borrower's execution of this Agreement; and

3.1.2 Intentionally Omitted

3.1.3 Deliver to Lender a certified copy of a Resolution or minute action of Borrower's legislative body authorizing execution of this Agreement by Borrower's duly authorized representative and approving this Agreement; and

3.1.4 Deliver to Lender a certified copy of a Resolution of Borrower's legislative body approving the amount of Bond Costs to be allocated to Borrower.

3.2 Records of Draws. Draws shall be evidenced by entries in accounting records maintained by Lender.

3.3 Collateral. Borrower shall grant Lender a first priority Lien in the Collateral, as more fully described in Exhibit "A". Borrower shall execute all such documents as Lender deems useful or necessary from time to time to perfect and maintain its Lien in the Collateral.

3.4 Repayment of Loan Amount.

3.4.1 Borrower shall repay the Loan Amount to Lender by the following means: Not later than September 30 of each year after the first Draw has been made by Lender, Borrower shall transfer to Lender all Uncommitted Development Impact Fees collected by Borrower in the prior Fiscal Year until the Loan Amount is paid in full.

3.4.2 Borrower shall commence repayment of the Loan Amount on the earlier of the date Borrower receives Uncommitted Development Impact Fees or the date Borrower issues a Notice of Completion of the Project.

3.4.3 All payments of the Loan Amount received by Lender shall be entered in SANBAG's records as a reduction of the Loan Amount.

3.5 Release of Funds. Within thirty (30) calendar days after Lender's receipt of a Term Loan payment from Borrower, Lender shall reduce the allocation of Victor Valley Major Local

Highways Program funds to this Project that have been paid as a Draw under Subarticle 2.2 in an amount equal to Borrower's Term Loan payment, and these released funds will be available for future allocation by the SANBAG Board of Directors to Borrower's other MLH-eligible projects.

3.6 Loan Due Date. The remaining balance of the Loan Amount shall be due and payable upon the Loan Due Date.

3.7 Loan Extension. If the Loan Amount is unpaid ninety (90) calendar days prior to the Loan Due Date and Borrower is not in breach of this Agreement, Borrower and Lender shall negotiate in good faith an extension of the Loan Due Date as is necessary to enable Borrower to repay the Loan Amount from Uncommitted Development Impact Fees.

3.8 Expiration of Measure I. If the Loan Amount is not paid in full as of the expiration date of Measure I due to insufficient Uncommitted Development Impact Fees collected by Borrower, Borrower's obligations to make any further Term Loan payments shall cease, this Agreement shall terminate, and Lender shall release its security interest in the Collateral.

3.9 Agreement Termination. This Agreement shall terminate upon the earliest to occur of 1) repayment in full of the Term Loan; 2) termination of the Agreement pursuant to Section 7.2; or 3) the expiration of Measure I.

3.10 Bond Costs. Borrower agrees that: 1) Bond Costs are not included in the Loan Amount; 2) Bond Costs will be paid from the Major Local Highway Program fund; and 3) the availability of the Major Local Highway Program funds for Borrower's other projects will be reduced by the amount of the Bond Costs.

ARTICLE FOUR—REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants that as of the Effective Date and the dates of each of the Draws:

4.1 Authorization, Validity and Enforceability. The execution, delivery and performance of this Agreement are within Borrower's powers, have been duly authorized, and are not in conflict with Borrower's charter (if applicable), and this Agreement constitutes a valid and binding obligation of Borrower, enforceable in accordance with its terms.

4.2 Compliance with Applicable Laws. Borrower has complied with its charter (if applicable), all laws, ordinances, and other governmental regulations now or later in force and effect in entering into this Agreement.

4.3 No Conflict. The execution, delivery, and performance by Borrower of the terms of this Agreement are not in conflict with any law, rule, regulation, order or directive, or any

indenture, agreement, or undertaking to which Borrower is a party or by which Borrower may be bound or affected.

4.4 No Litigation, Claims or Proceedings. There is no litigation, claim, proceeding or dispute pending, or to the knowledge of Borrower, threatened against or affecting the Collateral or Borrower's ability to enter into this Agreement, except as disclosed in writing to Lender prior to the Effective Date.

4.5 Correctness of Financial Statements. Borrower's Comprehensive Annual Financial Report for Fiscal Year 2014/2015 which has been delivered to Lender fairly and accurately reflects Borrower's financial condition as of June 30, 2015 and since that date, there has been no material adverse change in Borrower's financial condition.

4.6 DIF Commitments list. Borrower represents and warrants to Lender that the DIF Commitments list, attached to this Agreement as Exhibit "B", is a true, correct and complete listing of commitments and amounts of commitments of Development Impact Fees as of the Effective Date of this Agreement.

4.7 Reaffirmation of Representations. Each Draw accepted by Borrower shall be deemed a confirmation by Borrower that all representations and warranties contained herein or otherwise made by Borrower to Lender are then accurate in all material respects as though made on the date of such Draw.

4.8 Continuing disclosure. The Borrower shall notify the Lender of potential bankruptcies, changes in general fund balances or revenues greater than 20% from the prior year, operational changes that impact the Borrower's budget by greater than 20% and any new debt issuances.

4.9 Title to Collateral. Except as disclosed to Lender pursuant to this Agreement, Borrower has good and clear title to the Collateral, and the Collateral is not subject to any Liens.

ARTICLE FIVE—AFFIRMATIVE COVENANTS

During the term of this Agreement and until its performance of all obligations to Lender, Borrower promises and will:

5.1 Notice to Lender. Promptly give notice to Lender of:

5.1.1 Any litigation or threatened litigation or administrative or regulatory proceeding arising out of or related to this Agreement;

5.1.2 Any Event of Default; and

5.1.3 Receipt of Uncommitted Development Impact Fees, including the sources and amounts of the Uncommitted Development Impact Fees received through submission of its Development Mitigation Annual Report.

5.2 Borrower grants Lender a first position security interest in the Collateral. Borrower shall execute all such documents as Lender deems useful or necessary from time to time to perfect and maintain its first position security interest in the Collateral.

5.3 Records. Maintain adequate books, papers, records, accounting records, files, reports, and all other material relating to the Project and the Development Impact Fees. Borrower shall, upon request, make all such materials available to Lender or its designee at any reasonable time during the term of the Contract and for three (3) years from the Agreement Termination Date for auditing, inspection, and copying.

5.4 Five-Year Measure I Capital Project Needs Analysis Disclosure. Include in its Five-Year Measure I Capital Project Needs Analysis the amount of this Loan, the use of the Loan funds and the Borrower's plan for repayment of the Loan.

5.5 Intentionally Omitted

5.6 General Credit Provisions. Comply with and perform all of Borrower's payment and other obligations under Article Two - Term Loan, and Article Three - General Credit Provisions.

5.7 Compliance with Laws. Comply with all laws, rules, regulations, orders or directives of any governmental or regulatory authority and with all material agreements to which Borrower is a party, that relate to or impact Borrower's performance under this Agreement.

5.8 Insurance. To include in all contracts between Borrower and contractors for the Project the requirement that SANBAG be named as an additional insured under general liability insurance policies maintained by the contractor for the Project.

ARTICLE SIX—NEGATIVE COVENANTS

During the term of this Agreement and until the performance of all obligations to Lender, Borrower will not, without prior written consent of Lender:

6.1 Liens. Create, incur, assume or permit to exist any Lien, or grant any other Person or entity a pledge, in any of the Collateral, except Liens in favor of Lender pursuant to Subarticle 3.3.

6.2 Transfer of Collateral. Borrower covenants not to directly or indirectly assign, transfer, pledge, convey, hypothecate or encumber the Collateral in whole or in part, voluntarily, by operation of law, or otherwise without first obtaining the written consent of SANBAG. SANBAG's exercise of consent shall be within its sole discretion. Any purported assignment

without SANBAG's prior written consent shall be void and of no effect, and shall constitute a material breach of this Agreement.

6.3 Non-Assignment of Agreement. Borrower shall not assign this Agreement in whole or in part, voluntarily, by operation of law, or otherwise without first obtaining the written consent of SANBAG. SANBAG's exercise of consent shall be within its sole discretion. Any purported assignment without SANBAG's prior written consent shall be void and of no effect, and shall constitute a material breach of this Agreement. Subject to the foregoing, the provisions of this Agreement shall extend to the benefit of and be binding upon the successors and assigns of the Parties.

ARTICLE SEVEN—EVENTS OF DEFAULT

7.1 Event of Default. An event of default is any breach or default of any covenant, representation or warranty of this Agreement which can be cured by the payment of money and which either Party does not cure within a fifteen (15) calendar day period commencing on the date when such amount was due and payable ("Monetary Event of Default"); or any other breach or default ("Non-Monetary Event of Default") by either Party of any covenant, representation or warranty of this Agreement which is not a Monetary Event of Default or which is not defined in this section and which the defaulting Party does not cure within a thirty (30) calendar day period commencing on the date of the occurrence of the breach or default (the "Applicable Cure Period"), or in the event such Event of Default cannot reasonably be cured within such time, which the defaulting Party does not commence to cure within the Applicable Cure Period and thereafter diligently and continuously proceed with such cure to completion and complete the same within a period determined to be reasonable by the non-defaulting Party.

7.2 Remedies. Upon the occurrence of any uncured Event of Default, the following shall apply:

7.2.1 At Lender's sole discretion, Lender may take any or all of the following actions:

7.2.1.1 cease making further Draws;

7.2.1.2 withhold Victor Valley Major Local Highways Program funds or Local Streets Program funds equivalent to the Loan Amount outstanding at the time of Default;

7.2.1.3 terminate this Agreement, without further notice to Borrower;

7.2.1.4 pursue proceedings at law or equity to recover the Collateral or to otherwise enforce the terms of this Agreement against Borrower;

7.2.1.5 disqualify Borrower from further participation in SANBAG's Development Mitigation Fair Share Loans and Loan Repayment program under Victor Valley Major Local Highways Program Measure I Strategic Plan Policy 40013, sub-policy VVMLH-32;

7.2.1.6 exercise any and all rights and remedies available at law or equity.

7.2.2 At Borrower's sole discretion, Borrower may take any or all of the following actions:

7.2.2.1 terminate this Agreement, without further notice to Lender;

7.2.2.2 pursue proceedings at law or equity to enforce the terms of this Agreement against Lender.

7.2.3 In the event of any litigation, whether in a court of law, administrative hearing, arbitration, or otherwise, arising from or related to this Agreement, the prevailing Party shall be entitled to recover from the non-prevailing Party all reasonable costs incurred, including staff time, court costs, attorneys' fees and all other related expenses in such litigation.

ARTICLE EIGHT—GENERAL PROVISIONS

8.1 Notices. Any notice given by any Party to this Agreement shall be in writing and personally delivered, deposited in the United States mail, postage prepaid, or sent by facsimile transmission, and addressed as follows:

To: Borrower

City of Victorville
Attention: City Manager
14343 Civic Drive
Victorville, CA 92393
Fax No.:(760) 245-7243

To: Lender

SANBAG
Attention: Executive Director
1170 W. Third Street
San Bernardino, CA 92410
Fax No.: (909) 885-4407

Each Party may change the address to which notices, requests and other communications are to be sent by giving written notice of such change to each other Party.

8.2. No Waiver. Any waiver, permit, consent or approval by a Party of any Event of Default or breach of any provision, representation, warranty or covenant of this Agreement must be in writing and shall be effective only to the extent set forth in writing. No waiver of any breach or default shall be deemed a waiver of any later breach or default of the same or any other provision of this Agreement. Any failure or delay on the part of a Party in exercising any power, right or privilege under this Agreement shall not operate as a waiver thereof, nor shall

any single or partial exercise of any such power, right or privilege preclude any further exercise thereof.

8.4 Rights Cumulative. All rights and remedies existing under this Agreement are cumulative to, and not exclusive of, any other rights or remedies available under this Agreement or applicable law.

8.5 Unenforceable Provisions. Any provision of this Agreement which is prohibited or unenforceable, shall be so only as to the extent of such prohibition or unenforceability, but all the remaining provisions of the Agreement shall remain valid and enforceable.

8.6 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

8.7 Indemnification. Neither Lender nor any officer or employee thereof is responsible for any injury, damage or liability occurring or arising by reason of anything done or omitted to be done by Borrower under or in connection with this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, Borrower shall fully defend, indemnify and save harmless Lender, its officers and employees from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by Borrower under or in connection with any work, authority or jurisdiction delegated to Borrower under this Agreement. Borrower's indemnification obligation applies to Lender's "active" as well as "passive" negligence but does not apply to Lender's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

8.8 Reimbursement. Borrower shall reimburse Lender for all costs and expenses expended or incurred by Lender in any arbitration, judicial reference, legal action, or otherwise in connection with: (i) collecting any sum which becomes due Lender under this Agreement, or (ii) the protection, preservation or enforcement of any rights of Lender under this Agreement.

8.9 Execution in Counterparts. This Agreement may be executed in any number of counterparts which, when taken together, shall constitute but one agreement.

8.10 Further Assurances. At any time and from time to time upon the request of Lender, Borrower will execute and deliver such further documents and do such other acts as Lender may reasonably request in order to effect fully the purposes of the Agreement and provide for the payment of the Loan and preservation of Lender's security interest in the Collateral.

8.11 Headings. The headings and captions of Articles and subarticles of this Agreement are for the convenience of reference only and shall not constitute a part of the text nor alter or otherwise affect the meaning thereof.

8.12 Construction of Agreement. Both Parties have been represented or had the full opportunity to be represented by legal counsel of their own choosing in the negotiation and preparation of this Agreement. Therefore, the language in all parts of this Agreement will be construed, in all cases, according to its fair meaning, and not for or against either Party.

8.13 Exhibits. Exhibit “A” (Collateral) and Exhibit “B” (DIF Commitments) and are attached to and incorporated into this Agreement by this reference.

8.14 Entire Agreement. This Agreement is intended by the Parties as the final expression of their agreement and therefore contains the entire agreement between the Parties and supersedes all prior understandings or agreements, written or oral, concerning the subject matter hereof. All previous proposals, offers, and other communications, written or oral, relative to this Agreement, are superseded except to the extent that they have been incorporated into this Agreement.

8.15 Amendments. This Agreement may be amended only in a writing duly authorized and executed by both Borrower and Lender.

-----SIGNATURES ON FOLLOWING PAGE-----

IN WITNESS WHEREOF, Borrower and Lender have executed this Agreement below.

CITY OF VICTORVILLE

**SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY**

By: _____
Gloria Garcia, Mayor

By: _____
Robert A. Lovingood, President

Date: _____

Date: _____

APPROVED AS TO FORM

APPROVED AS TO FORM

Andre de Bortnowsky
City Attorney

Eileen Monaghan Teichert,
General Counsel

ATTEST

By: _____
Carolee Bates, City Clerk

Jeffery Hill, Procurement Manager

EXHIBIT “A”**COLLATERAL FOR TERM LOAN AGREEMENT NO. 16-1001481**

1. Any and all of the City of Victorville Uncommitted Development Impact Fees received by or to be received by the City of Victorville, including the proceeds from and interest on such fees and accounts into which such fees are deposited. Uncommitted Development Impact Fees are the revenues generated by City of Victorville locally-adopted development financing mechanism to mitigate development’s impacts on transportation by making fair share contributions for transportation facilities needed as result of development, as required by Measure I, including without limitation proceeds from a Community Facilities District or other development-based sources, but do not include such revenues generated to pay the development share for the commitments identified in Exhibit “B”.

2. Any and all of City of Victorville Measure I Victor Valley Major Local Highways Program funds up to the amount of twelve million, five hundred eleven thousand, three hundred twenty dollars (\$12,511,320). Victor Valley Major Local Highways Program funds means the San Bernardino County Transportation Authority-administered Measure I program that provides funds through a reimbursement mechanism directly to the City of Victorville for expenditure on Nexus Study major street and highway projects after allocation by the SANBAG Board of Directors.

EXHIBIT "B"

DIF COMMITMENTS AND AMOUNTS

ITEM	DIF COMMITTED PROJECT	DIF AMOUNT COMMITTED	STATUS (Phase)
1	I-15 / La Mesa / Nisqualli Interchange	\$ 6,441,786	Construction
2	Tract 17131 Legacy Homes DIF Credit Agreement	\$ 178,638	
3	Tract 17133 Legacy Homes DIF Credit Agreement	\$ 106,461	
4	15% set-aside of future Road DIF revenue for future Credit Agreement obligations	\$ TBD	-
	TOTAL	\$ 6,726,885+	

Minute Action

AGENDA ITEM: 24

Date: *October 5, 2016*

Subject:

Memorandum of Understanding with City of San Bernardino for Shortway Subdivision Quiet Zones

Recommendation:

That the Board acting as the San Bernardino County Transportation Commission, authorize the Executive Director or his designee to execute Memorandum of Understanding No. 17-1001586 with the City of San Bernardino for the establishment of a Quiet Zone on the Shortway Subdivision.

Background:

The San Bernardino County Transportation Commission (SANBAG) identified the Shortway Subdivision Quiet Zone Project as a priority at the February 3, 2016 Board of Directors meeting, approving funding for the Project and providing direction to staff to proceed with the design, environmental clearance, and construction improvements to implement the Quiet Zone. Memorandum of Understanding (MOU) No. 17-1001586, defines the roles and responsibilities between SANBAG and the City of San Bernardino for the implementation and renewal of a Quiet Zone along the Shortway Subdivision at the Rialto Avenue and Walnut Street at-grade crossings.

The Metrolink Eastern Maintenance Facility (EMF), located in the City of Colton and accessed by rail via the Shortway Subdivision, was originally constructed by the Southern California Regional Rail Authority (SCRRA) in 2009 to service commuter trains running along Metrolink's San Bernardino and Inland Empire – Orange County (IEOC) Lines. SCRRA's use of the EMF as a maintenance facility was limited due to the existing Inland Empire Maintenance Facility (IEMF), located just east of the San Bernardino Metrolink Station/Santa Fe Depot (Depot) and due to the amount of available storage tracks surrounding the Depot.

This operating scenario changed when the San Bernardino County Transportation Authority (SANBAG), began implementation of the Downtown San Bernardino Passenger Rail Project (DSBPRP), which extends Metrolink passenger rail service approximately one mile east from its current terminus at the Depot to the San Bernardino Transit Center near the intersection of Rialto Avenue and E Street in the City of San Bernardino. As part of the DSBPRP, SANBAG completed an expansion of the EMF to facilitate its full use as a maintenance and train storage facility since the DSBPRP required the relocation of Metrolink layover and maintenance functions at the Depot and the adjacent IEMF.

Prior to the implementation of the DSBPRP, there were 8 weekday revenue-service Metrolink IEOC Line trains traversing the Shortway Subdivision on their route between the Depot and

Entity: *CTC*

Board of Directors Agenda Item

October 5, 2016

Page 2

Orange County. As part of the DSBPRP, the number of trains traversing the Shortway Subdivision has increased to a total of at least 24 train movements per weekday, including both deadhead and revenue trains.

Based on the increase in train movements on the Shortway Subdivision, SANBAG identified a need for the implementation of Quiet Zones at the two at-grade crossings along the Shortway Subdivision at Rialto Avenue and Walnut Street. At a Quiet Zone, the railroad has been directed to cease the routine sounding of train horns when approaching the at-grade crossing, however in emergencies the train horn can still be used at the discretion of the operating engineer. Quiet Zones are implemented by constructing safety enhancements at the crossings and per Federal Railroad Administration (FRA) requirements, as detailed in Title 49 Code of Federal Regulation (CFR) Part 222, must be applied for by the public authority responsible for the traffic control or law enforcement at the at-grade crossing. At the Rialto Avenue and Walnut Street at-grade crossings this is the responsibility of the City of San Bernardino.

SANBAG is finalizing the design of improvements at both crossings. At Rialto Avenue these improvements include the installation of constant warning circuitry, new vehicular and pedestrian gates and flashers, and pedestrian channelization. Due to significant right-of-way acquisitions that would be required, no signal improvements will be installed at the Walnut Street at-grade crossing other than the installation of constant warning circuitry. Since no enhancements are occurring at the Walnut Street at-grade crossing, the City will be required to periodically renew the Quiet Zone with the FRA in accordance with FRA Title 49 CFR Section 222.47(b). The renewal period is every 2.5 - 3 years.

Financial Impact:

There is no financial impact associated with this item. The design and construction of enhancements to the at-grade crossings are included within SANBAG's Fiscal Year 2016/2017 Budget.

Reviewed By:

This item was reviewed by the Transit Committee on September 15, 2016, acting as a committee of the whole without a quorum present. SANBAG General Counsel and Procurement Manager have reviewed this item and the MOU.

Responsible Staff:

Justin Fornelli, Chief of Transit and Rail Programs

Approved
Board of Directors
Date: October 5, 2016

Witnessed By:

General Contract Information

Contract No: 17-1001586 Amendment No.: 0 Vendor No.: 01901
 Vendor/Customer Name: City of San Bernardino Sole Source? Yes No
 Description: MOU - Shortway Quiet Zone
 Start Date: 10/05/2016 Expiration Date: 12/31/2017 Revised Expiration Date: _____
 Has Contract Term Been Amended? No Yes - Please Explain _____
 List Any Related Contracts Nos.: _____

Dollar Amount			
Original Contract	\$ -	Original Contingency	\$ -
Revised Contract <i>(Inclusive of Prior Amendments)</i>	\$ -	Revised Contingency <i>(Inclusive of Prior Amendments)</i>	\$ -
Current Amendment	\$ -	Contingency Amendment	\$ -
TOTAL CONTRACT VALUE	\$ -	TOTAL CONTINGENCY VALUE	\$ -
		TOTAL DOLLAR AUTHORITY <i>(Contract Value and Contingency)</i>	\$ -

Contract Authorization

Executive Director Date: _____
 Executive Director Action: _____
 Board of Directors Date: 10/05/2016
 Board of Directors Action: Approve MOU

Contract Management: Payable/Miscellaneous

Invoice Warning: 20% Renewals: _____ Type: Capital PAA Other
 Retention: % Maximum Retention: \$ _____
 Services: Construction Intrgrnt/MOU/COOP A & E Services Other Professional Services
 Disadvantaged Business Enterprise (DBE) Goal _____ %

Contract Management: Receivable

E-76 and/or CTC Date _____ (Attach Copy) Program Supplement No.: _____
 Finance Letter Reversion Date: _____ EA No.: _____

All of the above MUST be submitted to FINANCE including originals, amendments and miscellaneous transaction changes

Additional Information

Project Manager: Justin Fornelli / \$0 MOU

Attachment: CSS (3133 : Memorandum of Understanding with City of San Bernardino for Shortway Subdivision Quiet Zones)

MEMORANDUM OF UNDERSTANDING NO. 17-1001586

BETWEEN THE

SAN BERNARDINO COUNTY TRANSPORTATION COMMISSION

AND THE CITY OF SAN BERNARDINO

**FOR THE IMPLEMENTATION OF A QUIET ZONE ON THE SHORTWAY
SUBDIVISION**

This Memorandum of Understanding (“AGREEMENT”) is made and entered into by and between the San Bernardino County Transportation Commission (“SANBAG”) and the City of San Bernardino (“CITY”). (SANBAG and CITY are each a “Party” and collectively “Parties”). The Effective Date of this AGREEMENT shall be the date upon which SANBAG executes this AGREEMENT.

RECITALS

WHEREAS, SANBAG owns the Shortway Subdivision railroad right-of-way between Mile Post 0.9 and Mile Post 2.2 within the Cities of San Bernardino and Colton (“ROW”); and

WHEREAS, SANBAG has delegated operating and maintenance responsibilities of the ROW to the Southern California Regional Railroad Authority (“SCRRA”) who operates the Metrolink commuter rail service; and

WHEREAS, Metrolink commuter rail operations have increased from 8 train-set trips to at least 24 train-set trips per weekday within and along the ROW; and

WHEREAS, due to the increase in train volume and the associated increase in frequency of train horns, SANBAG will construct civil and signal improvements at the existing at-grade crossing at Rialto Avenue and will construct constant warning circuitry improvements at the existing at-grade crossing at Walnut Street, within the City of San Bernardino, that would meet the Federal Railroad Administration (“FRA”) requirements for the establishment of a Quiet Zone (“PROJECT”); and

WHEREAS, the establishment of a Quiet Zone is governed by the FRA under 49 CFR Part 222 Use of Locomotive Horns at Public Highway - Rail Grade Crossings, and 49 CFR 229 Railroad Locomotive Safety Standards; and

WHEREAS, per FRA guidelines, only the public authority responsible for traffic control or law enforcement at the highway-rail at-grade crossing can implement a Quiet Zone; and

Memorandum of Understanding No. 17-1001586

WHEREAS, SANBAG and CITY recognize that coordination of PROJECT with CITY is mutually beneficial to both SANBAG and CITY and wish to minimize cost and schedule disruptions of implementing the PROJECT; and

WHEREAS, SANBAG has need of and desires to reach an understanding with the CITY in carrying out SANBAG's responsibilities for design, construction, maintenance and operation of the PROJECT, specifically to define the scope of CITY's involvement in the review and approval of design drawings, to establish defined review period time frames, and to acknowledge other necessary steps SANBAG and CITY must follow to implement the PROJECT.

NOW, THEREFORE, the Parties agree to the following:

ARTICLE 1: TERMS & CONDITIONS

1. The Parties agree that the above referenced RECITALS are true and correct in all respects and shall constitute a substantive part of this Agreement and are incorporated herein by this reference. This Agreement supersedes any and all prior oral or written agreements with respect to the PROJECT.
2. The PROJECT, as described and depicted in Exhibits A and B attached hereto and incorporated herein, is located in the City of San Bernardino.
3. CITY and SANBAG will establish SANBAG's and CITY's responsibilities for construction, maintenance and operation of the PROJECT, specifically to define specified time frames for review and approval of design drawings and permits, and to acknowledge other necessary steps SANBAG and CITY must follow for approval of PROJECT and improvements.
4. When possible, CITY and SANBAG will coordinate PROJECT construction schedules with CITY construction schedules, particularly with respect to utility relocations.
5. CITY will collaborate with SANBAG to acquire or vacate necessary right-of-way to complete the implementation of the PROJECT, based on the project implementation schedule to be provided by SANBAG. CITY will also collaborate with SANBAG to pursue vacation of CITY right-of-way that will no longer be needed for public purposes upon completion of the improvements.
6. CITY and SANBAG will identify and plan for utility relocations and modifications in a coordinated manner. Specific agreements will be outlined as to which utilities need to be relocated, when they will be relocated, and who will perform the work at no cost to the City, unless otherwise covered by separate existing agreements. CITY and SANBAG recognize the need to perform this work in a timely and cost effective manner.

Memorandum of Understanding No. 17-1001586

7. SANBAG will provide a mechanism to incorporate such PROJECT “Betterments” as may be requested by the CITY. Betterments are defined as facilities, improvements or enhancements which are not required for the PROJECT or required by CITY zoning or building regulations and are enhancements to the PROJECT. CITY will pay SANBAG for the entire cost of any CITY-requested betterments. Costs will be negotiated in good faith on a case-by-case basis.
8. CITY shall collaborate with SANBAG on amending existing grade crossing and utility license agreements as necessary to accommodate the PROJECT.
9. Following completion of the PROJECT, CITY and SANBAG will continue to meet as needed and confer on the common interests of both with respect to the safe operation and maintenance of the passenger rail system and CITY facilities, including potential effects on traffic within the project limits in CITY.

ARTICLE 2: RESPONSIBILITIES OF SANBAG

1. SANBAG will identify one or more contact individuals for all PROJECT related matters.
2. SANBAG agrees to design and construct the PROJECT to make it Quiet Zone ready, and to assist CITY in completing all required applications and technical studies needed to implement a Quiet Zone for the PROJECT, as depicted in Exhibit C.
3. SANBAG agrees to submit to the CITY the 60%, 90%, and 100% plans, specifications, and estimate packages for review and comment and provide a timely written response to any comments formally received from the CITY.

ARTICLE 3: RESPONSIBILITIES OF CITY

CITY agrees to the following responsibilities:

1. Designate a project manager to be the point of contact between the Parties and to coordinate with SANBAG on the design, construction, and implementation of the PROJECT.
2. Enter into a maintenance agreement with SCRRA for the highway-rail at-grade crossings at Rialto Avenue and Walnut Street.
3. Attend site diagnostic meetings and execute concurrence documents in compliance with CPUC General Orders 75-D and 88-B. The CITY will file all federally required documentation, as depicted in Exhibit C, within the time frame prescribed in 49 CFR 222.39, in order to establish a Quiet Zone within its jurisdiction at all crossings included within the scope of the PROJECT.

Memorandum of Understanding No. 17-1001586

4. Periodically renew the Quiet Zone with the FRA in accordance with Title 49 Code of Federal Regulation (CFR) Section 222.47(b). The renewal period is every 2.5 - 3 years. A sample renewal letter is depicted in Exhibit D.
5. Invoke its franchise/utility agreements and have its rights under those agreements imposed on utilities if it is determined utilities are in conflict with the PROJECT and require relocation. The CITY will formally inform the utilities of the CITY's intent to exercise its rights and request the relocation of utilities pursuant to the franchise/utility agreements.
6. Contribute in-kind services to the PROJECT providing at their own costs, but not limited to, all plan reviews, processing, construction permits, and construction inspections.
7. Review the 60%, 90%, and 100% plans, specifications, and estimate, and provide written comments within ten (10) business days after receiving the documents.

ARTICLE 4: INDEMNIFICATION

1. Neither CITY nor any officer, director, employee or agent thereof is responsible for any injury, damage or liability occurring or arising by reason of anything done or omitted to be done by SANBAG and under or in connection with any work, authority or jurisdiction delegated to SANBAG under this AGREEMENT. It is understood and agreed that, pursuant to Government Code Section 895.4, SANBAG shall fully defend, indemnify and save harmless CITY, its officers, directors, employees, contractors and agents from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by SANBAG under or in connection with any work, authority or jurisdiction delegated to SANBAG under this AGREEMENT.
2. Neither SANBAG nor any officer, director, employee or agent thereof is responsible for any injury, damage or liability occurring or arising by reason of anything done or omitted to be done by CITY and under or in connection with any work, authority or jurisdiction delegated to CITY under this AGREEMENT. It is understood and agreed that, pursuant to Government Code Section 895.4, CITY shall fully defend, indemnify and save harmless SANBAG, its affiliated entities, members, officers, directors, employees, contractors and agents from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by CITY under or in connection with any work, authority or jurisdiction delegated to CITY under this AGREEMENT.

ARTICLE 5: ADDITIONAL PROVISIONS

Memorandum of Understanding No. 17-1001586

1. Dispute Resolution. This AGREEMENT shall be interpreted in accordance with the laws of the State of California except those issues regulated by the Code of Federal Regulations. Any dispute between the Parties shall be resolved as follows:
 - a. Representatives of the CITY and SANBAG shall meet and confer in good faith to resolve the dispute.
 - b. If unresolved, the dispute shall be referred to the City Manager of CITY and SANBAG's Executive Director who shall meet and confer in good faith to resolve the dispute. In the event the dispute is still not resolved, the dispute shall be referred to the governing bodies of the CITY and SANBAG who shall arrange to meet and confer through committees, representatives, or delegates to resolve the dispute. The decisions of the governing bodies shall be final. The CITY and SANBAG reserve all rights, following completion of the above described process, to seek appropriate relief or remedy.
2. The agreement, approval or consent of CITY and/or SANBAG, wherever required under this Memorandum of Understanding, shall mean the agreement, approval or consent of CITY's City Manager and/or SANBAG's Executive Director, respectively, unless otherwise specified, without need for further action by the Parties' governing boards.
3. This AGREEMENT shall continue in full force and effect through December 31, 2017, unless terminated earlier, or extended, by mutual written consent by both Parties.
4. All Parties hereto warrant that they are duly authorized to execute this AGREEMENT on behalf of said Parties and that by so executing this AGREEMENT, the Parties hereto are formally bound to this AGREEMENT.
5. Except on subjects preempted by federal law, this AGREEMENT shall be governed and construed in accordance with the laws of the State of California. All Parties agree to follow all local, state, county and federal laws and ordinances with respect to performance under this AGREEMENT.
6. If any clause or provision of this AGREEMENT is illegal, invalid or unenforceable under applicable present or future laws, then it is the intention of the Parties that the remainder of this AGREEMENT shall not be affected but shall remain in full force and effect.
7. This AGREEMENT can be amended with a written amendment when agreed upon and duly authorized to be executed by both Parties.
8. In the event of litigation arising from this AGREEMENT, each Party to this AGREEMENT shall bear its own costs, including attorney(s) fees.

Memorandum of Understanding No. 17-1001586

9. This AGREEMENT may be signed in counterparts, each of which shall constitute an original.
10. Any notice required or authorized to be given hereunder or any other communications between the Parties provided for under the terms of this AGREEMENT shall be in writing, unless otherwise provided for herein, and shall be served personally or by reputable courier or by facsimile addressed to the relevant party at the address/fax number stated below.
11. Notice given under or regarding this AGREEMENT shall be deemed given (a) upon actual delivery, if delivery is personally made; or (b) upon delivery into the United States Mail if delivery is by postage paid certified mail (return receipt requested), fax or private courier including overnight delivery services. Notice shall be sent to the respective Party at the address indicated below or to any other address as a Party may designate from time to time by a notice given in accordance with this paragraph.

If to SANBAG:	Raymond Wolfe, Executive Director 1170 West 3 rd Street, Second Floor San Bernardino, CA 92410-1715 (909) 884-8276
---------------	--

If to City of San Bernardino:	Mark Scott, City Manager 300 N. "D" Street, 6 th Floor San Bernardino, CA 92418 (909) 384-5122
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12. Exhibit A (Project Overview), Exhibit B (Project Location Map), Exhibit C (Sample Notice of Intent Application), and Exhibit D (Sample Quiet Zone Renewal Letter) is attached to and incorporated into this AGREEMENT.
13. This Agreement may be terminated at any time upon thirty (30) days written notice by either party.

SIGNATURES ON FOLLOWING PAGE:

Memorandum of Understanding No. 17-1001586

IN WITNESS WHEREOF, the Parties have executed this AGREEMENT below.

SAN BERNARDINO COUNTY
TRANSPORTATION COMMISSION

CITY OF SAN BERNARDINO

By: _____
Raymond Wolfe
SANBAG Executive Director

By: _____
Mark Scott
City Manager

Date: _____

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____
Robert D. Herrick
Asst. SANBAG General Counsel

By: _____
Gary D. Saenz
City Attorney

Date: _____

Date: _____

Attachment: Shortway QZ MOU 08 01 16 (3133 : Memorandum of Understanding with City of San Bernardino for Shortway Subdivision Quiet

EXHIBIT A - Project Overview

The Metrolink Eastern Maintenance Facility (EMF), located in the City of Colton and accessed by rail via the Shortway Subdivision, was originally constructed by the Southern California Regional Rail Authority (SCRRA) in 2009 to service commuter trains running along Metrolink's San Bernardino and Inland Empire – Orange County (IEOC) Lines. SCRRA's use of the EMF as a maintenance facility was limited due to the existing Inland Empire Maintenance Facility (IEMF), located just east of the San Bernardino Metrolink Station/Santa Fe Depot (Depot) and due to the amount of available storage tracks surrounding the Depot.

This operating scenario changed when the San Bernardino County Transportation Commission (SANBAG), began implementation of the Downtown San Bernardino Passenger Rail Project (DSBPRP), which extends Metrolink passenger rail service approximately one mile east from its current terminus at the Depot to the San Bernardino Transit Center near the intersection of Rialto Avenue and E Street in the City of San Bernardino. As part of the DSBPRP, SANBAG completed an expansion of the EMF to facilitate its full use as maintenance and train storage facility since the DSBPRP required the relocation of Metrolink layover and maintenance functions at the Depot and the adjacent IEMF.

Prior to the implementation of the DSBPRP, there were 8 weekday revenue-service Metrolink IEOC Line trains traversing the Shortway Subdivision on their route between the Depot and Orange County. As part of the DSBPRP, the number of trains traversing the Shortway Subdivision has increased to a total of at least 24 train movements per weekday, including both deadhead and revenue trains.

Based on the increase in train movements on the Shortway Subdivision, SANBAG has agreed there is a need for the Shortway Subdivision Quiet Zone Project (Project) that provides quiet-zone-ready conditions at the two at-grade crossings located on the Shortway Subdivision.

Along the Shortway Subdivision are two existing at-grade crossings (Crossings):

- Rialto Avenue, USDOT No. 026440R, CPUC No. 002B-0.70
- Walnut Street, USDOT No. 026442E, CPUC No. 002B-1.00

The Project is proposing to install constant warning circuitry, 4 each California Public Utilities Commission (CPUC) Standard No. 9 entrance gates with flashers, 4 each CPUC No. 9 exit gates with flashers with exit gate management system, 4 each CPUC Commission No. 9 pedestrian gates with flashers and treatment at Rialto Avenue. The project also includes the removal of the current 2 CPUC Commission No. 9 entrance gates with flashers and 2 No. 8 median flashers at Rialto Avenue. There will not be any signal improvements installed at the Walnut Street crossing other than the installation of constant warning circuitry. The City will be responsible for the implementation and periodic renewal of the Quiet Zone on the Shortway Subdivision with the FRA in

Memorandum of Understanding No. 17-1001586

accordance with Title 49 Code of Federal Regulation (CFR) Section 222.47(b). The renewal period is every 2.5 - 3 years.

Attachment: Shortway QZ MOU 08 01 16 (3133 : Memorandum of Understanding with City of San Bernardino for Shortway Subdivision Quiet

EXHIBIT B - Project Location Map



Attachment: Shortway QZ MOU 08 01 16 (3133 : Memorandum of Understanding with City of San Bernardino for Shortway Subdivision Quiet

EXHIBIT C – Sample Notice of Intent Application

August 31, 2016
 Ms. LeeAnn Dickson
 Regional Manager, Grade Crossing Safety & Trespass
 Federal railroad Administration
 801 "I" Street, Suite 466
 Sacramento, CA 95814

RE: Notice of Intent to Establish a Quiet Zone
 City of San Bernardino, CA

Dear Ms. Dickson,

The City of San Bernardino hereby submits a Notice of Intent for the creation of a New Quiet Zone on the Shortway Subdivision railroad corridor owned by San Bernardino County Transportation Commission (SANBAG) in the City of San Bernardino, San Bernardino County. The rail line is operated by the Southern California Regional Rail Authority (SCRRA) and used by SCRRA for its Metrolink passenger rail service and by BNSF Railway Company (BNSF) for freight rail service.

The Notice of Intent is being provided in accordance with the provisions of Title 49 of the Code of Federal Regulations (CFR), Part 222.43(a)(1). The highway grade crossings within the New Quiet Zone are as follows:

1. Rialto Avenue, DOT # 026440R, CPUC No. 002B-0.70
2. Walnut Street, DOT #026442E, CPUC No. 002B-1.00

Please direct all correspondence regarding this matter to the undersigned at the address listed under the Notifications section of the Notice on Intent. Please provide any comments that you may have within the 60-day comment period prescribed in 49 CFR 222.43 (a) (3)(i). If no comments are to be provided, please provide a written statement indicating that no comments are to be provided, in accordance with 49 CFR 222.43 (a)(3)(ii)(B). Thank you for your attention to this matter.

Sincerely,

Christopher Alanis
 Public Works Director
 City of San Bernardino

Enclosures: Notice of Intent to Create a New Quiet Zone
 CPUC General Order 88B Approval for Rialto Avenue
 Proposed Crossing Improvement Plans
 Quiet Zone Calculator Result Sheet – Existing Condition
 Quiet Zone Calculator Result Sheet – With Supplement Safety Measures
 FRA Crossing Inventory Forms

NOTICE OF INTENT TO CREATE NEW QUIET ZONE

The City of San Bernardino is establishing the New Quiet Zone by Public Authority Designation in accordance with the requirements of 49 CFR 222.39(a)(3). Supplemental Safety Measures are currently in place at the Rialto Avenue crossing in the New Quiet Zone, bringing the Quiet Zone Risk Index to a level below the Risk Index with Horns. The highway grade crossings within the New Quiet Zone are as follows:

3. Rialto Avenue, DOT # 026440R, CPUC No. 002B-0.70
4. Walnut Street, DOT #026442E, CPUC No. 002B-1.00

A description of the characteristics of the New Quiet Zone follows:

1. The New Quiet Zone will be in effect on a 24-hour basis. Routine sounding of the locomotive horn shall be discontinued on a 24-hour basis once the New Quiet Zone is established.
2. The New Quiet Zone will be in effect at the two highway grade crossings listed above at Milepost 0.70 and 1.00 on the Shortway Subdivision. As part of the installation of Supplemental Safety Measure, exit gates and pedestrian crossing treatments will be installed at Rialto Avenue.
3. Both highway grade crossings are provided with flashing lights and gates.
4. Rialto Avenue highway grade crossing will have raised medians on both sides of the tracks.
5. Constant Warning Time (CWT) devices will be in service at both highway crossings within the New Quiet Zone.
6. The highway grade crossing instrument houses and cases at both highway grade crossings within the New Quiet Zone currently have or will have power-off indicators installed.
7. Both highway grade crossings within the New Quiet Zone will be provided with the appropriate signage (No Train Horn, etc.) as required.
8. The FRA highway grade crossing inventory forms for both highway crossings within the New Quiet Zone have been updated (in red ink) and are attached. In addition, the Quiet Zone Calculator print-out indicating the results for both highway grade crossings within the New Quiet Zone are attached.

NOTIFICATIONS

As required by 49 CFR 222.43(b)(iv), the name, title and contact information for the person who will act as the point of contact during the New Quiet Zone Development process is as follows:

Christopher Alanis
 Public Works Director
 City of Bernardino
 300 North D Street, 3rd Floor
 San Bernardino, CA 92418-0001
 Office: (909) 384-5140
 E-Mail: Alanis_Ch@sbcity.org

Also as required by 49 CFR 222.43 (b)(2)(v), the name and address of each party that will receive a copy of the Notice on Intent and all attachments in accordance with the requirements of 49 CFR 222.43(a)(1) are as follows:

Hard Copy Notification by Certified Mail, Returned Receipt Requested

Ms. LeeAnn Dickson
Regional Manager, Grade Crossing Safety & Trespass
Federal railroad Administration
801 "I" Street, Suite 466
Sacramento, CA 95814

Mr. Michael Robertson, PE
Manager, Rail and Crossing Branch
Rail Crossing Engineering Section
California Public Utilities Commission
320 West Fourth Street, Suite 500
Los Angeles, CA 90013

Mr. Sergio Licon, PE
Utilities Engineer
Rail Crossing Engineering Section
California Public Utilities Commission
320 West Fourth Street, Suite 500
Los Angeles, CA 90013

Mr. Justin Fornelli, PE
Chief of Transit & Rail Programs
San Bernardino Associated Governments
1170 West 3rd Street, 2nd Floor
San Bernardino, CA 92410

Mr. Naresh Patel, PE
Assistant Director, Design & Standards
2558 Supply Street
Pomona, CA 91767

Mr. Jason Sanchez
Manager, Public Projects
BNSF Railway
740 East Carnegie Drive
San Bernardino, CA 92408-3571

Mr. Ronald Ries
Staff Director, Crossing Safety & Trespass Prevention
Federal Railroad Administration
RRS-23 Mail Stop 25
1200 New Jersey Avenue
Washington, DC 20590

EXHIBIT D – Sample Quiet Zone Renewal Letter

January 2, 2018
 Mr. Robert Lauby
 Associate Administrator for Railroad Safety & Chief Safety Officer
 Office of Railroad Safety
 Federal Railroad Administration
 1200 New Jersey Avenue, SE Mail Stop 25
 Washington, DC 20590

SUBJECT: City of San Bernardino, CA Quiet Zone Periodic Update

Dear Mr. Lauby,

This letter is in reference to Title 49 Code of Federal Regulations (CFR) Section 222.47 (b) which requires the City of San Bernardino to perform a periodic update of the subject Quiet Zone at defined intervals after implementation. The subject Quiet Zone was established in accordance with the regulatory provisions contained in Section 222.39 (a) (2) of Title 49 of the United States Code.

Pursuant to §222.47 (b), with this instrument, the City of San Bernardino affirms in writing to the Associate Administrator for Railroad Safety that the subject Quiet Zone continues to conform to the requirements of the Title 49 Code of Federal Regulations Section 222.39.

The subject Quiet Zone consists of the following crossings:

<u>USDOT No.</u>	<u>Street Name</u>
026440R	Rialto Avenue
026442E	Walnut Street

Train horns will continue to be restricted from use, emergencies excepted, 24-hours per day and seven days per week.

An accurate, complete and current Grade Crossing Inventory Form for each public highway-rail grade crossing, private highway-rail grade crossing and pedestrian crossing within the subject Quiet Zone is attached. The Average Daily Traffic data shown on the inventory form was obtained in DATE YEAR.

The name, title and contact information of the person responsible for monitoring compliance with the requirements of the Train Horn Rule is:

Christopher Alanis
 Public Works Director
 City of Bernardino
 300 North D Street, 3rd Floor
 San Bernardino, CA 92418-0001
 Office: (909) 384-5140
 E-Mail: Alanis_Ch@sbcity.org

Memorandum of Understanding No. 17-1001586

Exhibit A, attached hereto, contains a listing of all parties notified in this matter.

Sincerely,

Christopher Alanis
Public Works Director
City of San Bernardino

Enclosed: Exhibit A – Stakeholder Update
 Exhibit B – Grade Crossing Inventory Forms

Hard Copy Notification by Certified Mail, Returned Receipt Requested

Ms. LeeAnn Dickson
Regional Manager, Grade Crossing Safety & Trespass
Federal railroad Administration
801 "P" Street, Suite 466
Sacramento, CA 95814

Mr. Michael Robertson, PE
Manager, Rail and Crossing Branch
Rail Crossing Engineering Section
California Public Utilities Commission
320 West Fourth Street, Suite 500
Los Angeles, CA 90013

Mr. Sergio Licon, PE
Utilities Engineer
Rail Crossing Engineering Section
California Public Utilities Commission
320 West Fourth Street, Suite 500
Los Angeles, CA 90013

Mr. Justin Fornelli, PE
Chief of Transit & Rail Programs
San Bernardino Associated Governments
1170 West 3rd Street, 2nd Floor
San Bernardino, CA 92410

Mr. Naresh Patel, PE
Assistant Director, Design & Standards
2558 Supply Street
Pomona, CA 91767

Mr. Jason Sanchez
Manager, Public Projects
BNSF Railway
740 East Carnegie Drive
San Bernardino, CA 92408-3571

Mr. Ronald Ries
Staff Director, Crossing Safety & Trespass Prevention
Federal Railroad Administration
RRS-23 Mail Stop 25
1200 New Jersey Avenue
Washington, DC 20590

Minute Action

AGENDA ITEM: 25

Date: *October 5, 2016*

Subject:

Upland Surplus Property Update and Revised Resolution

Recommendation:

That the Board acting as the San Bernardino County Transportation Commission adopt Resolution No. 17-008 which declares certain Upland properties as surplus, authorizes the sale of the properties, and repeals the previously approved Resolution No. 16-035.

Background:

On April 6, 2016, the Board approved the sale of surplus properties located in the City of Upland and Resolution No. 16-035 declaring Assessor Parcel Number (APN) 1046-605-01 and APNs 1046-605-02, and -03 surplus. In April 2016, the Board also authorized the execution of an agreement with County Real Estate Service Department (RESA) for RESA to assist SANBAG in the sale of the surplus properties. After initial discussion with RESA staff, and prior to approval of the agreement by the County Board of Supervisors, it was determined by the County that RESA would no longer provide its services to outside 3rd party public agencies due to RESA workload and the need to focus on serving the real estate needs of the County. This change impacted several factors pertinent to the sale. Under SANBAG's legal counsel guidance and interpretation of the regulations, staff is now recommending the adoption of an alternative auction process and is requesting an extension of the schedule to sell the properties. SANBAG staff is working with our on-call property management consultant, Epic Land Solutions, Inc., to conduct the sale.

The alternative process allows for acceptance of sealed bids without the requirement for oral bids and reduces the required deposit from 10% to 5%. Further, the proposed Resolution No. 17-008 identifies that all bids require submission of proof of financial capacity to purchase the property, that the successful bidder will be required to enter a purchase and sale agreement within thirty (30) days following the bid auction, and that the purchase is to be paid in cash through escrow. The proposed Resolution No. 17-008 also changes the bid date from October 18, 2016, to December 15, 2016, partly due to the need for a revised resolution but also to allow potential buyers more time to review the property including a scheduled site visit and to submit questions.

As identified in the original Resolution No. 16-035, staff will continue to adhere to Government Code Section 54220 which requires certain public agencies be notified that the property is available for purchase and that they have 60 days to notify SANBAG if they intend to purchase the property. SANBAG sent notice to the appropriate public agencies on August 26, 2016. The 60 day notice period expires on October 26, 2016. Lastly, since the adoption of the original Resolution No. 16-035, an environmental Phase 2 study was completed by Eco & Associates that concluded no additional investigation is warranted.

Entity: CTC

Board of Directors Agenda Item
October 5, 2016
Page 2

Financial Impact:

This item is consistent with the SANBAG Fiscal Year 2016/2017 Budget.

Reviewed By:

This item was reviewed by the Transit Committee on September 15, 2016, acting as a committee of the whole without a quorum present. SANBAG General Counsel has reviewed and approved Resolution No. 17-008.

Responsible Staff:

Carrie Schindler, Director of Transit and Rail

Approved
Board of Directors
Date: October 5, 2016

Witnessed By:

RESOLUTION NO. 17-008**RESOLUTION OF THE SAN BERNARDINO COUNTY
TRANSPORTATION COMMISSION DECLARING PROPERTY
SURPLUS AND AUTHORIZING ITS SALE**

WHEREAS, the San Bernardino Associated Governments was designated by California state law as the San Bernardino County Transportation Commission (Commission); and

WHEREAS, the following property was acquired by the Commission for public purposes and is no longer necessary to be retained for the uses and purposes of the Commission:

Property #1: SEC Stowell Street & 2nd Avenue, Upland – APN 1046-605-01 – 1.18 acres
Property #2: 120 S. Euclid Street, Upland – APNs 1046-605-02, -03 – 1.2 acres
(collectively the Upland Surplus Properties); and

WHEREAS, in 1992, the Commission adopted its Policy No. 10300, thereby voluntarily adopting the procedures for sale of surplus property by public auction applicable to county governments under Sections 25363 and 25526 of the California Government Code, which would not otherwise be applicable to the Commission; and

WHEREAS, on April 6, 2016, the Commission adopted Resolution No. 16-035, which set out a process which can no longer be complied with, and Commission now desires to repeal said Resolution.

NOW, THEREFORE BE IT RESOLVED by the San Bernardino County Transportation Commission:

1. Resolution No. 16-035 is repealed.
2. Applicability of Policy No. 10300 to the sale of the Upland Surplus Properties is waived.
3. The Commission declares the Upland Surplus Properties to be surplus, and further declares its intention to sell, exchange, or convey said parcels by public auction pursuant to applicable law and the procedures authorized in this resolution.
4. The Commission declares that any public auction shall be conducted in accordance with the terms set forth below:

<u>PUBLIC AUCTION</u>	<u>APPRAISED VALUE*</u>	<u>MINIMUM DEPOSIT</u>
Property #1	\$1,520,000.00	\$76,000.00
Property #2	\$1,670,000.00	\$83,500.00

* Date of Value 12/16/2015

MINIMUM ACCEPTABLE TERMS:

- a. All bids will require a minimum deposit of 5% of the appraised value or bid amount, whichever is higher, in the form of a cashier's or certified check, payable to the "San Bernardino County Transportation Commission".
 - b. All bids will require submission of proof of financial capacity to purchase and develop the property.
 - c. The successful bidder will be required to enter into a purchase and sale agreement provided by the Commission within thirty (30) days following the bid auction.
 - d. Sealed bids are to be made by sending the minimum bid deposit and offer to: San Bernardino Associated Governments, 1170 W. 3rd St., 2nd Floor, San Bernardino CA 92410; Attention: Transit Department (TA), no later than **Thursday, December 15, 2016 at 2:00 p.m.**
 - e. Final acceptance of any bid will be subject to Commission approval. The Commission reserves the right to reject any and all bids and may withdraw the property from sale.
 - f. Deposits made by the unsuccessful bidders will be returned via mail along with written notification of non-selection.
5. Commission staff is authorized and directed to give all notices and take all actions on behalf of the Commission necessary or advisable to assure that all applicable laws and regulations governing the sale of surplus property are complied with, including but not limited to, Sections 54220 et seq. of the California Government Code.
 6. This resolution is effective upon its adoption.

///

Adopted by the San Bernardino County Transportation Commission on _____, by the following vote:

AYES:

NOES:

ABSENT:

Robert Lovingood, Board President
San Bernardino County Transportation Commission

ATTEST:

Vicki Watson,
Clerk of the Commission

Attachment: Upland Resolution - final draft 08.30.16 (3132 : Upland Surplus Property Update and Revised Resolution)

Minute Action

AGENDA ITEM: 26

Date: *October 5, 2016*

Subject:

Interstate 215 (I-215) Landscape Replacement Projects - Segments 1 and 3

Recommendation:

That the Board, acting in its capacity as the San Bernardino County Transportation Authority:

A. Approve Amendment No. 1 to Agreement C14120 with the State of California Department of Transportation (Caltrans) for construction of the I-215 Segment 3 Landscaping Replacement Project to increase project funding by a not to exceed amount of \$637,036 which consists of \$312,145 in Projects of National and Regional Significance (PNRS) funds and \$324,891 in Measure I 1990-2010 funds.

B. Approve the Plans, Specifications, and Estimate (PS&E) for the I-215 Segment 3 Landscaping Replacement Project.

That the Board, acting in its capacity as the San Bernardino County Transportation Commission:

C. Approve Cooperative Agreement No. 15-1001216 with the State of California Department of Transportation for construction of the I-215 Segment 1 Landscaping Replacement Project. This Agreement commits a not to exceed amount of \$4,466,853 for Construction Capital and support costs, which consists of \$3,677,633 in PNRS funds and \$789,220 in Measure I 1990-2010 funds and designates SANBAG as the lead agency for construction.

D. Approve the Plans, Specifications, and Estimate for the I-215 Segment 1 Landscaping Replacement Project.

E. Authorize advertising Invitation for Bids 15-1001236 for the construction of the combined I-215 Segments 1 and 3 Landscaping Replacement Projects.

F. Approve taking the recommendation for award of the construction contract directly to the Board without prior Board Metro Valley Study Session review.

Background:

In January 2012, the San Bernardino County Transportation Authority entered into a contract with Caltrans whereby Caltrans is the lead agency for preparation of the environmental document, and preliminary and final design of landscaping plans for the corridor segments of the I-215. The final design plans were broken into 4 segments: Segments 1, 2, 3 and 5, all within the City of San Bernardino. Segment 3 is the most southerly segment from the Orange Show Road Overcrossing north to the Lytle Creek Channel Undercrossing. Segment 1 is the next segment to the north and continues from north of the Lytle Creek Channel Undercrossing to just south of the 9th Street Overcrossing.

Entity: CTA, CTC

A presentation on the landscaping concept being used in the design was given at the October 2012 Major Projects Committee and concurred with by the Committee. This concept utilizes drought tolerant/low maintenance planting including palm trees, mandated by the corridor environmental document, and succulents requiring little water. Drip irrigation for plants and bubblers for the trees are proposed along with smart controllers which optimize water usage. In addition, the landscape concept has extensive inert ground covering including rock blanket, various sizes of colored gravel, and large boulders. This concept was also concurred with by the City of San Bernardino in a prior workshop.

As presented at the August 2015 Board of Directors Metro Valley Study Session, implementation of these projects was delayed due to State Water Conservation Mandates. On July 5, 2016, Caltrans issued a memorandum allowing deferred mitigation planting implementation to resume beginning November 2016 based on less restrictive water conservation measures from the Governor. This project is consistent with the provisions in this memo; therefore, these proposed recommendations would allow the project to move forward.

Recommendation A: In May 2014, the Board approved Cooperative Agreement No. C14120 with Caltrans for landscape construction of Segment 3, whereby SANBAG is the sponsor, sole funding partner, and implementing agency for construction capital and support.

This amendment updates the split of federal funds and Measure I funds used for construction support, as support for Establish Existing Planting (EEP) is a federally non-participating cost. In addition, the amendment covers cost estimate escalation and additional administrative tasks. The amendment also includes an additional \$75,000 in Measure I costs for as-built preparation by Caltrans and constructability review costs. The net funding change from this amendment increases Measure I 1990-2010 expenditures by \$268,761 for a revised total of \$832,261 and increases federal PNRs funds by \$312,145 for a revised total of \$3,248,645. Final cost estimates are currently being developed and the funding table reflects the latest estimated cost. The final estimate is not anticipated to exceed these amounts.

Staff is requesting approval of Amendment No. 1 to Cooperative Agreement No. C14120 with Caltrans for construction of Segment 3 landscaping replacement.

Recommendation B: The Board of Directors had previously approved the PS&E package for Segment 3 at the September 2014 meeting. Because the project was delayed due to the State Mandated Water Restrictions, Caltrans was required to update the project design package to current Caltrans standards. This re-approval is required prior to advertising the construction contract and is needed for the funding request package. Once the funding is obligated, the project can be advertised for construction by early 2017. Staff is recommending approval of the PS&E package for the I-215 Segment 3 Landscaping Project.

Recommendation C: This is a new agreement that is needed to proceed with the construction of the I-215 Segment 1 Landscaping Project. Federal funds have been identified for the construction of this segment. The estimated cost for construction capital and support is \$4,447,633 which would be funded with \$3,677,633 in PNRs funds and \$770,000 in Measure I 1990-2010 funds. Final cost estimates are currently being developed and the funding table reflects the latest estimated cost. The final estimate is not anticipated to exceed these amounts, but may come in slightly lower before this item is considered by the Board.

Staff is requesting approval of Cooperative Agreement No. 15-1001216 with Caltrans for construction of Segment 1 landscaping replacement, whereby SANBAG is the sponsor, sole funding partner, and implementing agency for construction.

Recommendation D: Caltrans has completed the project design package and incorporated all review comments provided by SANBAG. This approval is required prior to advertising the construction contract and is needed for the funding request package. Once the funding is obligated, the project can be advertised for construction. Staff is recommending approval of the PS&E package for the I-215 Segment 1 Landscaping Project.

Recommendation E: Upon Federal approval of funding and authorization to proceed for both Segment 1 and Segment 3, the projects are anticipated to be advertised for construction bids in early 2017. Since the two projects are on the same schedule and adjacent to each other, the projects will be combined into one construction bid package. The combined project scope and cost is not anticipated to be prohibitive to potential bidders. Rather, by combining the projects, SANBAG is anticipated to receive more competitive bids than if the projects were bid separately, since the bidders will be able to take advantage of reductions in administrative and overhead costs as well as construction efficiencies. Additional cost savings are anticipated in SANBAG's administrative and Construction Management activities.

The Board of Directors had previously approved the release of an IFB for Segment 3 at the September 2014 meeting. With the delay in issuing that IFB, however, the recent updates to the Segment 3 PS&E package as well as the intent to combine the two projects, staff is now requesting approval to release an IFB for the combined Segment 1 and Segment 3 construction package.

Recommendation F: This recommendation will allow the award of the contract and start of construction to occur at the earliest possible date, and ensure timely use of federal funding. If the bids come in higher than what is programmed, alternatives will be considered and a recommendation brought forward for the Board's consideration.

Financial Impact:

This item is consistent with the adopted SANBAG Fiscal Year 2016/2017 budget under Task No. 820, Subtask 0838

Reviewed By:

This item was reviewed and recommended for approval (11-2-0; Opposed: McCallon and Jahn) without a quorum of the Board present at the Board of Directors Metro Valley Study Session on September 15, 2016. SANBAG General Counsel and Procurement Manager have reviewed this item, the draft cooperative agreement amendment, draft cooperative agreement and IFB.

Responsible Staff:

Dennis Saylor, Project Manager

Approved
 Board of Directors
 Date: October 5, 2016

Witnessed By:

General Contract Information

Contract No: 00-1001038-C14120 Amendment No.: 1 Vendor No.: 00450
 Vendor/Customer Name: Caltrans Sole Source? Yes No
 Description: 215 Seg 3 Cooperative Agreement for Landscape Construction
 Start Date: 05/07/2014 Expiration Date: 12/31/2025 Revised Expiration Date: _____
 Has Contract Term Been Amended? No Yes - Please Explain _____
 List Any Related Contracts Nos.: C12177

Dollar Amount			
Original Contract	\$ -	Original Contingency	\$ -
Revised Contract (Inclusive of Prior Amendments)		Revised Contingency (Inclusive of Prior Amendments)	\$ -
Current Amendment	\$ -	Contingency Amendment	\$ -
TOTAL CONTRACT VALUE	\$ -	TOTAL CONTINGENCY VALUE	\$ -
		TOTAL DOLLAR AUTHORITY (Contract Value and Contingency)	\$ -

Contract Authorization

Executive Director Date: _____
 Executive Director Action: _____
 Board of Directors Date: 10/05/2016
 Board of Directors Action: Approve cooperative agreement amendment

Contract Management: Payable/Miscellaneous

Invoice Warning: 20% Renewals: _____ Type: Capital PAA Other
 Retention: % Maximum Retention: \$ _____
 Services: Construction Intrgrnt/MOU/COOP A & E Services Other Professional Services
 Disadvantaged Business Enterprise (DBE) Goal _____ %

Contract Management: Receivable

E-76 and/or CTC Date _____ (Attach Copy) Program Supplement No.: _____
 Finance Letter Reversion Date: _____ EA No.: _____

All of the above MUST be submitted to FINANCE including originals, amendments and miscellaneous transaction changes

Additional Information

Project Manager: Brian Smith

Attachment: C14120-01 CSS (3114 : I-215 Seg 1 & 3 Landscaping Coops, IFB, PSE Cert)

08-SBD-215-4.8/6.6
 EA: 0071K
 Project Number: 0800020434
 Agreement 08-1575 A/1
 C14120-01

AMENDMENT NO. 1 TO AGREEMENT 08-1575

THIS AMENDMENT No. 1 (AMENDMENT), entered into and effective on _____, is between the State of California, acting through its Department of Transportation, referred to as CALTRANS, and

San Bernardino County Transportation Authority, a political subdivision of the State of California, referred to hereinafter as SANBAG.

RECITALS

1. CALTRANS and SANBAG, collectively referred to as PARTNERS, entered into Agreement No. 08-1575, (AGREEMENT) on May 27, 2014, defining the terms and conditions for Highway Planting Restoration with one (1) year Plant Establishment and four (4) year Maintenance, in the City of San Bernardino on Route 215 from Orange Show Road to Lytle Creek Channel Undercrossing (Segment 3), referred to as PROJECT.
2. AGREEMENT established that the Construction Support was \$518,787.
3. PARTNERS now seek to increase the Construction Support and the new total amount for support will be \$593,787.
4. A revised FUNDING SUMMARY table with new SPENDING SUMMARY, dated May 15, 2015 is attached and made part of this AMENDMENT. Other related are revised.

IT IS THEREFORE MUTUALLY AGREED:

1. Article 10 in the AGREEMENT is replaced in its entirety to read as follows:
 - “10. FUNDING PARTNERS, funding sources, funding limits, spending limits, and billing/payment details are documented in the FUNDING SUMMARY. The FUNDING SUMMARY is incorporated and made an express part of this AGREEMENT.

PARTNERS will execute a new FUNDING SUMMARY each time the funding, billing and payment details of the PROJECT change. The FUNDING SUMMARY will be executed by a legally authorized representative of the respective PARTNERS. The most current fully executed FUNDING SUMMARY supersedes any previous FUNDING SUMMARY created for this AGREEMENT.

Replacement of the FUNDING SUMMARY will not require an amendment to the body of this AGREEMENT unless the funding changes require it.”

2. Articles 10a, 10b, 10c and 10d are added to the AGREEMENT to read as follows:

“10a. PARTNERS will not incur costs beyond the funding commitments in this AGREEMENT.

10b. Unless otherwise documented in the FUNDING SUMMARY, all fund types contributed to a PROJECT COMPONENT will be spent proportionately within that PROJECT COMPONENT.

10c. Unless otherwise documented in the FUNDING SUMMARY, any savings recognized within a PROJECT COMPONENT will be credited or reimbursed, when allowed by policy or law, in proportion to the amount contributed to that PROJECT COMPONENT by each fund type.

10d. All costs incurred for WORK except those that are specifically excluded in this AGREEMENT are OBLIGATIONS COSTS. OBLIGATIONS COSTS are to be paid from the funds shown in the FUNDING SUMMARY. Costs that are not OBLIGATIONS COSTS are to be paid by the PARTNER incurring the costs from funds that are outside the scope of this AGREEMENT.”

3. Article 11 in the AGREEMENT is replaced in its entirety to read as follows:

“11. SANBAG is IMPLEMENTING AGENCY for CONSTRUCTION.”

4. Articles 11a and 11b are added to the AGREEMENT to read as follows:

“11a. The IMPLEMENTING AGENCY for a PROJECT COMPONENT will provide a Quality Management Plan (QMP) for that component as part of the PROJECT MANAGEMENT PLAN.

11b. Any PARTNER responsible for completing WORK shall make its personnel and consultants that prepare WORK available to help resolve WORK-related problems and changes for the entire duration of the PROJECT including PROJECT COMPONENT work that may occur under separate agreements.”

5. Articles 37a and 37b are added to the AGREEMENT to read as follows:

“37a. As IMPLEMENTING AGENCY for CONSTRUCTION, SANBAG is responsible for all CONSTRUCTION SUPPORT WORK except those CONSTRUCTION SUPPORT activities and responsibilities that are assigned to another PARTNER in this AGREEMENT and those activities that may be specifically excluded.

37b. CALTRANS will be responsible for completing the following CONSTRUCTION SUPPORT activities:”

CALTRANS Work Breakdown Structure Identifier (If Applicable)	OBLIGATION COST
285.05.15.xx Change Order Review & Approval as required in this Agreement	No
270.20.45.xx SWPPP/WPCP Review & Approval	No
295.15 As Built Plans CADD Drafting	Yes

6. Article 48 in the AGREEMENT is replaced in its entirety to read as follows:

“48. As IMPLEMENTING AGENCY for CONSTRUCTION, SANBAG is responsible for maintenance within PROJECT limits as part of the construction contract until a request from SANBAG is submitted and approved by CALTRANS for a relief of maintenance for any portion of the PROJECT in accordance with CALTRANS Standard Specifications.”

7. Article 52 in the AGREEMENT is replaced in its entirety to read as follows:

”52. Within ninety (90) calendar days following the completion and acceptance of the PROJECT construction contract, SANBAG shall furnish CALTRANS with a complete set of Redline “As-Built” plans and Change Orders pdf files with SANBAG Resident Engineer Signature on the Title Sheet, including any changes authorized by CALTRANS, on a CD ROM. CALTRANS will incorporate “As-Built” information on CADD files in accordance with CALTRANS’ then current CADD User’s Manual (Section 4.3), Plans Preparation Manual, and CALTRANS practice. The plans will have the Resident Engineers name, contract number, and construction contract acceptance date printed on each plan sheet, and with SANBAG’s Resident Engineer’s electronic signature only on the title sheet. The As-Built plans will be in Microstation DGN format, version 7.0 or later.”

8. Article 52a is added to the AGREEMENT to read as follows:

“52a. SANBAG will submit to CALTRANS, within sixty (60) calendar days following the Final Estimate or Resolution of Construction Claims (if any) the complete Project History File. SANBAG will assure that the Project

History File is prepared and submitted in compliance with the Project Development Procedures Manual, Chapter 7. All material will be submitted neatly in a three-ring binder and on a CD ROM in PDF format.”

- 9. Article 61 in the AGREEMENT is replaced in its entirety to read as follows:
 “61. SANBAG is the IMPLEMENTING AGENCY for CONSTRUCTION CAPITAL as described in the Responsibilities section of this AGREEMENT.”
- 10. A revised FUNDING SUMMARY table with new SPENDING SUMMARY, dated May 15, 2015, is attached and made part of the AGREEMENT. Any reference to the FUNDING SUMMARY TABLE in the AGREEMENT is deemed to refer to the revised FUNDING SUMMARY table with new SPENDING SUMMARY, dated May 15, 2015, attached herein.
- 11. The following DEFINITION is replaced in its entirety to read as follows:
 “**FUNDING PARTNER** – A PARTNER, designated in the FUNDING SUMMARY, that commits a defined dollar amount to fulfill OBLIGATIONS. Each FUNDING PARTNER accepts responsibility to provide the funds it commits in this AGREEMENT.”
- 12. The following DEFINITIONS are added to the AGREEMENT:
 “**AGREEMENT** – This agreement including any attachments, exhibits, and amendments.
CONSTRUCTION – See PROJECT COMPONENT.
FUNDING SUMMARY – An executed document that names FUNDING PARTNER(S), includes a FUNDING TABLE, SPENDING SUMMARY, deposit amounts, and invoicing and payment methods.
FUNDING TABLE – The table that designates funding sources, types of funds, and the PROJECT COMPONENT in which the funds are to be spent. Funds listed on the FUNDING TABLE are “not-to-exceed” amounts for each FUNDING PARTNER.”
- 13. All other terms and conditions of the AGREEMENT shall remain in full force and effect.
- 14. This AMENDMENT is deemed to be included and made part of the AGREEMENT.

-----SIGNATURES ON FOLLOWING PAGE-----

SIGNATURES

PARTNERS declare that:

1. Each partner is an authorized legal entity under California state law.
2. Each partner has the authority to enter into this agreement.
3. The people signing this agreement have the authority to do so on behalf of their Public agencies.

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

SANBERNARDINO COUNTY
TRANSPORTATION AUTHORITY

Approved:

Approved:

By: _____
John Bulinski
District 8 Director

By: _____
Robert A. Lovingood
President, Board of Directors

Certified as to funds:

Attest:

By: _____
Lisa Pacheco
Budget Manager

By: _____
Vicki Watson
Clerk of the Board

Approved as to form and procedure:

Approved as to form and procedure:

By: _____
Attorney,
Department of Transportation

By: _____
Eileen Monaghan Teichert
General Counsel

Certified as to financial terms and policies:

Concurrence:

By: _____
Accounting Administrator

By: _____
Jeffery Hill
Procurement Manager

**FUNDING SUMMARY table
May 15, 2015**

<u>FUNDING TABLE</u>						
<u>IMPLEMENTING AGENCY</u> →			<u>SANBAG</u>			
Source	FUNDING PARTNER	Fund Type	CONST. SUPPORT	PLANT MAINTENANCE	CONST. CAPITAL (Including contingency)	Totals
Federal	SANBAG	Projects of National & Regional Significance (PNRS) *	\$418,787	\$0	\$2,829,858	\$3,248,645
Local	SANBAG	Measure I	\$175,000	\$500,000	\$157,261	\$832,261
Totals			\$593,787	\$500,000	\$2,987,119	\$4,080,906

*Toll Credit will be a match

<u>SPENDING SUMMARY</u>					
	CONST. SUPPORT		CONST. CAPITAL (Including contingency)	PLANT MAINTENANCE	
Fund Type	CALTRANS	SANBAG	SANBAG	SANBAG	Totals
Federal Funds					
PNRS	\$50,000	\$368,787	\$2,829,858	\$0	\$3,248,645
Local Funds					
Measure I		\$175,000	\$157,261	\$500,000	\$832,261
Totals	\$50,000	\$543,787	\$2,987,119	\$500,000	\$4,080,906

Invoicing and Payment

1. PARTNERS will invoice for funds where the SPENDING SUMMARY shows that one PARTNER provides funds for use by another PARTNER. PARTNERS will pay invoices within thirty (30) calendar days of receipt of invoice when not paying with Electronic Funds Transfer (EFT). When paying with EFT, SANBAG will pay invoices within five (5) calendar days of receipt of invoice.
2. If SANBAG has received EFT certification from CALTRANS then SANBAG will use the EFT mechanism and follow all EFT procedures to pay all invoices issued from CALTRANS.
3. CALTRANS will draw from state and federal funds that are provided by SANBAG without invoicing SANBAG when CALTRANS administers those funds and CALTRANS has been allocated those funds by the CTC and whenever else possible.
4. When a PARTNER is reimbursed for actual costs from funds administered by another PARTNER, invoices will be submitted each month for the prior month's expenditures. After all PROJECT COMPONENT WORK is complete, PARTNERS will submit a final accounting of all PROJECT COMPONENT costs. Based on the final accounting, PARTNERS will invoice and then refund or pay as necessary in order to satisfy the financial commitments of this AGREEMENT.

CONSTRUCTION SUPPORT

5. No invoicing or reimbursement will occur for the CONSTRUCTION SUPPORT PROJECT COMPONENT.

CONSTRUCTION CAPITAL

6. No invoicing or reimbursement will occur for the CONSTRUCTION CAPITAL PROJECT COMPONENT.

Signatures

CALTRANS

John Bulinski
District 8 Director

Date _____

Lisa Pacheco
District Budget Manager

HQ Accounting

**SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY**

Robert A. Lovingood
President, Board of Directors

Date _____

Attachment: C14120-01 - Working Version - Caltrans Maintains the latest original [Revision 2] (3114 : I-215 Seg 1 & 3 Landscaping Coops, IFB,

Contract Summary Sheet

General Contract Information

Contract No: 15-1001216 Amendment No.: _____ Vendor No.: 00456
 Vendor/Customer Name: California Dept of Transportation (Caltrans) Sole Source? Yes No
 Description: I-215 Segment 1 Landscaping Construction Cooperative Agreement
 Start Date: 10/05/2016 Expiration Date: 12/31/2025 Revised Expiration Date: N/A
 Has Contract Term Been Amended? No Yes - Please Explain _____
 List Any Related Contracts Nos.: C12177

Dollar Amount			
Original Contract	\$ -	Original Contingency	\$ -
Revised Contract (Inclusive of Prior Amendments)	\$ -	Revised Contingency (Inclusive of Prior Amendments)	\$ -
Current Amendment	\$ -	Contingency Amendment	\$ -
TOTAL CONTRACT VALUE	\$ -	TOTAL CONTINGENCY VALUE	\$ -
		TOTAL DOLLAR AUTHORITY (Contract Value and Contingency)	\$ -

Contract Authorization

Executive Director Date: _____
 Executive Director Action: _____
 Board of Directors Date: 10/05/2016
 Board of Directors Action: Approve cooperative agreement

Contract Management: Payable/Miscellaneous

Invoice Warning: _____ Renewals: _____ Type: Capital PAA Other
 Retention: _____ % Maximum Retention: \$ _____
 Services: Construction Intrgrnt/MOU/COOP A & E Services Other Professional Services
 Disadvantaged Business Enterprise (DBE) Goal _____

Contract Management: Receivable

E-76 and/or CTC Date _____ (Attach Copy) Program Supplement No.: _____
 Finance Letter Reversion Date: _____ EA No.: _____

All of the above MUST be submitted to FINANCE including originals, amendments and miscellaneous transaction changes

Additional Information

Project Manager: Brian Smith

Attachment: 15-1001216 CSS (3114 : I-215 Seg 1 & 3 Landscaping Coops, IFB, PSE Cert)

08-SBd-215-PM 6.6/7.2
 Agreement 08-1600
 Project No. 0800020443
 EA 0071H

COOPERATIVE AGREEMENT

This AGREEMENT, effective on _____, is between the State of California, acting through its Department of Transportation, referred to as CALTRANS, and:

San Bernardino Associated Governments, acting as the San Bernardino County Transportation Commission, a public corporation/entity, referred to hereinafter as SANBAG.

RECITALS

1. PARTNERS are authorized to enter into a cooperative agreement for improvements to the state highway system (SHS) per the California Streets and Highways Code sections 114 and 130.
2. For the purpose of this AGREEMENT, replace landscaping and irrigation for Segment 1 of Interstate 215 (I-215) in the city of San Bernardino from Lytle Creek undercrossing to .05 miles north of 5th Street overcrossing, will be referred to hereinafter as PROJECT. This description only serves to identify the PROJECT. The project scope of work is defined in the appropriate authorizing documents for the PROJECT per the Project Development Procedures Manual.
3. All responsibilities assigned in this AGREEMENT to complete the following PROJECT COMPONENTS will be referred to hereinafter as OBLIGATIONS:
 - CONSTRUCTION SUPPORT
 - CONSTRUCTION CAPITAL
4. This AGREEMENT is separate from and does not modify or replace any other cooperative agreement or memorandum of understanding between PARTNERS regarding the PROJECT.
5. The following work associated with this PROJECT has been completed or is in progress:

- CALTRANS approved the Categorical Exemption on 11/09/2012 (Cooperative Agreement No. 08-1523).
- CALTRANS approved the Categorical Exclusion on 11/9/12 (Cooperative Agreement No. 08-1523).
- CALTRANS completed the Project Report on 12/21/2012 (Cooperative Agreement No. 08-1523).
- CALTRANS completed the Plans, Specifications and Estimate on 7/14/14 (Cooperative Agreement No. 08-1523).
- CALTRANS completed the R/W Certification on 7/22/14 (Cooperative Agreement No. 08-1523).

6. In this AGREEMENT capitalized words represent either defined terms or acronyms.
7. PARTNERS hereby set forth the terms, covenants, and conditions of this AGREEMENT, under which they will accomplish OBLIGATIONS.

RESPONSIBILITIES

Sponsorship

8. SANBAG is the SPONSOR for 100% of the PROJECT COMPONENTS included in this AGREEMENT.

Funding

9. FUNDING PARTNERS, funding sources, funding limits, spending limits, and billing/payment details are documented in the FUNDING SUMMARY. The FUNDING SUMMARY is incorporated and made an express part of this AGREEMENT.

PARTNERS will execute a new FUNDING SUMMARY each time the funding, billing and payment details of the PROJECT change. The FUNDING SUMMARY will be executed by a legally authorized representative of the respective PARTNERS. The most current fully executed FUNDING SUMMARY supersedes any previous FUNDING SUMMARY created for this AGREEMENT.

Replacement of the FUNDING SUMMARY will not require an amendment to the body of this AGREEMENT unless the funding changes require it.

10. PARTNERS will not incur costs beyond the funding commitments in this AGREEMENT.
11. Unless otherwise documented in the FUNDING SUMMARY, all fund types contributed to a PROJECT COMPONENT will be spent proportionately within that PROJECT COMPONENT.

12. Unless otherwise documented in the FUNDING SUMMARY, any savings recognized within a PROJECT COMPONENT will be credited or reimbursed, when allowed by policy or law, in proportion to the amount contributed to that PROJECT COMPONENT by each fund type.
13. All costs incurred for WORK except those that are specifically excluded in this AGREEMENT are OBLIGATIONS COSTS. OBLIGATIONS COSTS are to be paid from the funds shown in the FUNDING SUMMARY. Costs that are not OBLIGATIONS COSTS are to be paid by the PARTNER incurring the costs from funds that are outside the scope of this AGREEMENT.

Implementing Agency

14. SANBAG is IMPLEMENTING AGENCY for CONSTRUCTION.
15. The IMPLEMENTING AGENCY for a PROJECT COMPONENT will provide a Quality Management Plan (QMP) for that component as part of the PROJECT MANAGEMENT PLAN.
16. Any PARTNER responsible for completing WORK shall make its personnel and consultants that prepare WORK available to help resolve WORK-related problems and changes for the entire duration of the PROJECT including PROJECT COMPONENT work that may occur under separate agreements.

Independent Quality Assurance (IQA)

17. CALTRANS will provide Independent Quality Assurance (IQA) for the portions of WORK within existing and proposed SHS right of way.

The cost of CALTRANS' IQA is not an OBLIGATIONS COST.

CEQA/NEPA Lead Agency

18. CALTRANS is the CEQA lead agency for the PROJECT.
19. CALTRANS is the NEPA lead agency for the PROJECT.

Environmental Permits, Approvals and Agreements

20. PARTNERS will comply with the commitments and conditions set forth in the environmental documentation, environmental permits, approvals, and applicable agreements as those commitments and conditions apply to each PARTNER's responsibilities in this AGREEMENT.
21. Unless otherwise assigned in this AGREEMENT, the IMPLEMENTING AGENCY for a PROJECT COMPONENT is responsible for all PROJECT COMPONENT WORK associated with coordinating, obtaining, implementing, renewing, and amending the PROJECT permits, agreements, and approvals whether they are identified in the planned project scope of work or become necessary in the course of completing the PROJECT.

Construction

- 22. As IMPLEMENTING AGENCY for CONSTRUCTION, SANBAG is responsible for all CONSTRUCTION SUPPORT WORK except those CONSTRUCTION SUPPORT activities and responsibilities that are assigned to another PARTNER in this AGREEMENT and those activities that may be specifically excluded.
- 23. CALTRANS will be responsible for completing the following CONSTRUCTION SUPPORT activities:

CALTRANS Work Breakdown Structure Identifier (If Applicable)	OBLIGATION COST
285.05.15.xx Change Order Review & Approval as required in this Agreement	No
270.35.xx HMA/PCC Mix Design Review & Approval	No
270.20.45.xx SWPPP/WPCP Review & Approval	No
270.35.xx Material Testing Results Review & Approval	No
270.35.xx Material Exception Review & Approval	No
295.15 As Built Plans CADD Drafting	Yes

- 24. Physical and legal possession of right of way must be completed prior to construction advertisement, unless PARTNERS mutually agree to other arrangements in writing. Right of way conveyances must be completed prior to OBLIGATION COMPLETION, unless PARTNERS mutually agree to other arrangements in writing.
- 25. SANBAG will advertise, open bids, award, and approve the construction contract in accordance with the California Public Contract Code and the California Labor Code. By accepting responsibility to advertise and award the construction contract, SANBAG also accepts responsibility to administer the construction contract.
- 26. CALTRANS will not issue an Encroachment Permit for construction work until CALTRANS accepts:
 - The final plans, specifications, and estimate package
 - The Right of Way Certification
 - The PROJECT SPONSOR verifies full funding of CONSTRUCTION SUPPORT and CONSTRUCTION CAPITAL.
- 27. If the lowest responsible construction contract bid is greater than the funding commitment to CONSTRUCTION CAPITAL, PARTNERS must agree in writing on a course of action within fifteen (15) working days. If no agreement is reached within fifteen (15) work days the IMPLEMENTING AGENCY shall not award the construction contract.

Attachment: 15-1001216 Seg 1 Landscape Const Coop with CT - Caltrans Maintains Original [Revision 1] (3114 : I-215 Seg 1 & 3 Landscaping

28. SANBAG will provide a landscape architect who will be responsible for all landscaping activities within the SHS.
29. Upon completion of construction contract and one (1) year plant establishment period under this Agreement, SANBAG shall assume maintenance and the expense thereof for PROJECT, at its own expense, for a four (4) year plant maintenance period, after which, CALTRANS assumes full responsibility for maintenance.
30. SANBAG's maintenance responsibilities include, but are not limited to, inspection, litter and weed removal, providing emergency repair, replacement, and maintenance of landscaping within PROJECT limits. As part of SANBAG's maintenance responsibilities, during construction of PROJECT and for the one (1) year plant establishment period and for the first two (2) years of the plant maintenance period following construction, SANBAG shall make all necessary arrangements with the local utility company for payment and billing of water supplied for all new water meters on the PROJECT, after which time CALTRANS will make arrangements with the utility company to transfer billing and be responsible for payment of water supplied for PROJECT.

If SANBAG does not maintain PROJECT at acceptable standards, CALTRANS will immediately notify SANBAG in writing and agree on a course of action. If SANBAG does not take action to correct the deficiency, CALTRANS may either remove the landscaping or maintain the landscaping at SANBAG's expense.

31. SANBAG will implement changes to the construction contract through Change Orders. PARTNERS will review and concur on all Change Orders over \$50,000.
32. CALTRANS will review and approve:
 - Change Orders affecting public safety, public convenience, protected environmental resources, the preservation of property, all design and specification changes, and all major changes as defined in the CALTRANS Construction Manual. These Change Orders must receive written concurrence by CALTRANS prior to implementation.
 - The Stormwater Pollution Prevention Plan (SWPPP) or the Water Pollution Control Plan (WPCP).
33. If CONSTRUCTION CAPITAL is funded with state or federal funds then SANBAG will administer and process all construction contract claims using a CALTRANS-approved process. CALTRANS will provide IQA for the claims process.
34. SANBAG will require the construction contractor to furnish payment and performance bonds naming SANBAG as obligee, and CALTRANS as additional obligee, and to carry liability insurance in accordance with CALTRANS Standard Specifications.

35. SANBAG is designated as the Approved Signatory Authority responsible for preparing and filing all Regional Water Quality Control Board (RWQCB) Permit Registration Documents including certifying the accuracy of all documents and its compliance in accordance with the Construction General Permit, and CALTRANS MS4 National Pollutant Discharge Elimination System (NPDES) permit for all work within the SHS.
36. SANBAG will prepare a QMP which describes how construction materials source inspection will be performed, and will submit the QMP to CALTRANS for review and approval by the State Materials Engineer.

CALTRANS will issue the parent permit to SANBAG upon submittal of a complete encroachment permit application. The parent permit will cite approval of the QMP by CALTRANS as a condition of issuing a double permit.

CALTRANS will issue the double permit to the contractor upon submittal of a complete encroachment permit application and all conditions cited in the parent permit have been met.

SANBAG will provide, or cause to provide, construction materials source inspection services.

37. SANBAG may request CALTRANS to complete portions of CONSTRUCTION SUPPORT work as reimbursed engineering services. Should CALTRANS agree to perform the requested services, PARTNERS will document the arrangement in writing. Such an arrangement does not change the responsibilities assigned in this AGREEMENT. Engineering services requested by SANBAG and provided by CALTRANS during CONSTRUCTION are an OBLIGATIONS COST.
38. As IMPLEMENTING AGENCY for construction, SANBAG is responsible for maintenance within the PROJECT limits as part of the construction contract until a request from SANBAG is submitted and approved by CALTRANS for a relief of maintenance for any portion of the PROJECT in accordance with CALTRANS Standard Specifications.
39. PARTNERS confirm that upon OBLIGATION COMPLETION, no maintenance agreement will be necessary.
40. Within one hundred eighty (180) calendar days following the completion and acceptance of the PROJECT construction contract, SANBAG shall furnish CALTRANS with a complete set of Redline "As-Built" plans and Change Orders, including any changes authorized by CALTRANS, on a CD ROM. CALTRANS will incorporate "As-Built" information on CADD files in accordance with CALTRANS' then current CADD User's Manual (Section 4.3), Plans Preparation Manual, and CALTRANS practice. The plans will have the Resident Engineers name, contract number, and construction contract acceptance date printed on each plan sheet, and with SANBAG's Resident Engineer's signature only on the title sheet. The As-Built plans will be in Microstation DGN format, version 7.0 or later.

41. SANBAG will submit to CALTRANS, within sixty (60) calendar days following the Final Estimate or Resolution of Construction Claims (if any) the complete Project History File. SANBAG will assure that the Project History File is prepared and submitted in compliance with the Project Development Procedures Manual, Chapter 7. All material will be submitted neatly in a three-ring binder and on a CD ROM in PDF format.
42. Upon OBLIGATION COMPLETION, ownership or title to all materials and equipment constructed or installed for the operations and/or maintenance of the SHS within SHS right of way as part of WORK become the property of CALTRANS.

CALTRANS will not accept ownership or title to any materials or equipment constructed or installed outside SHS right of way.

Schedule

43. PARTNERS will manage the schedule for OBLIGATIONS through the work plan included in the PROJECT MANAGEMENT PLAN.

Additional Provisions

44. PARTNERS will perform all OBLIGATIONS in accordance with federal and California laws, regulations, and standards; FHWA STANDARDS; and CALTRANS STANDARDS.
45. CALTRANS retains the right to reject noncompliant WORK, protect public safety, preserve property rights, and ensure that all WORK is in the best interest of the SHS.
46. Each PARTNER will ensure that personnel participating in OBLIGATIONS are appropriately qualified or licensed to perform the tasks assigned to them.
47. PARTNERS will invite each other to participate in the selection of any consultants who participate in OBLIGATIONS.
48. CALTRANS will issue, upon approval of a proper application, the encroachment permits required for WORK within SHS right of way. Contractors and/or agents, and utility owners will not perform activities within the SHS right of way without an encroachment permit issued in their name. CALTRANS will provide encroachment permits to PARTNERS, their contractors, consultants and agents, at no cost.
49. The IMPLEMENTING AGENCY for a PROJECT COMPONENT will coordinate, prepare, obtain, implement, renew, and amend any encroachment permits needed to complete the PROJECT COMPONENT WORK.

- 50. If any PARTNER discovers unanticipated cultural, archaeological, paleontological, or other protected resources during WORK, all WORK in that area will stop and that PARTNER will notify all PARTNERS within twenty-four (24) hours of discovery. WORK may only resume after a qualified professional has evaluated the nature and significance of the discovery and a plan is approved for its removal or protection.
- 51. PARTNERS will hold all administrative drafts and administrative final reports, studies, materials, and documentation relied upon, produced, created, or utilized for the PROJECT in confidence to the extent permitted by law and where applicable, the provisions of California Government Code section 6254.5(e) shall protect the confidentiality of such documents in the event that said documents are shared between PARTNERS.

PARTNERS will not distribute, release, or share said documents with anyone other than employees, agents, and consultants who require access to complete the PROJECT without the written consent of the PARTNER authorized to release them, unless required or authorized to do so by law.

- 52. If a PARTNER receives a public records request pertaining to OBLIGATIONS, that PARTNER will notify PARTNERS within five (5) working days of receipt and make PARTNERS aware of any disclosed public documents. PARTNERS will consult with each other prior to the release of any public documents related to the PROJECT.
- 53. If HM-1 or HM-2 is found during a PROJECT COMPONENT, the IMPLEMENTING AGENCY for that PROJECT COMPONENT will immediately notify PARTNERS.
- 54. CALTRANS, independent of the PROJECT, is responsible for any HM-1 found within the existing SHS right of way. CALTRANS will undertake, or cause to be undertaken, HM MANAGEMENT ACTIVITIES related to HM-1 with minimum impact to the PROJECT schedule. The cost for HM MANAGEMENT ACTIVITIES related to HM-1 found within the existing SHS right of way is not an OBLIGATIONS COST and CALTRANS will pay, or cause to be paid, all costs for HM-1 ACTIVITIES.
- 55. If HM-1 is found within the PROJECT limits and outside the existing SHS right of way, responsibility for such HM-1 rests with the owner(s) of the parcel(s) on which the HM-1 is found. SANBAG, in concert with the local agency having land use jurisdiction over the parcel(s), will ensure that HM MANAGEMENT ACTIVITIES related to HM-1 are undertaken with minimum impact to PROJECT schedule.

The costs for HM MANAGEMENT ACTIVITIES related to HM-1 found within the PROJECT limits and outside the existing SHS right of way are not an OBLIGATIONS COST and will be the responsibility of the owner(s) of the parcel(s) where the HM-1 is located.

- 56. If HM-2 is found within the PROJECT limits, the public agency responsible for the advertisement, award, and administration (AAA) of the PROJECT construction contract will be responsible for HM MANAGEMENT ACTIVITIES related to HM-2.

57. CALTRANS' acquisition or acceptance of title to any property on which any HM-1 or HM-2 is found will proceed in accordance with CALTRANS' policy on such acquisition.
58. IMPLEMENTING AGENCY for each PROJECT COMPONENT will furnish PARTNERS with only a final report for OBLIGATIONS completed in that component.
59. Any PARTNER that is responsible for completing OBLIGATIONS will accept, reject, compromise, settle, or litigate claims arising from those OBLIGATIONS.
60. PARTNERS will confer on any claim that may affect OBLIGATIONS or PARTNERS' liability or responsibility under this AGREEMENT in order to retain resolution possibilities for potential future claims. No PARTNER will prejudice the rights of another PARTNER until after PARTNERS confer on claim.
61. If FUNDING PARTNERS fund any part of OBLIGATIONS with state or federal funds, each PARTNER will comply, and will ensure that any party hired to participate in OBLIGATIONS will comply with the federal cost principles of 2 CFR, Part 225, and administrative requirements outlined in 49 CFR, Part 18. These principles and requirements apply to all funding types included in this AGREEMENT.
62. PARTNERS will maintain, and will ensure that any party hired by PARTNERS to participate in OBLIGATIONS will maintain, a financial management system that conforms to Generally Accepted Accounting Principles (GAAP), and that can properly accumulate and segregate incurred PROJECT costs and billings.
63. PARTNERS will maintain and make available to each other all OBLIGATIONS-related documents, including financial data, during the term of this AGREEMENT.

PARTNERS will retain all OBLIGATIONS-related records for three (3) years after the final voucher.

64. PARTNERS have the right to audit each other in accordance with generally accepted governmental audit standards.

CALTRANS, the state auditor, FHWA (if the PROJECT utilizes federal funds), and SANBAG will have access to all OBLIGATIONS-related records of each PARTNER, and any party hired by a PARTNER to participate in OBLIGATIONS, for audit, examination, excerpt, or transcription.

The examination of any records will take place in the offices and locations where said records are generated and/or stored and will be accomplished during reasonable hours of operation. The auditing PARTNER will be permitted to make copies of any OBLIGATIONS-related records needed for the audit.

The audited PARTNER will review the draft audit, findings, and recommendations, and provide written comments within thirty (30) calendar days of receipt.

Upon completion of the final audit, PARTNERS have thirty (30) calendar days to refund or invoice as necessary in order to satisfy the obligation of the audit.

Any audit dispute not resolved by PARTNERS is subject to mediation. Mediation will follow the process described in the General Conditions section of this AGREEMENT.

65. If FUNDING PARTNERS fund any part of the PROJECT with state or federal funds, each FUNDING PARTNER will undergo an annual audit in accordance with the Single Audit Act and the federal Office of Management and Budget (OMB) Circular A-133.
66. If the PROJECT expends federal funds, any PARTNER that hires an A&E consultant to perform WORK on any part of the PROJECT will ensure that the procurement of the consultant and the consultant overhead costs are in accordance with Chapter 10 of the *Local Assistance Procedures Manual*.
67. If WORK stops for any reason, IMPLEMENTING AGENCY will place the PROJECT right of way in a safe and operable condition acceptable to CALTRANS.
68. If WORK stops for any reason, each PARTNER will continue to implement all of its applicable commitments and conditions included in the PROJECT environmental documentation, permits, agreements, or approvals that are in effect at the time that WORK stops, as they apply to each PARTNER's responsibilities in this AGREEMENT, in order to keep the PROJECT in environmental compliance until WORK resumes.
69. If FUNDING PARTNERS fund OBLIGATIONS with Proposition 1B Bond funds, PARTNERS will meet the requirements of California Government Code Section 8879.20 et al. (Proposition 1 legislation), the governor's Executive Order 2007-S-02-07, and the California Transportation Commission (CTC) program guidelines for the applicable account.

Right of way purchased using Proposition 1B Bond funds will become the property of CALTRANS, and any revenue from the sale of excess lands originally purchased with bond funds will revert to CALTRANS.

70. CALTRANS will administer any federal subvention funds shown in the FUNDING SUMMARY table.
71. The cost of awards, judgments, or settlements generated by OBLIGATIONS is an OBLIGATIONS COST.
72. The cost of legal challenges to the environmental process or documentation is an OBLIGATIONS COSTS.
73. Fines, interest, or penalties levied against a PARTNER are not an OBLIGATIONS COST and will be paid, independent of OBLIGATIONS COST, by the PARTNER whose action or lack of action caused the levy.

74. The cost of any engineering support performed by CALTRANS includes all direct and applicable indirect costs. CALTRANS calculates indirect costs based solely on the type of funds used to pay support costs. State and federal funds administered by CALTRANS are subject to the current Program Functional Rate. All other funds are subject to the current Program Functional Rate and the current Administration Rate. The Program Functional Rate and Administration Rate are adjusted periodically.

75. Travel, per diem, and third-party contract reimbursements are an OBLIGATIONS COST only after those hired by PARTNERS to participate in OBLIGATIONS incur and pay those costs.

Payments for travel and per diem will not exceed the rates paid rank and file state employees under current California Department of Personnel Administration (DPA) rules current at the effective date of this AGREEMENT.

If SANBAG invoices for rates in excess of DPA rates, SANBAG will fund the cost difference and reimburse CALTRANS for any overpayment.

76. If CALTRANS reimburses SANBAG for any costs later determined to be unallowable, SANBAG will reimburse those funds.

77. If there are insufficient funds available in this AGREEMENT to place PROJECT right of way in a safe and operable condition, the appropriate IMPLEMENTING AGENCY will fund these activities until such time as PARTNERS amend this AGREEMENT.

That IMPLEMENTING AGENCY may request reimbursement for these costs during the amendment process.

78. If there are insufficient funds in this AGREEMENT to implement applicable commitments and conditions included in the PROJECT environmental documentation, permits, agreements, and/or approvals that are in effect at a time that WORK stops, each PARTNER accepts responsibility to fund their respective OBLIGATIONS until such time as PARTNERS amend this AGREEMENT.

Each PARTNER may request reimbursement for these costs during the amendment process.

79. After PARTNERS agree that all WORK is complete for a PROJECT COMPONENT, PARTNER(S) will submit a final accounting for all OBLIGATIONS COSTS. Based on the final accounting, PARTNERS will refund or invoice as necessary in order to satisfy the financial commitments of this AGREEMENT.

GENERAL CONDITIONS

80. PARTNERS understand that this AGREEMENT is in accordance with and governed by the Constitution and laws of the State of California. This AGREEMENT will be enforceable in the State of California. Any PARTNER initiating legal action arising from this AGREEMENT will file and maintain that legal action in the Superior Court of the county in which the CALTRANS district office that is signatory to this AGREEMENT resides, or in the Superior Court of the county in which the PROJECT is physically located.
81. All OBLIGATIONS of CALTRANS under the terms of this AGREEMENT are subject to the appropriation of resources by the Legislature, the State Budget Act authority, and the allocation of funds by the California Transportation Commission.
82. When CALTRANS performs IQA activities it does so for its own benefit. No one can assign liability to CALTRANS due to its IQA activities.
83. Neither SANBAG nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by CALTRANS, its contractors, sub-contractors, and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon CALTRANS under this AGREEMENT. It is understood and agreed that CALTRANS, to the extent permitted by law, will defend, indemnify, and save harmless SANBAG and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories and assertions of liability occurring by reason of anything done or omitted to be done by CALTRANS, its contractors, sub-contractors, and/or its agents under this AGREEMENT.
84. Neither CALTRANS nor any officer or employee thereof is responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by SANBAG, its contractors, sub-contractors, and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon SANBAG under this AGREEMENT. It is understood and agreed that SANBAG, to the extent permitted by law, will defend, indemnify, and save harmless CALTRANS and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories and assertions of liability occurring by reason of anything done or omitted to be done by SANBAG, its contractors, sub-contractors, and/or its agents under this AGREEMENT.
85. PARTNERS do not intend this AGREEMENT to create a third party beneficiary or define duties, obligations, or rights in parties not signatory to this AGREEMENT. PARTNERS do not intend this AGREEMENT to affect their legal liability by imposing any standard of care for fulfilling OBLIGATIONS different from the standards imposed by law.
86. PARTNERS will not assign or attempt to assign OBLIGATIONS to parties not signatory to this AGREEMENT without an amendment to this AGREEMENT.

- 87. SANBAG will not interpret any ambiguity contained in this AGREEMENT against CALTRANS. SANBAG waives the provisions of California Civil Code section 1654.

A waiver of a PARTNER's performance under this AGREEMENT will not constitute a continuous waiver of any other provision.

- 88. A delay or omission to exercise a right or power due to a default does not negate the use of that right or power in the future when deemed necessary.
- 89. If any PARTNER defaults in its OBLIGATIONS, a non-defaulting PARTNER will request in writing that the default be remedied within thirty (30) calendar days. If the defaulting PARTNER fails to do so, the non-defaulting PARTNER may initiate dispute resolution.
- 90. PARTNERS will first attempt to resolve AGREEMENT disputes at the PROJECT team level. If they cannot resolve the dispute themselves, the CALTRANS district director and the executive officer of SANBAG will attempt to negotiate a resolution. If PARTNERS do not reach a resolution, PARTNERS' legal counsel will initiate mediation. PARTNERS agree to participate in mediation in good faith and will share equally in its costs.

Neither the dispute nor the mediation process relieves PARTNERS from full and timely performance of OBLIGATIONS in accordance with the terms of this AGREEMENT. However, if any PARTNER stops fulfilling OBLIGATIONS, any other PARTNER may seek equitable relief to ensure that OBLIGATIONS continue.

Except for equitable relief, no PARTNER may file a civil complaint until after mediation, or forty-five (45) calendar days after filing the written mediation request, whichever occurs first.

PARTNERS will file any civil complaints in the Superior Court of the county in which the CALTRANS district office signatory to this AGREEMENT resides or in the Superior Court of the county in which the PROJECT is physically located. The prevailing PARTNER will be entitled to an award of all costs, fees, and expenses, including reasonable attorney fees as a result of litigating a dispute under this AGREEMENT or to enforce the provisions of this article including equitable relief.

- 91. PARTNERS maintain the ability to pursue alternative or additional dispute remedies if a previously selected remedy does not achieve resolution.
- 92. If any provisions in this AGREEMENT are found by a court of competent jurisdiction to be, or are in fact, illegal, inoperative, or unenforceable, those provisions do not render any or all other AGREEMENT provisions invalid, inoperative, or unenforceable, and those provisions will be automatically severed from this AGREEMENT.
- 93. PARTNERS intend this AGREEMENT to be their final expression that supersedes any oral understanding or writings pertaining to the OBLIGATIONS.

94. If during performance of WORK additional activities or environmental documentation is necessary to keep the PROJECT in environmental compliance, PARTNERS will amend this AGREEMENT to include completion of those additional tasks.
95. Except as otherwise provided in the AGREEMENT, PARTNERS will execute a formal written amendment if there are any changes to OBLIGATIONS.
96. When WORK performed on the PROJECT is done under contract and falls within the Labor Code section 1720(a)(1) definition of "public works" in that it is construction, alteration, demolition, installation, or repair; or maintenance work under Labor Code section 1771, PARTNERS shall conform to the provisions of Labor Code sections 1720 through 1815, and all applicable provisions of California Code of Regulations found in Title 8, Division 1, Chapter 8, Subchapter 3, Articles 1-7. PARTNERS shall include prevailing wage requirements in contracts for public work and require contractors to include the same prevailing wage requirements in all subcontracts. Work performed by a PARTNER's own employees is exempt from the Labor Code's Prevailing Wage requirements.
97. If WORK is paid for, in whole or part, with federal funds and is of the type of work subject to federal prevailing wage requirements, PARTNERS shall conform to the provisions of the Davis-Bacon and Related Acts, 40 U.S.C. § 276(a).

When applicable, PARTNERS shall include federal prevailing wage requirements in contracts for public work. WORK performed by a PARTNER's employees is exempt from federal prevailing wage requirements.

98. PARTNERS agree to sign a COOPERATIVE AGREEMENT CLOSURE STATEMENT to terminate this AGREEMENT. However, all indemnification, document retention, audit, claims, environmental commitment, legal challenge, maintenance and ownership articles will remain in effect until terminated or modified in writing by mutual agreement or expire by the statute of limitations.

DEFINITIONS

AGREEMENT – This agreement including any attachments, exhibits, and amendments.

CALTRANS STANDARDS – CALTRANS policies and procedures, including, but not limited to, the guidance provided in the Project Development Procedures Manual (PDPM) and the CALTRANS *Workplan Standards Guide for the Delivery of Capital Projects* (WSG) [which contains the CALTRANS Work Breakdown Structure (WBS) and was previously known as the WBS Guide] and is available at <http://www.dot.ca.gov/hq/projmgmt/guidance.htm>.

CEQA (California Environmental Quality Act) – The act (California Public Resources Code, sections 21000 et seq.) that requires state and local agencies to identify the significant environmental impacts of their actions and to avoid or mitigate those significant impacts, if feasible.

CFR (Code of Federal Regulations) – The general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government.

CONSTRUCTION – See PROJECT COMPONENT.

CONSTRUCTION CAPITAL – See PROJECT COMPONENT.

CONSTRUCTION SUPPORT – See PROJECT COMPONENT.

COOPERATIVE AGREEMENT CLOSURE STATEMENT – A document signed by PARTNERS that verifies the completion of all OBLIGATIONS included in this AGREEMENT and in all amendments to this AGREEMENT.

FHWA – Federal Highway Administration.

FHWA STANDARDS – FHWA regulations, policies and procedures, including, but not limited to, the guidance provided at www.fhwa.dot.gov/topics.htm.

FUNDING PARTNER – A PARTNER, designated in the FUNDING SUMMARY, that commits a defined dollar amount to fulfill OBLIGATIONS. Each FUNDING PARTNER accepts responsibility to provide the funds it commits in this AGREEMENT.

FUNDING SUMMARY – An executed document that names FUNDING PARTNER(S), includes a FUNDING TABLE, SPENDING SUMMARY, deposit amounts, and invoicing and payment methods.

FUNDING TABLE – The table that designates funding sources, types of funds, and the PROJECT COMPONENT in which the funds are to be spent. Funds listed on the FUNDING TABLE are “not-to-exceed” amounts for each FUNDING PARTNER.

GAAP (Generally Accepted Accounting Principles) – Uniform minimum standards and guidelines for financial accounting and reporting issued by the Federal Accounting Standards Advisory Board that serve to achieve some level of standardization. See <http://www.fasab.gov/accepted.html>.

HM-1 – Hazardous material (including, but not limited to, hazardous waste) that may require removal and disposal pursuant to federal or state law whether it is disturbed by the PROJECT or not.

HM-2 – Hazardous material (including, but not limited to, hazardous waste) that may require removal and disposal pursuant to federal or state law only if disturbed by the PROJECT.

HM MANAGEMENT ACTIVITIES – Management activities related to either HM-1 or HM-2 including, without limitation, any necessary manifest requirements and disposal facility designations.

IMPLEMENTING AGENCY – The PARTNER responsible for managing the scope, cost, and schedule of a PROJECT COMPONENT to ensure the completion of that component.

IQA (Independent Quality Assurance) – CALTRANS’ efforts to ensure that another PARTNER’s quality assurance activities are in accordance with the applicable standards and the PROJECT’s Quality Management Plan (QMP). When CALTRANS performs IQA it does not develop, produce, validate, verify, re-check, or quality control another PARTNER’s work products.

NEPA (National Environmental Policy Act of 1969) – This federal act establishes a national policy for the environment and a process to disclose the adverse impacts of projects with a federal nexus.

OBLIGATIONS – All WORK responsibilities and their associated costs.

OBLIGATION COMPLETION – PARTNERS have fulfilled all OBLIGATIONS included in this AGREEMENT and have signed a COOPERATIVE AGREEMENT CLOSURE STATEMENT.

OBLIGATIONS COST(S) – The cost(s) to complete the responsibilities assigned in this AGREEMENT. Costs that are specifically excluded in this AGREEMENT or that are not incurred in the performance of the responsibilities in this AGREEMENT are not OBLIGATIONS COSTS.

OBLIGATIONS COSTS are to be paid from the funds shown in the FUNDING SUMMARY. Costs that are not OBLIGATIONS COSTS are to be paid by the party that incurs the cost from funds that are outside the scope of this AGREEMENT.

PARTNER – Any individual signatory party to this AGREEMENT.

Attachment: 15-1001216 Seg 1 Landscape Const Coop with CT - Caltrans Maintains Original [Revision 1] (3114 : I-215 Seg 1 & 3 Landscaping

PARTNERS – The term that collectively references all of the signatory agencies to this AGREEMENT. This term only describes the relationship between these agencies to work together to achieve a mutually beneficial goal. It is not used in the traditional legal sense in which one PARTNER’s individual actions legally bind the other PARTNER.

PROJECT COMPONENT – A distinct portion of the planning and project development process of a capital project as outlined in California Government Code, section 14529(b).

- **PID (Project Initiation Document)** – The work required to deliver the project initiation document for the PROJECT in accordance with CALTRANS STANDARDS.
- **PA&ED (Project Approval and Environmental Document)** – The work required to deliver the project approval and environmental documentation for the PROJECT in accordance with CALTRANS STANDARDS.
- **PS&E (Plans, Specifications, and Estimate)** – The work required to deliver the plans, specifications, and estimate for the PROJECT in accordance with CALTRANS STANDARDS.
- **R/W (Right of Way)** – The project components for the purpose of acquiring real property interests for the PROJECT in accordance with CALTRANS STANDARDS.
 - **R/W (Right of Way) SUPPORT** – The work required to obtain all property interests for the PROJECT.
 - **R/W (Right of Way) CAPITAL** – The funds for acquisition of property rights for the PROJECT.
- **CONSTRUCTION** – The project components for the purpose of completing the construction of the PROJECT in accordance with CALTRANS STANDARDS.
 - **CONSTRUCTION SUPPORT** – The work required for the administration, acceptance, and final documentation of the construction contract for the PROJECT.
 - **CONSTRUCTION CAPITAL** – The funds for the construction contract.

PROJECT MANAGEMENT PLAN – A group of documents used to guide the PROJECT’s execution and control throughout that project’s lifecycle.

QMP (Quality Management Plan) – An integral part of the PROJECT MANAGEMENT PLAN that describes IMPLEMENTING AGENCY’s quality policy and how it will be used.

RESIDENT ENGINEER – A civil engineer licensed in the State of California who is responsible for construction contract administration activities. The Resident Engineer must be independent of the design engineering company and the construction contractor.

SHS (State Highway System) – All highways, right of way, and related facilities acquired, laid out, constructed, improved, or maintained as a state highway pursuant to constitutional or legislative authorization.

SPENDING SUMMARY – A table that identifies the funds available for expenditure by each PARTNER. The table shows the maximum reimbursable expenditure for each PARTNER in each PROJECT COMPONENT.

SPONSOR – Any PARTNER that accepts the responsibility to establish scope of the PROJECT and the obligation to secure financial resources to fund the PROJECT COMPONENTS in this AGREEMENT. A SPONSOR is responsible for adjusting the PROJECT scope to match committed funds or securing additional funds to fully fund the PROJECT COMPONENTS in this AGREEMENT. If this AGREEMENT has more than one SPONSOR, funding adjustments will be made by percentage (as outlined in Responsibilities). Scope adjustments must be developed through the project development process and must be approved by CALTRANS as the owner/operator of the SHS.

WORK – All efforts to complete the OBLIGATIONS included in this AGREEMENT as described by the activities in the CALTRANS Workplan Standards Guide for the Delivery of Capital Projects (WSG).

SIGNATURES

PARTNERS are empowered by California Streets and Highways Code Section 114 & 130 to enter into this AGREEMENT and have delegated to the undersigned the authority to execute this AGREEMENT on behalf of the respective agencies and covenants to have followed all the necessary legal requirements to validly execute this AGREEMENT.

CALTRANS

John Bulinski
District 8 Director

Certified as to funds:

Lisa Pacheco
District Budget Manager

**SAN BERNARDINO COUNTY
TRANSPORTATION COMMISSION**

DO NOT SIGN THIS COPY

Robert A. Lovingood
President, Board of Directors

Attest

Vicki Watson
Board Clerk

Approved as to form and procedure:

Eileen Monaghan Teichert
General Counsel

Concurrence:

Jeffery Hill
Procurement Manager

Attachment: 15-1001216 Seg 1 Landscape Const Coop with CT - Caltrans Maintains Original [Revision 1] (3114 : I-215 Seg 1 & 3 Landscaping

FUNDING SUMMARY

<u>FUNDING TABLE</u>						
<u>IMPLEMENTING AGENCY</u> →			<u>SANBAG</u>			
Source	FUNDING PARTNER	Fund Type	CONST. SUPPORT	PLANT MAINTENANCE	CONST. CAPITAL	Totals
Federal	SANBAG	Projects of National & Regional Significance (PNRS) *	\$444,500		\$3,233,133	\$3,677,633
Local	SANBAG	Measure	\$175,000	\$500,000	\$95,000	\$770,000
Totals			\$619,500	\$500,000	\$3,328,133	\$4,447,633

* Toll credit will be used as match

<u>SPENDING SUMMARY</u>					
Fund Type	CONST. SUPPORT		CONST. CAPITAL	PLANT MAINTENANCE	Totals
	CALTRANS	<u>SANBAG</u>	<u>SANBAG</u>	SANBAG	
Federal Funds					
PNRS	\$50,000	\$394,500	\$3,233,133		\$3,677,633
Local Funds					
Measure	\$0	\$175,000	\$95,000	\$500,000	\$770,000
Totals	\$50,000	\$569,500	\$3,328,133	\$500,000	\$4,447,633

Invoicing and Payment

1. PARTNERS will invoice for funds where the SPENDING SUMMARY shows that one PARTNER provides funds for use by another PARTNER. PARTNERS will pay invoices within forty-five (45) calendar days of receipt of invoice when not paying with Electronic Funds Transfer (EFT). When paying with EFT, SANBAG will pay invoices within five (5) calendar days of receipt of invoice.
2. If SANBAG has received EFT certification from CALTRANS then SANBAG will use the EFT mechanism and follow all EFT procedures to pay all invoices issued from CALTRANS.
3. CALTRANS will draw from state and federal funds that are provided by SANBAG without invoicing SANBAG when CALTRANS administers those funds and CALTRANS has been allocated those funds by the CTC and whenever else possible.
4. When a PARTNER is reimbursed for actual costs from funds administered by another PARTNER, invoices will be submitted each month for the prior month's expenditures. After all PROJECT COMPONENT WORK is complete, PARTNERS will submit a final accounting of all PROJECT COMPONENT costs. Based on the final accounting, PARTNERS will invoice and then refund or pay as necessary in order to satisfy the financial commitments of this AGREEMENT.

CONSTRUCTION SUPPORT

5. No invoicing or reimbursement will occur for the CONSTRUCTION SUPPORT PROJECT COMPONENT.

CONSTRUCTION CAPITAL

6. No invoicing or reimbursement will occur for the CONSTRUCTION CAPITAL PROJECT COMPONENT.

Signatures

CALTRANS

John Bulinski
District 8 Director

Date _____

Lisa Pacheco
District Budget Manager

HQ Accounting

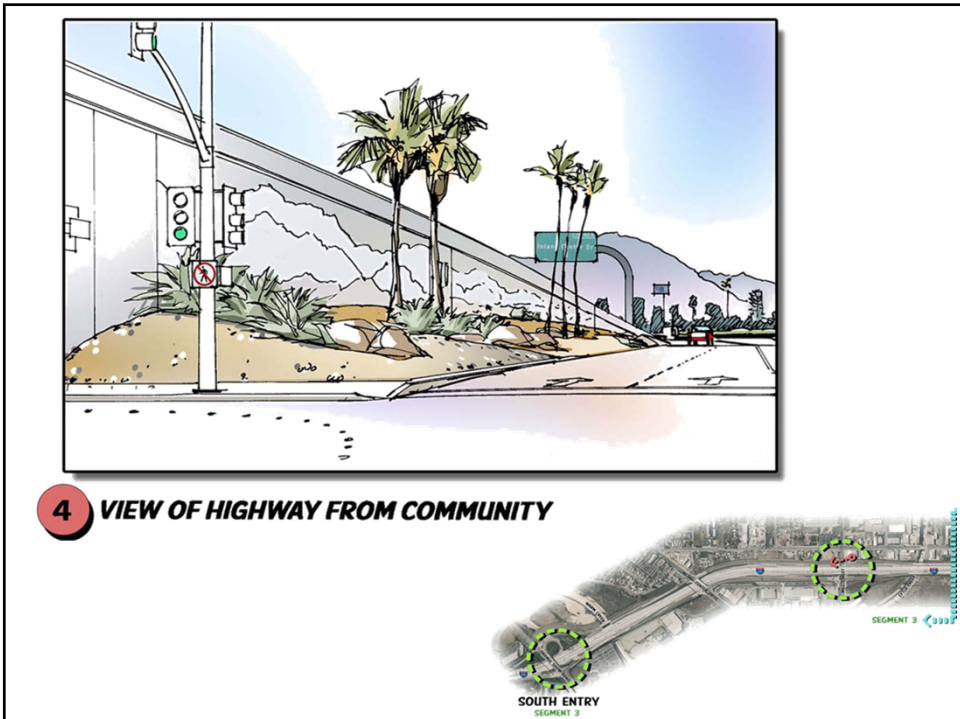
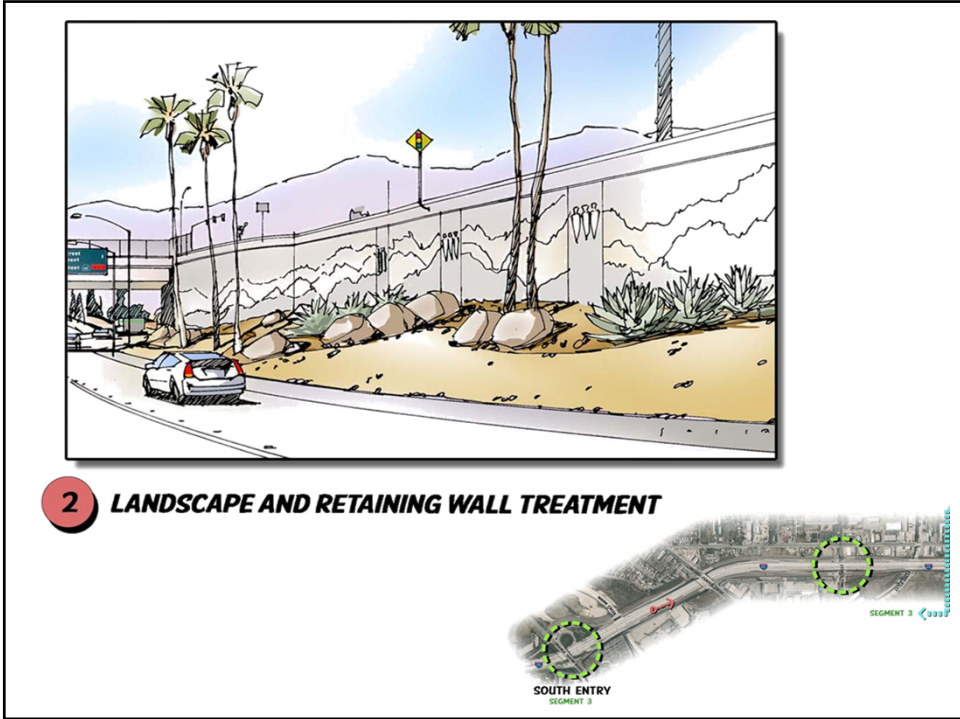
**SAN BERNARDINO COUNTY
TRANSPORTATION COMMISSION**

DO NOT SIGN THIS COPY

Robert A. Lovingood
President, Board of Directors

Date _____

Attachment: 15-1001216 Seg 1 Landscape Const Coop with CT - Caltrans Maintains Original [Revision 1] (3114 : I-215 Seg 1 & 3 Landscaping



Attachment: I-215 Landscaping Powerpoint (3114 : I-215 Seg 1 & 3 Landscaping Coops, IFB, PSE Cert)

Minute Action

AGENDA ITEM: 27

Date: *October 5, 2016*

Subject:

Inland Southern California Economic Strategy and Plan Development with the Brookings Institution

Recommendation:

Receive presentation by UCR Director Ronald Loveridge.

Background:

The University of California Riverside (UCR) Center for Sustainable Suburban Development and its Director Ronald Loveridge have convened a number of meetings with civic and business leaders from throughout Riverside and San Bernardino counties to discuss the economic future of our region. These discussions have included representatives of the Brookings Institution (BI) who have offered their expertise to help a local coalition study our local economy and develop a strategy of how our regional advantages can be better leveraged to increase economic opportunity for the many individuals and families in the region struggling to get ahead.

From these meetings, a consensus was reached that our region should apply to the Brookings Institution for its assistance and expertise in helping our region develop a plan for inclusive growth and opportunity. A coalition of local universities, led by UCR, have agreed to prepare an application to the Brookings Institution and to help coordinate a coalition of stakeholders to review, comment, challenge and provide feedback on the data, research and draft plan as it is being developed. These stakeholders will also serve as champions for the plan in the broader community.

This effort will consist of three phases:

1. Data Profile – Targeted research on the economic and demographic dynamics of Inland Southern California will focus on how population and industry growth have influenced labor market outcomes.
2. Market Assessment and Strategy Development – This is a broader and deeper analysis of the region’s economic strengths, weaknesses, and opportunities.
3. Plan Writing – The analysis and insights generated in the first two phases are brought together to support the conception, design, and implementation of a new economic strategy.

Dr. Loveridge will discuss the context surrounding this effort and actions that will be occurring in the near future as this effort moves forward.

Financial Impact:

This item is consistent with the adopted SANBAG budget.

Entity: COG

Board of Directors Agenda Item
October 5, 2016
Page 2

Reviewed By:

This item has not received prior policy committee or technical advisory committee review.

Responsible Staff:

Duane Baker, Deputy Executive Director

Approved
Board of Directors
Date: October 5, 2016
Witnessed By:

ADDITIONAL INFORMATION

BOARD OF DIRECTORS ATTENDANCE RECORD – 2016

Name	Jan	Feb	March	April	May	June	July	Aug DARK	Sept	Oct	Nov	Dec
Robert A. Lovingood Board of Supervisors	X	X	X	X	X	X	X		X			
Janice Rutherford Board of Supervisors	X	X	X	X	X	X	X		X			
James Ramos Board of Supervisors		X	X		X							
Curt Hagman Board of Supervisors	X	X		X	X	X			X			
Josie Gonzales Board of Supervisors		X		X	X	X	X		X			
Rich Kerr City of Adelanto	X			X	X							
Curt Emick Town of Apple Valley	X	X	X	X	X	*			X			
Julie McIntyre City of Barstow	X	X	X		X	X	X		X			
Bill Jahn City of Big Bear Lake	X	X	X		X	X	X		X			
Dennis Yates City of Chino	X	X	X	X	X	X	X		X			
Ed Graham City of Chino Hills	X		X	X		X	X		X			
Frank Navarro City of Colton	X	X	X	X	X	X	X		X			
Michael Tahan City of Fontana	X	X	X	X	X	X	X		X			
Darcy McNaboe City of Grand Terrace	X	X	X	X	X	X	X		X			
Eric Schmidt City of Hesperia	X	X	X	X	X	X			X			
Larry McCallon City of Highland	X	X	X	X	X	X	X		X			

X = member attended meeting. * = alternate member attended meeting. Empty box = Did not attend meeting. Crossed out box = not a Board Member at the time.

BOARD OF DIRECTORS ATTENDANCE RECORD – 2016

Name	Jan	Feb	March	April	May	June	July	Aug DARK	Sept	Oct	Nov	Dec
Rhodes ‘Dusty’ Rigsby City of Loma Linda	X	X	X	X	X	X	X		X			
Paul Eaton City of Montclair	X	X	X	X	X	X	X		*			
Edward Paget City of Needles	X	X	X	X		X	X		X			
Alan Wapner City of Ontario	X	X	X	X	X	X	X		X			
L. Dennis Michael City of Rancho Cucamonga	X	X	*	X	X	X	X		X			
Jon Harrison City of Redlands	X	X	X	X	*	*	X		*			
Deborah Robertson City of Rialto	X	X	X	X	X		X		X			
R. Carey Davis City of San Bernardino		X	X	X	X	X	X		X			
Joel Klink City of Twentynine Palms	X	*	X	X	*	X	X		X			
Ray Musser City of Upland	*	X	X	X	X	X	X		X			
Ryan McEachron City of Victorville	X	X	X	X	X	X	X		X			
Dick Riddell City of Yucaipa	X	X	X	X	X	X	X		X			
George Huntington Town of Yucca Valley	X	X	X	X	X	X	X		X			
John Bulinski Ex-Official Member	X	X	X	Christy Connors	Christy Connors	X	X		X			

Communication: Attendance (Additional Information)

X = member attended meeting. * = alternate member attended meeting. Empty box = Did not attend meeting. Crossed out box = not a Board Member at the time.

San Bernardino Associated Governments (SANBAG) is a council of governments formed in 1973 by joint powers agreement of the cities and the County of San Bernardino. SANBAG is governed by a Board of Directors consisting of a mayor or designated council member from each of the twenty-four cities in San Bernardino County and the five members of the San Bernardino County Board of Supervisors.

In addition to SANBAG, the composition of the SANBAG Board of Directors also serves as the governing board for several separate legal entities listed below:

***The San Bernardino County Transportation Commission**, which is responsible for short and long range transportation planning within San Bernardino County, including coordination and approval of all public mass transit service, approval of all capital development projects for public transit and highway projects, and determination of staging and scheduling of construction relative to all transportation improvement projects in the Transportation Improvement Program.*

***The San Bernardino County Transportation Authority**, which is responsible for administration of the voter-approved half-cent transportation transactions and use tax levied in the County of San Bernardino.*

***The Service Authority for Freeway Emergencies**, which is responsible for the administration and operation of a motorist aid system of call boxes on State freeways and highways within San Bernardino County.*

***The Congestion Management Agency**, which analyzes the performance level of the regional transportation system in a manner which ensures consideration of the impacts from new development and promotes air quality through implementation of strategies in the adopted air quality plans.*

*As a **Subregional Planning Agency**, SANBAG represents the San Bernardino County subregion and assists the Southern California Association of Governments in carrying out its functions as the metropolitan planning organization. SANBAG performs studies and develops consensus relative to regional growth forecasts, regional transportation plans, and mobile source components of the air quality plans.*

Items which appear on the monthly Board of Directors agenda are subjects of one or more of the listed legal authorities. For ease of understanding and timeliness, the agenda items for all of these entities are consolidated on one agenda. Documents contained in the agenda package are clearly marked with the appropriate legal entity.

This list provides information on acronyms commonly used by transportation planning professionals. This information is provided in an effort to assist SANBAG Board Members and partners as they participate in deliberations at SANBAG Board meetings. While a complete list of all acronyms which may arise at any given time is not possible, this list attempts to provide the most commonly-used terms. SANBAG staff makes every effort to minimize use of acronyms to ensure good communication and understanding of complex transportation processes.

AB	Assembly Bill
ACE	Alameda Corridor East
ACT	Association for Commuter Transportation
ADA	Americans with Disabilities Act
ADT	Average Daily Traffic
APTA	American Public Transportation Association
AQMP	Air Quality Management Plan
ARRA	American Recovery and Reinvestment Act
ATMIS	Advanced Transportation Management Information Systems
BAT	Barstow Area Transit
CALACT	California Association for Coordination Transportation
CALCOG	California Association of Councils of Governments
CALSAFE	California Committee for Service Authorities for Freeway Emergencies
CARB	California Air Resources Board
CEQA	California Environmental Quality Act
CMAQ	Congestion Mitigation and Air Quality
CMIA	Corridor Mobility Improvement Account
CMP	Congestion Management Program
CNG	Compressed Natural Gas
COG	Council of Governments
CPUC	California Public Utilities Commission
CSAC	California State Association of Counties
CTA	California Transit Association
CTC	California Transportation Commission
CTC	County Transportation Commission
CTP	Comprehensive Transportation Plan
DBE	Disadvantaged Business Enterprise
DEMO	Federal Demonstration Funds
DOT	Department of Transportation
EA	Environmental Assessment
E&D	Elderly and Disabled
E&H	Elderly and Handicapped
EIR	Environmental Impact Report (California)
EIS	Environmental Impact Statement (Federal)
EPA	Environmental Protection Agency
FHWA	Federal Highway Administration
FSP	Freeway Service Patrol
FRA	Federal Railroad Administration
FTA	Federal Transit Administration
FTIP	Federal Transportation Improvement Program
GFOA	Government Finance Officers Association
GIS	Geographic Information Systems
HOV	High-Occupancy Vehicle
ICTC	Interstate Clean Transportation Corridor
IEEP	Inland Empire Economic Partnership
ISTEA	Intermodal Surface Transportation Efficiency Act of 1991
IIP/ITIP	Interregional Transportation Improvement Program
ITS	Intelligent Transportation Systems
IVDA	Inland Valley Development Agency
JARC	Job Access Reverse Commute
LACMTA	Los Angeles County Metropolitan Transportation Authority
LNG	Liquefied Natural Gas
LTF	Local Transportation Funds

MAGLEV	Magnetic Levitation
MARTA	Mountain Area Regional Transportation Authority
MBTA	Morongo Basin Transit Authority
MDAB	Mojave Desert Air Basin
MDAQMD	Mojave Desert Air Quality Management District
MOU	Memorandum of Understanding
MPO	Metropolitan Planning Organization
MSRC	Mobile Source Air Pollution Reduction Review Committee
NAT	Needles Area Transit
NEPA	National Environmental Policy Act
OA	Obligation Authority
OCTA	Orange County Transportation Authority
PA&ED	Project Approval and Environmental Document
PASTACC	Public and Specialized Transportation Advisory and Coordinating Council
PDT	Project Development Team
PNRS	Projects of National and Regional Significance
PPM	Planning, Programming and Monitoring Funds
PSE	Plans, Specifications and Estimates
PSR	Project Study Report
PTA	Public Transportation Account
PTC	Positive Train Control
PTMISEA	Public Transportation Modernization, Improvement and Service Enhancement Account
RCTC	Riverside County Transportation Commission
RDA	Redevelopment Agency
RFP	Request for Proposal
RIP	Regional Improvement Program
RSTIS	Regionally Significant Transportation Investment Study
RTIP	Regional Transportation Improvement Program
RTP	Regional Transportation Plan
RTPA	Regional Transportation Planning Agencies
SB	Senate Bill
SAFE	Service Authority for Freeway Emergencies
SAFETEA-LU	Safe Accountable Flexible Efficient Transportation Equity Act – A Legacy for Users
SCAB	South Coast Air Basin
SCAG	Southern California Association of Governments
SCAQMD	South Coast Air Quality Management District
SCRRA	Southern California Regional Rail Authority
SHA	State Highway Account
SHOPP	State Highway Operations and Protection Program
SOV	Single-Occupant Vehicle
S RTP	Short Range Transit Plan
STAF	State Transit Assistance Funds
STIP	State Transportation Improvement Program
STP	Surface Transportation Program
TAC	Technical Advisory Committee
TCIF	Trade Corridor Improvement Fund
TCM	Transportation Control Measure
TCRP	Traffic Congestion Relief Program
TDA	Transportation Development Act
TEA	Transportation Enhancement Activities
TEA-21	Transportation Equity Act for the 21 st Century
TMC	Transportation Management Center
TMEE	Traffic Management and Environmental Enhancement
TSM	Transportation Systems Management
TSSDRA	Transit System Safety, Security and Disaster Response Account
USFWS	United States Fish and Wildlife Service
VCTC	Ventura County Transportation Commission
VVTA	Victor Valley Transit Authority
WRCOG	Western Riverside Council of Governments

COMMITTEE MEMBERSHIP

APPOINTING/ELECTING AUTHORITY	REGIONAL COUNCIL (12:15 p.m.)	POLICY COMMITTEES (Regional Council Members Serve on One Each) (Subregional Appointments) (County Commissions Appoint One to TC) (10:00 a.m.)		
		Community, Economic, and Human Development	Energy and Environment	Transportation
District 6 (Grand Terrace, Colton, Loma Linda, Redlands, Yucaipa) District 7 (San Bernardino, Highland) District 8 (Rialto, Fontana) District 9 (Rancho Cucamonga, Upland, Montclair) District 10 (Chino, Chino Hills, Ontario) District 11 (Barstow, Big Bear, Needles, Twentynine Palms, Yucca Valley) District 65 (Adelanto, Apple Valley, Hesperia, Victorville) San Bernardino County	F. Navarro L. McCallon D. Robertson L. Michael R. Marquez B. Jahn R. McEachron C. Hagman	L. McCallon B. Jahn	D, Robertson	F. Navarro R. Marquez R. McEachron C. Hagman
†SANBAG Acting as County Transportation Commission	A. Wapner			A. Wapner
SANBAG Subregional Appointees* *One appointee to each policy committee for a total of three appointees per subregion, plus one additional appointee for every SCAG District over three in the subregion. SANBAG has a total of seven subregional appointees to the policy committees.		Julie McIntyre Ray Musser Ed Paget	Diane Williams Ed Graham Jon Harrison	B. Stanton

Rules of Appointment

1. SANBAG policy stipulates that all SANBAG appointees be SANBAG Board Members.
2. SCAG President appoints Regional Council members to Standing and Policy Committees.

Terms of Appointment

Terms of appointment are two years, commencing on adjournment of the annual General Assembly in May of each year. Even-numbered District representatives' terms expire in even-numbered years; odd-numbered District representatives expire in odd-numbered years. †SANBAG's Regional Council Representative serves a two-year term from the date of appointment.

Stipend Summary

SCAG Regional Council members receive a \$120 stipend for attendance and travel to SCAG sponsored meetings. Regional Council members may also receive reimbursement for public transit expenses or a mileage reimbursement. Parking is validated at SCAG's downtown Los Angeles office for RC members. RC members are eligible to receive up to six (6) per diem stipends per month. Both RC members and Subregional Appointees, if eligible, may receive reimbursement (\$150 + taxes) for lodging (please review SCAG rules before making expenditure). Subregional Appointees shall receive a \$120 stipend for up to four Policy or Task Force meetings per month.

Meeting Information

The regular meetings of SCAG Regional Council and Policy Committees are on the 1st Thursday of each month at the SCAG offices located at 818 West 7th Street, 12th Floor in Los Angeles. Generally, the Policy Committee meetings start at 10 AM and Regional Council meetings start at 12:15 PM.

Policy Committees

Community, Economic, and Human Development: Provides policy recommendations to the Regional Council on subjects of housing, land use, resource, economic, community development, infrastructure, employment, and regional disaster preparedness issues. Reviews and recommends to the Planning Committee revisions to the Housing, Economy, Growth Management, Human Resources, and Finance Chapters of the Regional Comprehensive Plan and Guide.

Energy and Environment: Acts as the policy advisory committee to the Regional Council on environmental issues, including air and water, hazardous, solid waste management, natural resources conservation, and energy conservation. Reviews the Environmental Impact Report of the Regional Comprehensive Plan and Guide. Provides recommendations to the Planning Committee on state and federal legislative proposals and administrative guidelines affecting environmental quality, resource conservation.

Transportation and Communications: Acts as the policy advisory committee to the Regional Council on all regional matters pertaining to the movement of goods and people on land, water, and air. Reviews and recommends to the Regional Council all major utility development plans. Addresses the location, size, or capacity, timing, and impact of facilities.

Communication: Representatives on SCAG Committees (Committee Membership)

SANBAG Appointments to External Agencies

SANBAG works closely with not only the County and cities within the County of San Bernardino, but with a number of regional governments that relate to the multiple counties within the Southern California region. Members of the SANBAG Board of Directors frequently take active roles in representing the interests of San Bernardino County on these regional bodies. This participation provides assurance that the unique needs and characteristics of San Bernardino County are taken into consideration as policies are developed which impact this County and its individual local government units. Active participation in regional organizations further promotes the interests of San Bernardino County and secures its appropriate role in the Southern California region.

The following table lists some of the regional bodies upon which SANBAG representatives serve.

Committee	Appointee	Appointing Authority	Purpose	Term
Alameda Corridor-East Construction Authority	Paul Eaton, Montclair, Primary Ex-Officio Julie McIntyre, Barstow, Alternate Ex-Officio	SANBAG President	SANBAG representative serves as ex-officio member of the Authority that addresses issues related to the transportation corridor running from Los Angeles to San Bernardino County. This Authority meets on the fourth Monday of each month at Irwindale City Hall. Members receive a \$100 stipend from the Authority.	12/31/16 12/31/17
Inland Empire Economic Partnership (IEEP)	Dennis Michael, Rancho Cucamonga	SANBAG President	The IEEP is a partnership that includes business, government and academic leaders to develop and carry out initiatives to benefit the region.	
The Sam and Alfreda L. Maloof Foundation for Arts and Crafts	Janice Rutherford, Supervisor	SANBAG Board of Directors	A non-profit corporation that participates in the preparation of the Conservation Plan and oversees the activities and assets of the Foundation. SANBAG has not authorized payment of stipend for participation.	12/31/17
Metro Gold Line Phase II Joint Powers Authority	Paul Eaton, Montclair, Primary Curt Hagman, Supervisor, Alternate	SANBAG Board of Directors	The Gold Line Phase II Construction Authority is a joint powers agency formed by thirteen cities along the corridor, LACMTA and SANBAG. THE JPA serves as a forum for the review, consideration, study, development and recommendation of policies and plans for the extension of the Gold Line from Pasadena to Montclair. Members receive \$150 payment from Gold Line Authority for participation.	12/31/17 12/31/16
Metro Gold Line Foothill Extension Construction Authority	Alan Wapner, Ontario, Primary Deborah Robertson, Alternate	SANBAG President	The Authority is responsible for the development of a light rail project from the City of Los Angeles into San Bernardino County. The Authority board meets on the second and fourth Wednesday of the month at 7:00 p.m. at the Authority's office in Monrovia. Members receive \$150 for each day spent on Authority business, not to exceed \$600 per month.	12/31/16 12/31/16
Mobile Source Air Pollution Reduction Review Committee	Larry McCallon, Highland, Primary Ed Graham, Alternate	SANBAG Board of Directors	Develops and implements work programs which reduce mobile source emissions, funded by AB2766 (portion of the \$4 motor vehicle registration fee). County Commissions, SCAQMD, and ARB have one appointment with alternates. In April 2005, SANBAG authorized a stipend of \$100 per day. The MSRC meets once a month on Thursdays at 1:30 p.m. at South Coast Air Quality Management District in Diamond Bar.	12/31/16 12/31/16

Communication: SANBAG Appointments to External Agencies (Committee Membership)

SANBAG Appointments to External Agencies

Committee	Appointee	Appointing Authority	Purpose	Term
One Water One Watershed (OWOW) Steering Committee of the Santa Ana Watershed Project Authority	Jon Harrison, City of Redlands	SANBAG Board of Directors	Responsible for developing the integrated Regional Water Management Plan for the Santa Ana River. The term of the appointment is for four years for a city representative from San Bernardino County. Officers leaving elected office after appointment are still eligible to serve. Beginning January 2016, the OWOW meets on the 4 th Thursday of every other month at 11:00 a.m. at the Santa Ana Watershed Project Authority (SAWPA)	12/31/2019
SCAG Policy Committees	See associated table.	The SANBAG Board has authorized the SANBAG President to make appoints to SCAG Policy Committees.	SANBAG, as the CTC, appoints one elected official to serve on SCAG’s Transportation and Communications Committee. SANBAG, when acting as a subregional agency, also has authority to make six appointments to the three SCAG Policy Committees; i.e., Community Economic and Human Development, Energy and Environment, and Transportation and Communications. (The mayors of the six SCAG districts in SBCO elect members to the SCAG Regional Council. See attachment.) SCAG pays a fee for service to members for attendance at SCAG Policy Committee meetings.	See associated table – SANBAG Representatives on SCAG Committees
Southern California Regional Rail Authority	Paul Eaton, Montclair, Primary Larry McCallon, Highland, Primary Alan Wapner, Ontario, Alternate James Ramos, Supervisor, Alternate	SANBAG Board of Directors (Commuter Rail & Transit Committee makes a recommendation.)	SCRRA serves as the governing body for Metrolink, the regional commuter rail system serving the five Southern California Counties. Members receive payment of \$100 per day from SCRRA for participation.	Indefinite
SR 91 Advisory Committee	Vacant, Ex-Officio Member	SANBAG Board of Directors	The Committee reviews issues and makes recommendations to OCTA regarding the transportation facilities acquired, including tolls imposed, operations, maintenance, use of toll revenues, and improvements in the area of SR 91 between I-15 and SR 55, including the identification and siting of alternate highways. SANBAG has not authorized payment of stipend for participation.	12/31/16
Valley Transportation Services (VTrans)	Ed Graham, Chino Hills Alan Wapner, Ontario John Roberts, Fontana	SANBAG Board of Directors	VTrans is a non-profit organization created and designated by SANBAG as the Consolidated Transportation Service Agency (CTSA) eligible to receive 2% of Measure I Senior/Disabled transportation funds collected in the Valley. SANBAG has three appointments to the VTrans Board. VTrans Board members must be from the Valley region.	09/30/16 09/30/16 09/30/17

Communication: SANBAG Appointments to External Agencies (Committee Membership)

SANBAG Policy Committee Membership

COMMITTEE	PURPOSE	MEMBERSHIP	TERMS
<p>General Policy Committee Membership consists of the following: SANBAG President, Vice President, and Immediate Past President 4 East Valley (3 City, 1 County) 4 West Valley (3 City, 1 County) 4 Mt/Desert (3 City, 1 County) City members shall be SANBAG Board Members elected by caucus of city SANBAG Board Members within the subarea. All Policy Committee and Board Study Session Chairs are included in this policy committee. All City members serving as Board officers, Committee chairs, or Board Study Session Chair, are counted toward their subareas City membership. Supervisors collectively select their representatives. The SANBAG Vice President shall serve as Chair of the General Policy Committee.</p>	<p>Makes recommendations to Board of Directors and: (1) Provides general policy oversight which spans the multiple program responsibilities of the organization and maintains the comprehensive organization integrity; (2) Provides policy direction with respect to administrative issues, policies, budget, finance, audit, and personnel issues for the organization; (3) Serves as policy review committee for any program area that lacks active policy committee oversight. Committee has authority to approve contracts in excess of \$25,000 with notification to the Board of Directors. (Brown Act)</p>	<p>Alan Wapner, Ontario, Vice President (Chair) Robert A. Lovingood, Supervisor, President (Vice Chair) Ryan McEachron, Victorville, Past President</p> <p><u>West Valley</u> Alan Wapner, Ontario, Vice President L. Dennis Michael, Rancho Cucamonga Dennis Yates, Chino Curt Hagman, Supervisor</p> <p><u>East Valley</u> Frank Navarro, Colton (Chair – MVSS) Darcy McNaboe, Grand Terrace Rhodes “Dusty” Rigsby, Loma Linda James Ramos, Supervisor (Chair - TC)</p> <p><u>Mountain/Desert</u> Bill Jahn, Big Bear Lake (Chair – MDC) Ryan McEachron, Victorville, Past President Joel Klink, Twentynine Palms Robert A. Lovingood, Supervisor, President</p>	<p>6/30/2017 6/30/2017 6/30/2017</p> <p>6/30/2017 6/30/2017 6/30/2017 6/30/2017</p> <p>6/30/2017 6/30/2017 6/30/2017 6/30/2017</p> <p>6/30/2017 6/30/2017 6/30/2017 6/30/2017</p>
<p>Transit Committee Membership consists of 11 SANBAG Board Members: 9 Valley-members, two being Southern California Regional Rail Authority (SCRRA) primary (*) and two being SCRRA alternate (**) members. 2 Mountain/Desert Board Members who serve on the Board of a Mountain/Desert transit agency. SCRRA members and alternates serve concurrent with their term on the SCRRA Board of Directors as appointed by the SANBAG Board. Other members are appointed by the SANBAG President for 2-year terms.</p>	<p>Provides policy guidance and recommendations to the SANBAG Board of Directors and Southern California Regional Rail Authority (SCRRA) delegates with respect to commuter rail and transit service. * SCRRA Primary Member ** SCRRA Alternate Member (Brown Act)</p>	<p>James Ramos, Supervisor** (Chair) Bill Jahn, Big Bear Lake (Vice Chair) Paul Eaton, Montclair* Jon Harrison, Redlands Robert A. Lovingood, Supervisor Larry McCallon, Highland* L. Dennis Michael, Rancho Cucamonga Ray Musser, Upland Dick Riddell, Yucaipa Deborah Robertson, Rialto Alan Wapner, Ontario**</p>	<p>Indeterminate (6/30/2017) Indeterminate (6/30/2017) Indeterminate 12/31/2016 12/31/2017 Indeterminate 12/31/2017 12/31/2017 12/31/2016 12/31/2016 Indeterminate</p>

Communication: SANBAG Committee Membership (Committee Membership)

SANBAG Policy Committee Membership

COMMITTEE	PURPOSE	MEMBERSHIP	TERMS
<p>Mountain/Desert Committee Membership consists of 12 SANBAG Board Members from each Mountain/Desert jurisdiction and County Supervisors representing the First, Second, and Third Districts.</p>	<p>Provides ongoing policy level oversight related to the full array of SANBAG responsibilities as they pertain specifically to the Mountain/Desert subregion. The Committee also meets as the Mountain/Desert Measure I Committee as it carries out responsibilities for Measure I Mountain/Desert Expenditure Plan. (Brown Act)</p>	<p>Bill Jahn, Big Bear Lake (Chair) Eric Schmidt, Hesperia (Vice Chair) Curt Emick, Apple Valley George Huntington, Yucca Valley Rich Kerr, Adelanto Joel Klink, Twentynine Palms Robert A. Lovingood Ryan McEachron, Victorville Julie McIntyre, Barstow Edward Paget, Needles James Ramos, Supervisor Janice Rutherford, Supervisor</p>	<p>Indeterminate (6/30/2017) Indeterminate (6/30/2017) Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate</p>

Policy Committee Meeting Times

General Policy Committee	Second Wednesday, 9:00 a.m., SANBAG Office
Transit Committee	Second Thursday, 9:00 a.m., SANBAG Office
Mountain/Desert Committee	Third Friday, 9:30 a.m., Apple Valley

NOTE: Policy Committee meetings will not be held in July of each year (effective 9/5/12).

Board of Directors Study Sessions for Metro Valley Issues

STUDY SESSION	PURPOSE	MEMBERSHIP	TERMS
<p>Board of Directors Study Sessions for Metro Valley Issues Refer to SANBAG Policy 10007.</p>	<p>To review, discuss, and make recommendations for actions to be taken at regular meetings of the Board on issues relating to Measure I Projects in the Valley. (Brown Act)</p>	<p>Board of Directors Frank Navarro, Colton (Chair) Janice Rutherford, Supervisor (Vice Chair)</p>	<p>6/30/2017 6/30/2017</p>

Meeting Time: Second Thursday, 9:30 a.m., SANBAG Office

I-10 and I-15 Corridor Joint Sub-Committee

Joint Sub-Committee	PURPOSE	MEMBERSHIP
<p>I-10 and I-15 Corridor Joint Sub-Committee In January 2015, the Board approved the change status of Express Lanes Ad Hoc Committee to the creation of the I-10 and I-15 Corridor Joint Sub-Committee of the Board of Directors Metro Valley Study Session and the Mountain/Desert Policy Committee (I-10 and I-15 Joint Sub-Committee). Members of the committee will be members of the SANBAG Board of Directors and will be appointed by the SANBAG Board President. The President will appoint the Chair and Vice-Chair of the Sub-Committee. The Sub-Committee will include a minimum of nine and a maximum of fourteen SANBAG Board members. Membership will be composed of a minimum of three representatives from the East Valley; and a minimum of two representatives from the Victor Valley. The Sub-Committee will meet as necessary immediately following the Metro Valley Study Session.</p>	<p>The purpose is to consider and make recommendations to the Board of Directors on the development of express lanes in San Bernardino County, in particular on the I-10 and I-15 Corridors. (Brown Act)</p>	<p>Alan Wapner, Ontario – Chair Ryan McEachron, Victorville – Vice Chair Josie Gonzales, Supervisor Robert A. Lovingood, Supervisor Larry McCallon, Highland L. Dennis Michael, Rancho Cucamonga Frank Navarro, Colton Dusty Rigsby, Loma Linda Deborah Robertson, Rialto Janice Rutherford, Supervisor Michael Tahan, Fontana</p>

Public and Specialized Transportation Advisory and Coordinating Council (PASTACC)

COMMITTEE	PURPOSE	MEMBERSHIP	TERMS
<p>Public and Specialized Transportation Advisory and Coordinating Council (PASTACC)</p> <p>Membership consists of 13 members appointed by the SANBAG Executive Director.</p> <p>6 representing Public Transit Providers</p> <p>1 representing County Dept. of Public Works</p> <p>1 representing the Consolidated Transportation Services Agency</p> <p>5 representing Social Service Providers</p>	<p>Subject to the Transportation Development Act (TDA) Section 99238 – establishes PASTACC’s statutory responsibilities;</p> <p>(1)Review and make recommendations on annual Unmet Transit Needs hearing findings</p> <p>(2)Score and make recommendations for Federal Transit Administration Section 5310 Capital Grant Program applications</p> <p>(3) Assist SANBAG in developing public outreach approach on updating the Coordinated Public Transit/Human Services Transportation Plan</p> <p>(4) Review call for projects for Federal Transit Administration Section 5316, and 5317 grant applications</p> <p>(5) Monitor and make recommendations on Federal regulatory processes as they relate to transit and specialized transit</p> <p>(6) Monitor and disseminate information in reference to State level law and recommendations as they relate to transit and specialized transit</p> <p>(7) Receive annual reports on funded specialized programs funded through FTA Section 5316, 5317 and Measure I</p> <p>(8) Identify regional or county level areas of unmet needs</p> <p>(9) Address special grant or funding opportunities</p> <p>(10)Address any special issues of PASTACC voting and non-voting members</p> <p>(Brown Act)</p>	<p>Standing Membership –</p> <p>Barstow Area Transit, Manager *</p> <p>Morongo Basin Transit Authority, Manager *</p> <p>Mountain Area Regional Transit Authority, Manager *</p> <p>Needles Area Transit, Manager *</p> <p>Omnitrans, Manager *</p> <p>Victor Valley Transit Authority, Manager *</p> <p>County of San Bernardino Dept. of Public Work, Manager *</p> <p>Valley Transportation Services (VTS), Manager *</p> <p>At Large Membership –</p> <p>San Bernardino Dept. of Aging and Adult Services, Director *</p> <p>Inland Regional Center, Director *</p> <p>Inland Empire United Way 2-1-1, Director *</p> <p>Victor Valley Community Service Counsel, Director *</p> <p>Community Senior Services, Director *</p>	<p>On-going</p> <p>On-going</p> <p>On-going</p> <p>On-going</p> <p>On-going</p> <p>On-going</p> <p>On-going</p> <p>On-going</p> <p>1/31/2017</p> <p>9/30/2017</p> <p>9/30/2017</p> <p>1/31/2017</p> <p>2/28/2018</p>

Meeting Dates and Time: Bi monthly, beginning in February, 2nd Tuesday of the month, 10:00 a.m., SANBAG Office

* Manager or Director may designate alternate/s

Independent Taxpayer Oversight Committee (ITOC) Review of Measure I Expenditure Plan

COMMITTEE	PURPOSE	MEMBERSHIP	TERMS
<p>Independent Taxpayer Oversight Committee (ITOC) Review of Measure I Expenditure Plan</p> <p>The ITOC shall provide citizen review to ensure that all Measure I funds are spent by the San Bernardino County Transportation Authority (hereby referred to as the Authority) in accordance with provision of the Expenditure Plan and Ordinance No. 04-01.</p>	<p>The ITOC shall review the annual audits of the Authority; report findings based on the audits to the Authority; and recommend any additional audits for consideration which the ITOC believes may improve the financial operation and integrity of program implementation.</p> <p>The Authority shall hold a publicly noticed meeting, which may or may not be included on the agenda of a regularly scheduled Board meeting, with the participation of the ITOC to consider the findings and recommendations of the audits.</p> <p>(Brown Act)</p>	<p>Richard Haller</p> <p>Rod Johnson</p> <p>Mike Layne</p> <p>Norman Orfall</p> <p>Craig Scott</p> <p>Ray Wolfe, Ex-Officio</p> <p>In addition to the appointed members, the SANBAG Executive Director will serve as an ex officio member.</p>	<p>12/31/16</p> <p>12/31/16</p> <p>12/31/18</p> <p>12/31/18</p> <p>12/31/18</p>

SANBAG Ad Hoc Committees

COMMITTEE	PURPOSE	MEMBERSHIP
<p>Budget Process In July 2012, the SANBAG Board President appointed this ad hoc committee to review SANBAG’s budget preparation process and final budget document and make recommendations to help improve communication and transparency of SANBAG’s budget to elected officials and the general public.</p>	<p>Review SANBAG’s budget adoption process and final budget document and make recommendations on changes to improve the process and the final budget document to make them more useful and informative to Board Members and the public.</p>	<p>Ray Musser, Upland – Chair Mike Podegracz, P.E. – City Manager, City of Hesperia Sam Racadio – Council Member, City of Highland Kevin Ryan - Principal Transportation Planner, City of Fontana</p>
<p>Legislative In March 2013, the SANBAG Board President appointed this ad hoc committee. This committee will consist of the SANBAG Board Officers.</p>	<p>Review proposed legislation at the state and federal level. Provide direction to staff on positions consistent with the Board-adopted legislative platform.</p>	<p>President – Ryan McEachron, Victorville Vice President – Robert A. Lovingood, Supervisor Immediate Past President – Dennis Michael, Rancho Cucamonga</p>
<p>Transit Review Ad Hoc Committee In July 2013, the SANBAG Board President appointed this ad hoc committee.</p>	<p>Review transit agency efficiencies and maximize transit funding.</p>	<p>Janice Rutherford, Supervisor – Chair Jim Harris, Twentynine Palms Robert A. Lovingood, Supervisor Ryan McEachron, Victorville L. Dennis Michael, Rancho Cucamonga Dusty Rigsby, Loma Linda Alan Wapner, Ontario</p>
<p>Statutory Entity Ad Hoc Committee In June 2015, the SANBAG Board President appointed this ad hoc committee.</p>	<p>Study and make recommendations to full Board regarding sponsoring legislation to consolidate certain SANBAG entities and functions into a new statutory entity.</p>	<p>Bill Jahn, Big Bear Lake - Chair Jon Harrison, Redlands George Huntington, Yucca Valley Robert A. Lovingood, Supervisor Ryan McEachron, Victorville Janice Rutherford, Supervisor Alan Wapner, Ontario</p>
<p>Council of Governments Ad Hoc Committee In June 2016, the SANBAG Board President appointed this ad hoc committee.</p>	<p>To provide direction relative to the Council of Governments annual work plan.</p>	<p>Alan Wapner, Ontario – Chair Curt Emick, Apple Valley (will alternate between meetings with Eric Schmidt) Josie Gonzales, Supervisor Bill Jahn, Big Bear Lake Larry McCallon, Highland L. Dennis Michael, Rancho Cucamonga Frank Navarro, Colton James Ramos, Supervisor Janice Rutherford, Supervisor Eric Schmidt, Hesperia (will alternate between meetings with Curt Emick)</p>

Communication: SANBAG Committee Membership (Committee Membership)

SANBAG Technical Advisory Committees

COMMITTEE	PURPOSE	MEETING SCHEDULE
<p>Transportation Technical Advisory Committee (TTAC) Committee membership consists of a primary staff representative of each SANBAG member agency designated by the City Manager or County Administrative Officer.</p>	<p>SANBAG’s Transportation Technical Advisory Committee was formed by SANBAG management to provide input to SANBAG staff on technical transportation-related matters and formulation of transportation-related policy recommendations to the SANBAG Board of Directors. The TTAC is not a Brown Act committee.</p>	<p>Generally meets on the first Monday of each month at 1:30 PM, at SANBAG.</p>
<p>City/County Manager’s Technical Advisory Committee (CCM TAC) The committee is made up of up to two representatives of the County Administrator’s Office and the city manager or administrator from each city and town in the County.</p>	<p>SANBAG’s City/County Manager’s Technical Advisory Committee was established in the Joint Powers Authority that established SANBAG. The primary role of the committee is to provide a forum for the chief executives of SANBAG’s member agencies to become informed about and discuss issues facing SANBAG. It also provides a forum for the discussion of items of mutual concern and a way to cooperate regionally in addressing those concerns. The CCM TAC is a Brown Act Committee.</p>	<p>Meets on the first Thursday of each month at 10:00 AM, at SANBAG.</p>
<p>Planning and Development Technical Forum (PDTF) Committee membership consists of a primary staff representative of each SANBAG member agency designated by the City Manager or County Chief Executive Officer.</p>	<p>The SANBAG Planning and Development Technical Forum was formed by SANBAG management to provide an opportunity for interaction among planning and development representatives of member agencies on planning issues of multijurisdictional importance. The PDTF is not a Brown Act Committee.</p>	<p>Meets the 4th Wednesday of each month at 2:00 p.m. at the Depot (in the SCAG Office).</p>
<p>Project Development Teams</p>	<p>Project Development Teams (PDTs) are assembled for all major project development activities by SANBAG staff. Teams are generally composed of technical representatives from SANBAG, member jurisdictions appropriate to the project, Caltrans, and other major stakeholder entities that have significant involvement in the project. PDTs make recommendations related to approaches to project development, evaluation of alternatives, and technical solutions. PDTs meet on a regular basis throughout the project phase to review progress and to provide technical input required for project development. The PDTs are not Brown Act Committees.</p>	<p>Varies with the PDT, at SANBAG.</p>

Communication: SANBAG Committee Membership (Committee Membership)

San Bernardino Associated Governments



MISSION STATEMENT

To enhance the quality of life for all residents, San Bernardino Associated Governments (SANBAG) will:

- Improve cooperative regional planning

- Develop an accessible, efficient, multi-modal transportation system

- Strengthen economic development efforts

- Exert leadership in creative problem solving

To successfully accomplish this mission, SANBAG will foster enhanced relationships among all of its stakeholders while adding to the value of local governments.

Approved June 2, 1993
Reaffirmed March 6, 1996