

AGENDA
General Policy Committee Meeting

June 12, 2024

9:00 AM

Location

San Bernardino County Transportation Authority
First Floor Lobby Board Room
1170 W. 3rd Street, San Bernardino, CA 92410

General Policy Committee Membership

Chair – Vice President

Ray Marquez, Council Member
City of Chino Hills

President

Dawn Rowe, Supervisor
County of San Bernardino

Past President

Art Bishop, Mayor Pro Tem
Town of Apple Valley

West Valley Representatives

Acquanetta Warren, Mayor
City of Fontana

Alan Wapner, Council Member
City of Ontario

Curt Hagman, Supervisor
County of San Bernardino

Mt./Desert Representatives

Debra Jones, Council Member
City of Victorville

Rick Denison, Council Member
Town of Yucca Valley

Paul Cook, Supervisor
County of San Bernardino

East Valley Representatives

Frank Navarro, Mayor
City of Colton

Larry McCallon, Mayor Pro Tem
City of Highland

Joe Baca, Jr., Supervisor
County of San Bernardino

**San Bernardino County Transportation Authority
San Bernardino Council of Governments**

AGENDA

General Policy Committee Meeting

**June 12, 2024
9:00 AM**

**Location
SBCTA**

**First Floor Lobby Board Room
1170 W. 3rd Street, San Bernardino, CA 92410**

Items listed on the agenda are intended to give notice to members of the public of a general description of matters to be discussed or acted upon. The posting of the recommended actions does not indicate what action will be taken. The Board may take any action that it deems to be appropriate on the agenda item and is not limited in any way by the notice of the recommended action.

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 Ray Marquez)

- i. Pledge of Allegiance
- ii. Attendance
- iii. Announcements
- iv. Agenda Notices/Modifications – Mayra Alfaro

Public Comment

Brief Comments from the General Public

Note: Public Comment on items listed on this agenda will be allowed only during this committee meeting. No public comment will be allowed on committee items placed on the Consent Agenda at the Board of Directors meeting. If an item has substantially changed after consideration during the committee meeting, the item will be placed on Discussion for Board and public comment will be allowed.

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. 11

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 Board and Committee members.

INFORMATIONAL ITEMS

Items listed are receive and file items and are expected to be routine and non-controversial. Unlike the Consent Calendar, items listed as Informational Items do not require a vote.

Administrative Matters

2. May 2024 Procurement Report

Pg. 13

Receive the May 2024 Procurement Report.

Presenter: Shaneka Morris

This item is not scheduled for review by any other policy committee or technical advisory committee.

DISCUSSION ITEMS

Discussion - Administrative Matters

3. Fiscal Year 2023/2024 Budget Action Plan - Fourth Quarter Report

Pg. 20

Receive the Fiscal Year 2023/2024 Budget Action Plan – Fourth Quarter Report.

Presenter: Raymond Wolfe

This item is not scheduled for any other policy committee or technical advisory committee review.

4. Biennial Review of Conflict of Interest Code Policy No. 10102

Pg. 32

That the General Policy Committee recommend the Board, acting as the San Bernardino County Transportation Authority (SBCTA):

A. Perform the biennial review of SBCTA's Policy No. 10102 Conflict of Interest Code and amend Appendix A with updated employee job titles and disclosure categories, as outlined in the attachment.

B. Direct the SBCTA Clerk of the Board to submit the Policy and Appendix A to the San Bernardino County Board of Supervisors for approval.

Presenter: Marleana Roman

This item is not scheduled for review by any other policy committee or technical advisory committee. SBCTA General Counsel has reviewed this item and the policy revisions.

5. Resolution No. 24-026 Authorizing Placement of Assessments on the Tax Roll and Agreement for Collection of Special Taxes Related to the Property Assessed Clean Energy Program Pg. 43

That the General Policy Committee recommend the Board, acting as the San Bernardino Council of Governments:

A. Approve Resolution No. 24-026, authorizing the placement of assessments related to the Property Assessed Clean Energy Program on the tax roll for Fiscal Year 2024/2025.

B. Approve Agreement No. 24-1003168 with the San Bernardino County Auditor-Controller/Treasurer/Tax Collector, authorizing the Collection of Special Taxes, Fees, and Assessments.

Presenter: Lisa Lazzar

This item is not scheduled for review by any other policy committee or technical advisory committee. SBCOG General Counsel has reviewed this item, the draft resolution, and the draft agreement.

6. Purchase and Sale Agreement No. 24-1003169 for Property Assessed Clean Energy Assessment Receivables with FNA California, LLC Pg. 51

That the General Policy Committee recommend the Board, acting as the San Bernardino Council of Governments:

A. Approve Purchase and Sale Agreement No. 24-1003169 with FNA California, LLC, to grant their first right of refusal and to allow them to advance funds to cover the Property Assessed Clean Energy Assessment delinquencies for the 2015-2016 through 2023-2024 tax years, and authorize the Executive Director, or his designee, with the approval of General Counsel as to legal form, to finalize the terms of the agreement, including the final amount and the delinquent properties to be included, and to execute the final agreement.

B. Defer the judicial foreclosure proceedings for the delinquent properties.

Presenter: Lisa Lazzar

This item is not scheduled for review by any other policy committee or technical advisory committee. SBCTA General Counsel has reviewed this item and the draft agreement.

7. Award Contract No. 24-1003085 for Professional Audit Services Pg. 84

That the General Policy Committee recommend the Board, acting as the San Bernardino County Transportation Authority:

Approve Contract No. 24-1003085 with Crowe LLP for Professional Audit Services for a five-year term, and a not-to-exceed amount of \$900,000, to be funded with Local Transportation Fund – Administration funds and Indirect funds.

Presenter: Lisa Lazzar

This item is not scheduled for review by any other policy committee or technical advisory committee. SBCTA General Counsel and Procurement Manager have reviewed this item and the draft contract.

8. Surrender of Lease - Amendment No. 4 to Contract No. 16-1001429 "Local Agency Formation Commission (LAFCO)" Pg. 115

That the General Policy Committee recommend the Board, acting as the San Bernardino County Transportation Authority:

Approve Surrender of Lease, Amendment No. 4 to Contract No. 16-1001429, of the Local Agency Formation Commission's lease of Unit 150, effective September 23, 2024.

Presenter: Colleen Franco

This item is not scheduled for review by any other policy committee or technical advisory committee. SBCTA General Counsel has reviewed this item and the draft agreement.

9. Approve License and Use Agreement No. 23-1002901 with National Railroad Passenger Corporation Pg. 142

That the General Policy Committee recommend the Board, acting as the San Bernardino County Transportation Authority:

A. Approve License and Use Agreement No. 23-1002901 with the National Railroad Passenger Corporation (Amtrak) for access and use of the Santa Fe Depot for the period of July 3, 2024, through July 2, 2039, with the option to renew for two five-year terms.

B. Authorize the Executive Director, or his/her designee, to approve License and Use Agreement No. 23-1002901 for a total estimated revenue not-to-exceed \$374,692 through July 2, 2039, or \$646,095 including the two option terms.

Presenter: Colleen Franco

This item has not received prior policy committee or technical advisory committee review. SBCTA General Counsel and Enterprise Risk Manager have reviewed this item and the draft agreement.

10. Appointment to the Independent Taxpayer Oversight Committee Pg. 155

That the General Policy Committee recommend the Board, acting as the San Bernardino County Transportation Authority:

Approve the appointment of Chad Logan and Alex Artiaga to the Independent Taxpayer Oversight Committee, with a term ending June 30, 2028.

Presenter: Hilda Flores

This item is not scheduled for review by any other policy committee or technical advisory committee. The Executive Board reviewed and approved the applicants appointment to the ITOC on May 14, 2024 and May 29, 2024.

Discussion - Air Quality/Traveler Services

11. Update on the Commuter and Motorist Assistance Call Box Program Pg. 157

Receive information on the status of the San Bernardino County Transportation Authority Call Box Program.

Presenter: Kelly Lynn

This item is not scheduled for review by any other policy committee or technical advisory committee.

12. Agreement No. 23-1002942 with the California Highway Patrol for Call Box Liaison Services Pg. 177

That the General Policy Committee recommend the Board, acting as the San Bernardino County Transportation Authority:

A. Approve Agreement No. 23-1002942 between the California Highway Patrol (CHP) and San Bernardino County Transportation Authority for Call Box Liaison Support Services beginning July 1, 2024 through June 30, 2027, in an amount not to exceed \$14,400.

B. Authorize the Executive Director, or his designee, to execute Agreement No. 23-1002942 with CHP for call box liaison support services.

Presenter: Kelly Lynn

This item is not scheduled for review by any other policy committee or technical advisory committee. SBCTA General Counsel and Risk Manager have reviewed this item and the draft agreement.

Discussion - Transportation Programming and Fund Administration

13. Measure I 2024 Population Estimates Pg. 198

That the General Policy Committee recommend the Board, acting as the San Bernardino County Transportation Authority:

Adopt the 2024 Population Estimates in Attachment B for use in the allocation of Measure I Local Street Projects Program and Transportation Development Act funds and in the apportionment of shares of certain State and Federal funds.

Presenter: Marc Lucius

This item is not scheduled for review by any other policy committee or technical advisory committee.

Comments from Board Members

Brief Comments from Board Members

ADJOURNMENT

Additional Information

Attendance	Pg. 209
Acronym List	Pg. 210
Mission Statement	Pg. 212

The next General Policy Committee Meeting is scheduled for August 14, 2024.

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 & Language Assistance - The meeting facility is accessible to persons with disabilities. If assistive listening devices, other auxiliary aids or language assistance 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 can be reached by phone at (909) 884-8276 or via email at clerkoftheboard@gosbcta.com and office is located at 1170 W. 3rd Street, 2nd Floor, San Bernardino, CA.

Accesibilidad y asistencia en otros idiomas - Las instalaciones para las reuniones son accesibles para las personas con discapacidades. Si se necesitan dispositivos de escucha asistida, otras ayudas auxiliares o servicios de asistencia en otros idiomas para participar en la reunión pública, las solicitudes deben ser presentados a la Secretaria de la Junta al no menos de tres (3) días de apertura antes de la reunión de la Junta. La Secretaria esta disponible por teléfono al (909) 884-8276 o por correo electrónico a clerkoftheboard@gosbcta.com y la oficina se encuentra en 1170 W. 3rd Street, 2nd Floor, San Bernardino, CA.

Agendas – All agendas are posted at www.gosbcta.com/board/meetings-agendas/ at least 72 hours in advance of the meeting. Staff reports related to agenda items may be reviewed online at that web address. Agendas are also posted at 1170 W. 3rd Street, 1st Floor, San Bernardino at least 72 hours in advance of the meeting.

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 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 President of the Board or Committee Chair (“President”) will announce the subject matter of the closed session. If reportable action is taken in closed session, the President shall 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, except Board agenda items that were previously considered at a Policy Committee meeting where there was an opportunity for public comment. Individuals in attendance at SBCTA who desire to speak on an item may complete and turn in a "Request to Speak" form, specifying each item an individual wishes to speak on. Individuals may also indicate their desire to speak on an agenda item when the President asks for public comment. When recognized by the President, speakers should be prepared to step forward and announce their name 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 President 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. Any individual who wishes to share written information with the Board may provide 35 copies to

the Clerk of the Board for distribution. If providing written information for distribution to the Board, such information must be emailed to the Clerk of the Board, at clerkoftheboard@gosbcta.com, no later than 5:00 pm the day before the meeting in order to allow sufficient time to distribute the information. Information provided as public testimony is not read into the record by the Clerk. Consent Calendar items can be pulled at Board member request and will be brought up individually at the specified time in the agenda. Any consent item that is pulled for discussion shall be treated as a discussion item, allowing further public comment on those items.

Public Comment –An opportunity is also provided for members of the public to speak on any subject within the Board’s jurisdiction. Matters raised under “Public Comment” will not be acted upon at that meeting. See, “Public Testimony on an Item,” above.

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 President 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!

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

Attendance.

- The President of the Board or Chair of a Policy Committee (Chair) has the option of taking attendance by Roll Call. 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.
- 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.
- Votes at teleconferenced meetings shall be by roll call, pursuant to the Brown Act, or, at any meeting, upon the demand of five official representatives present or at the discretion of the presiding officer.

The Vote as specified in the SBCTA Administrative Code and 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. (Note that Alternates may vote only at meetings of the Board of Directors, Metro Valley Study Session and Mountain/Desert Policy Committee.)

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 Chair shall ask the maker of the original motion if he or she would like to amend the 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 may require deviation from general practice (but not from the Brown Act or agency policy).
- 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

Revised June 7, 2023

Minute Action

AGENDA ITEM: 1

Date: June 12, 2024

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 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
5	24-1003168	San Bernardino County Auditor-Controller/Treasurer/Tax	None
6	24-1003169	FNA California, LLC <i>John Eisinger, CEO</i>	None
7	24-1003085	Crowe, LLP <i>Bradly T. Schelle, Partner</i>	None
8	16-1001429	Local Agency Formation Commission (LAFCO)	None
9	23-1002901	National Railroad Passenger Corporation (Amtrak) <i>Louis Wolfowitz</i>	None
10		Chad Logan: President, C. Logan Incorporated; Owner, Logan Construction; President, Premier Property Maintenance; Owner, Next Level Snow Services, and CEO, Prime Consulting and Construction Management	None
		Alex Artiaga: Business Manager, LIUNA – Local 783	None
12	23-1002942	California Highway Patrol	None

Financial Impact:

This item has no direct impact on the Budget.

Entity: San Bernardino Council of Governments, San Bernardino County Transportation Authority

General Policy Committee Agenda Item

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Reviewed By:

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

Responsible Staff:

Carrie Schindler, Deputy Executive Director

Approved
General Policy Committee
Date: June 12, 2024

Witnessed By:

Minute Action

AGENDA ITEM: 2

Date: June 12, 2024

Subject:

May 2024 Procurement Report

Recommendation:

Receive the May 2024 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 January 4, 2023. The Board of Directors authorized the Executive Director, or his designee, to approve: a) contracts and purchase orders up to \$100,000; b) Contract Task Orders (CTO) up to \$500,000 and for CTOs originally \$500,000 or more, increasing the CTO amount up to \$250,000; c) amendments with a zero dollar value; d) amendments to exercise the option term if the option term was approved by the Board of Directors in the original contract; e) amendments that cumulatively do-not-exceed 50% of the original contract or purchase order value or \$100,000, whichever is less; f) amendments that do-not-exceed contingency amounts authorized by the Board of Directors; and g) release Request for Proposals (RFP), Request for Qualifications (RFQ), and Invitation for Bids (IFB) for proposed contracts from which funding has been approved and the solicitation has been listed in the Annual Budget, and are estimated not-to-exceed \$1,000,000.

The Board of Directors further authorized General Counsel to award and execute legal services contracts up to \$100,000 with outside counsel as needed, and authorized Department Directors to approve and execute Contingency Amendments that do-not-exceed contingency amounts authorized by the Board of Directors.

Lastly, the Board of Directors authorized CityCom Real Estate Services, Inc. (CityCom) to issue contracts and purchase orders.

Below is a summary of the actions taken by SBCTA authorized staff:

- One new contract was executed.
- One contract amendment was executed.
- No CTO's were executed.
- Three CTO amendments were executed.
- Four contingency amendments were executed.
- Three purchase orders were executed.
- One purchase order amendment was executed.
- No IFB's were released.

Below is a summary of the actions taken by CityCom:

- No new contracts were executed.
- One new purchase order was executed.

Entity: San Bernardino Council of Governments, San Bernardino County Transportation Authority

General Policy Committee Agenda Item

June 12, 2024

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A list of all Contracts and Purchase Orders that were executed by the Executive Director, Department Director, and/or General Counsel during the month of May 2024 are presented herein as Attachment A, all RFPs and IFBs are presented in Attachment B, and all CityCom’s contracts and purchase orders are presented in Attachment C.

Financial Impact:

This item is consistent with the Fiscal Year 2023/2024 Budget. Presentation of the monthly procurement report demonstrates compliance with the Contracting and Procurement Policy.

Reviewed By:

This item is not scheduled for review by any other policy committee or technical advisory committee.

Responsible Staff:

Shaneka Morris, Procurement Manager

Approved
General Policy Committee
Date: June 12, 2024

Witnessed By:

Attachment A - 1
May 2024 Contract/Amendment/CTO Actions

Type	Contract Number	Amendment/CTO	Vendor Name	Contract Description	Original Amount	Prior Amendments	Current Amendment	Total Amount	Total On-Call Contract Amount*
New Agreement	24-10030112		Verizon Wireless CALNet	Verizon Wireless NASPO CALNET Cellular Voice and Data Services Agreement	\$ 75,000.00	\$ -	\$ -	\$ 75,000.00	N/A
Contract Amendment	20-1002339	2	GCAP Services, Inc.	To exercise the second option term for a new contract expiration date of June 30, 2025 for Disadvantaged Business Enterprise Consulting Services	\$ 100,000.00	\$ -	\$ -	\$ 100,000.00	N/A
CTO Amendment	23-1002904	CTO No. 7.1	Mott MacDonald Group, Inc.	To increase the not-to-exceed amount for the Zero-Emission Multiple Unit Program Management Services	\$ 500,000.00	\$ -	\$ 250,000.00	\$ 750,000.00	\$20,000,000.00 (available \$9,085,973.99)
CTO Amendment	19-1002189	CTO No. 21.2	Dudek	To increase the amount for on-call services associated with Grant Writing and Management	\$ 100,000.00	\$ 147,000.00	\$ 50,000.00	\$ 297,000.00	\$6,460,390.00 (available \$11,436.73)
CTO Amendment	19-1002203	CTO No. 3.1	Trapeze Software Group, Inc.	To increase the not-to-exceed amount to add additional tasks to the existing scope of work for Metrolink Ridership Recovery/Free Rail Pass Program	\$ 87,863.00	\$ -	\$ 4,950.00	\$ 92,813.00	N/A

Attachment: May 2024 Procurement Report - PDF (10268 : May 2024 Procurement Report)

*Total amount authorized for the associated on-call services bench which is typically shared with multiple vendors and controlled via contract task orders (CTO).

Attachment A - 2
May 2024 Contingency Released Actions

Contract No. & Contingency No.	Reason for Contingency Amendment (Include a Description of the Contingency Amendment)	Vendor Name	Original Contract Amount	Prior Amendments	Prior Contingencies	Current Contingencies	Amended Contract Amount
22-1002722 No. 0C	Additional studies/updates to the SPR and ER to cover the status of on-going Contract 1 as well as the future planning of Contracts 3A and 3B for the I-10 Corridor Freight and Express Lanes Project - Contract 2 PS&E	Associated Civil & Transportation Consulting Engineer, Inc. dba Advanced Civil Technologies	\$ 57,791,176.04	\$ -	\$ 333,406.40	\$ 131,912.39	\$ 58,256,494.83
22-1002722 No. 0D	Additional coordination with Contract 1 designer to incorporate their landscaping design in the exhibits, prepare the exhibits for Contract 2 design, and additional conceptual design and preparation of exhibits for Contract 3 for I-10 Corridor Freight and Express Lanes Project - Contract 2 PS&E	Associated Civil & Transportation Consulting Engineer, Inc. dba Advanced Civil Technologies	\$ 57,791,176.04	\$ -	\$ 465,318.79	\$ 183,936.17	\$ 58,440,431.00
16-1001378 No. 2B	Additional work identified for unforeseen incidents and extended schedule for the I-215 Segments 1, 2, 3 & 5 Landscape Construction Management Services	TRC Engineers, Inc. (Vali Cooper & Associates, Inc.)	\$ 2,547,556.38	\$ -	\$ 52,000.00	\$ 38,344.83	\$ 2,637,901.21
17-1001681 No. 2B	Additional work identified to complete the SR-210 Lane Addition and Baseline Interchange Project Construction Management Services	Jacobs Project Management Co.	\$ 20,607,080.00	\$ -	\$ 293,461.94	\$ 145,449.30	\$ 21,045,991.24

Attachment: May 2024 Procurement Report - PDF (10268 : May 2024 Procurement Report)

Attachment A - 3

May 2024 Purchase Order and Purchase Order Amendment Actions

Type	PO No.	PO Posting Date	Vendor Name	Description of Services	Original Purchase Order Amount	Prior Amendments	Current Amendment	Total Purchase Order Amount
New PO	4002470	5/6/24	Igoodz, Inc. Magnet Graphix, Inc.	100 Freeway Magnet Signs FSP	\$ 2,895.00	\$ -	\$ -	\$ 2,895.00
New PO	4002473	5/10/24	Intelli-Tech	Additional GIS Workstation	\$ 8,122.54	\$ -	\$ -	\$ 8,122.54
New PO	4002474	5/16/24	CDW Government, LLC	MS Office 365 G3 Renewal	\$ 33,958.83	\$ -	\$ -	\$ 33,958.83
PO Amendment	402365	5/9/24	LH Productions	Super Chief Equipment Rental for Closed Session	\$ 3,560.12	\$ 6,439.88	\$ 5,600.00	\$ 15,600.00

Attachment: May 2024 Procurement Report - PDF (10268 : May 2024 Procurement Report)

Attachment B
May 2024 RFP's, RFQ's and IFB's

Release Date	RFP/RFQ/IFB No.	Anticipated Dollar Amount	Anticipated Award Date	Description of Overall Program and Program Budget
None				

Attachment C
May 2024 CityCom's Issued Purchase Orders/Contracts

PO/Contract No.	Vendor Name	Description of Services	Total Amount
SBCTA4997	Weatherite	Completed Maintenance & Repairs	\$4,056.00

Minute Action

AGENDA ITEM: 3

Date: June 12, 2024

Subject:

Fiscal Year 2023/2024 Budget Action Plan - Fourth Quarter Report

Recommendation:

Receive the Fiscal Year 2023/2024 Budget Action Plan – Fourth Quarter Report.

Background:

The San Bernardino County Transportation Authority’s (SBCTA) Fiscal Year 2023/2024 Budget Action Plan (BAP) establish the Board of Directors priorities for the year. The Executive Director uses this as a tool with the Executive Management Team to evaluate SBCTA’s progress in achieving the Board’s priorities. The Executive Director or his designee will provide quarterly updates on the status of the goals as listed in the attached BAP.

Financial Impact:

This item has no financial impact on the adopted Budget for Fiscal Year 2023/2024.

Reviewed By:

This item is not scheduled for any other policy committee or technical advisory committee review.

Responsible Staff:

Raymond Wolfe, Executive Director

Approved
General Policy Committee
Date: June 12, 2024

Witnessed By:

Entity: San Bernardino County Transportation Authority

Initiative #1: Transparent and Accountable Allocation Strategies

Division Strategy: Complete timely audits of Measure I and Transportation Development Act recipients

Action Plan	Milestones	Milestone Status	Responsibility
1A Manage and communicate with Audit firm to plan and complete annual audits. Monitor progress of audits. Inform Committees and Board of status of audits. Manage Transportation Development Act (TDA) triennial performance audits of SBCTA and transit operators.	Manage and complete audits - Q2	Staff held meetings with Audit firms throughout the audit process.	Finance
	Monitor audit until complete - Q2	Monitored audits during the process.	
	Committee and Board - Q3	Staff presented completed audits to Committees in March and Board in April.	Fund Administration
	Award consultant contract for preparation of TDA triennial performance audits - Q1	Contract was awarded at July 2023 SBCTA Board meeting.	
	Present TDA triennial performance audits to the SBCTA Board - Q4	Audits were completed and presented at the May 2024 SBCTA Board meeting.	Fund Administration, Transit
Notes			

Division Strategy: Use strategic programming to ensure that no funds are lost

Action Plan	Milestones	Milestone Status	Responsibility
1B Manage projects closely with California Department of Transportation (Caltrans) to ensure adequate resources are available when projects are ready.	May 1 is Caltrans' deadline for guaranteed access to federal Obligation Authority (OA) – Q4	While OA is no longer monitored at the County-level in the SCAG region, SBCTA obligated more than its historical share of OA by May 10th.	Fund Administration, Project Delivery, Transit, Planning
	June 30 is California Transportation Commission (CTC) deadline for project allocation or extension requests – Q4	Staff has submitted any required allocation or extension requests to meet the June 30th deadline.	
1B Manage projects to ensure funds are not lost.	Request allocation of competitive grant funds awards, Local Partnership Program formula share, and State Transportation Improvement Program (STIP) for I-15 Express Lanes Contract 1 - Q2	Delayed. The CTC did not allocate the funds at the December 2023 CTC meeting as anticipated. The CTC approved the allocation request at the January 2024 CTC meeting.	Fund Administration
	Request allocation or extension of competitive grant funds (if awarded) for I-10 Contract 2 - Q4	Staff has submitted a request for approval of an extension at the June 2024 CTC meeting.	
	Request allocation or extension of competitive grant funds (if awarded) for US-395 Phase 2 - Q4	Staff has submitted a request for approval of an extension at the June 2024 CTC meeting.	
	Request allocation of Planning, Programming and Monitoring funds for Fiscal Year 2024/2025 - Q4	Staff has submitted an allocation request for the June 2024 CTC meeting.	
1B Work with SBCTA staff, local agencies, transit operators, and Caltrans to prepare project submittals for inclusion in the 2025 Federal Transportation Improvement Program (FTIP) ensuring consistency with the Regional Transportation Plan and financial constraint requirements.	Coordinate to collect and submit necessary information to SCAG for 2025 FTIP development - Q3	Staff has submitted the input for the 2025 FTIP to SCAG and is coordinating requests for additional information from SCAG with project sponsors.	Fund Administration
1B Monitor approval of 2024 State Transportation Improvement Program (STIP).	Participate in development of the 2024 STIP Guidelines to seek to align STIP programming with the 2023 Update to the 10-Year Delivery Plan and ensure San Bernardino County receives its equitable share in 2024 STIP – Q3	The SBCTA Board approved the proposed STIP projects in September 2023. The CTC approved the STIP programming in March 2024 but delayed the funding for San Bernardino Line Double Track by one year. Staff will work with CTC staff in the future to advance the funds when the project is ready for construction.	Fund Administration
Notes			
I-10 Contract 2 and US 395 Phase II were awarded grant funds.			

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San Bernardino County Transportation Authority
Fiscal Year 2023/2024 Budget Action Plan

Division Strategy: Protect San Bernardino County's equitable share of available state and federal funds				
Action Plan	Milestones	Milestone Status	Responsibility	
1C	Develop funding strategies that maximize resources available and result in opportunities to seize additional state and federal funds.	Nominate projects to SCAG for programming of federal formula funds in accordance with the 2023 Update to the 10-Year Delivery Plan and the 10-Year Plan for transit operators' implementation of the zero emission bus mandate - Q3	Staff submitted projects to SCAG for consideration on March 29, 2024. SCAG Regional Council will approve project selections in June 2024.	Fund Administration, Project Delivery, Transit
	Notes			
Division Strategy: Develop long-term bonding needs to help leverage other funds and deliver projects				
Action Plan	Milestones	Milestone Status	Responsibility	
1D	Establish plan for 2024 sales tax revenue bond program through development of the 2023 Update to the 10-Year Delivery Plan.	Present current status of Measure I Programs and proposed projects for inclusion in 2023 Update to the 10-Year Delivery Plan to Policy Committees - Q1	Staff recommended delay to Q4 - see notes below. Agenda Items concerning current status were presented to the Transit Committee and Metro Valley Study Session in May and to the Mountain/Desert Policy Committee in June.	Fund Administration (Finance, Project Delivery, Transit, Planning)
		Present final 2023 Update to the 10-Year Delivery Plan to the Board for approval - Q2	Staff recommends delay to Q1 FY 2025 - see notes below.	
		Monitor implementation of the 2023 Update to the 10-Year Delivery Plan and Measure I revenue receipts to identify need for short-term borrowing – Ongoing	Ongoing.	
Notes				
Staff recommends delaying the approval of the update to the 10-Year Delivery Plan to September 2024 assuming the I-15 construction contract is awarded in June 2024. The CTC did not allocate the I-15 funds at the December CTC meeting as anticipated delaying the construction bid. Update to the 10-Year Delivery Plan relies on cash flow borrowing between the Freeway Program and the Interchange Program to be able to delay bonding until 2026 and save on interest costs. Recent increases to the I-15 cost estimate may limit the borrowing ability depending on the final actual cost. Delaying the adoption of the update will allow staff to analyze whether it is necessary to bond in 2025 rather than 2026.				
Division Strategy: Manage geographic equity in fund distribution across the County				
Action Plan	Milestones	Milestone Status	Responsibility	
1E	Manage long-term strategy for ensuring geographic equity in fund distribution over the life of the Measure.	Monitor results of SCAG project selection for federal formula funds and ensure long-term equity between subareas of San Bernardino County is maintained - Q4	Projects for SCAG consideration were due to SCAG March 29, 2024. SCAG Regional Council will approve project selections in June 2024.	Fund Administration
	Notes			
Division Strategy: Manage SBCTA railroad right-of-way in an efficient and comprehensive fashion				
Action Plan	Milestones	Milestone Status	Responsibility	
1F	Manage SBCTA railroad right of way in an efficient and comprehensive fashion.	Ongoing	Ongoing.	Transit
	Notes			

Attachment: FY 23_24 Budget Action Plan Quarter 4 (10521 : Fiscal Year 2023/2024 Budget Action Plan -

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San Bernardino County Transportation Authority
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Initiative #2: Engender Public Trust				
Division Strategy: Secure an unmodified opinion of Comprehensive Annual Financial Report (Annual Report)				
	Action Plan	Milestones	Milestone Status	Responsibility
2A	Plan meeting at interim field work with Executive Board officers and Certified Public Accountant (CPA) firm.	Meet with Executive Board - Q2 Q4	Delayed to FY 2025 Q1.	Finance
	Notes			
	Contract award for audit services will be taken to July Board for approval. After Notice to Proceed is issued, a meeting will be scheduled with the auditor and Executive Board.			
Division Strategy: Obtain Certificate of Achievement for Excellence in Financial Reporting				
	Action Plan	Milestones	Milestone Status	Responsibility
2B	Apply for Government Finance Officers Association (GFOA) award for the Annual Financial Report (Annual Report).	GFOA Award submittal - Q3	Application submitted in December 2023.	Finance
	Notes			
Division Strategy: Complete Measure I Biennial Agreed Upon Procedures				
	Action Plan	Milestones	Milestone Status	Responsibility
2C	Complete agreed upon procedures (AUP) for Measure I programs.	AUP to be completed - Q3	Completed February 2024.	Finance
	Notes			
Division Strategy: Obtain Distinguished Budget Presentation Award				
	Action Plan	Milestones	Milestone Status	Responsibility
2D	Apply for GFOA award for annual budget.	GFOA Award submittal - Q1	Application submitted in July 2023.	Finance
	Notes			
Division Strategy: Complete internal control self-assessment to identify areas of improvement.				
	Action Plan	Milestones	Milestone Status	Responsibility
2E	Complete review of annual internal control self-assessment (AICA).	Review of AICA - Q3	Delayed to Q4 to allow for corrections and another round of reviews.	Finance
	Notes			
Delay is due to adding explanations to the responses on the AICA.				
Division Strategy: Implement the Records Retention Schedule				
	Action Plan	Milestones	Milestone Status	Responsibility
2F	Continue with the implementation of the Records Retention Program, including establishing quarterly meetings with records coordinators, two annual clean up days, a system that will assist tracking which documents have passed retention.	Clean up day - Q1 & Q3	Completed.	Executive Administration and Support
		Identify the retention period for all remaining boxes located at SBCTA offsite storage - Q4	Out of 2,200 boxes located offsite, only 180 boxes remain without retention.	
		Automate at least four (4) records series in Laserfiche -one per quarter - Q4	On schedule to be completed before June 30th.	
		Finalize File Plans for SharePoint files for four (4) departments - one per quarter - Q4	Completed.	
Notes				
Clean up completed - Destroyed 2,430 electronic files, 42 boxes on-site, 152 boxes located at offsite storage, and 676 disks.				

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Initiative #3: Focus on Creating and Strengthening Collaborative Partnerships with Governmental and Business Entities

Division Strategy: Work with other governments and business groups to leverage resources for our region's benefit

Action Plan	Milestones	Milestone Status	Responsibility	
3A	Prepare tools to assist local agencies with changes to statewide housing policies and environmental regulations.	Continue to explore a Housing Trust for our region as a way to leverage additional funds for affordable housing. Work with CCMTAC in Q1/Q2 and report to Board on possible actions and funding.	Met with Housing Trust Ad Hoc Committee in October. Funding MOU, Administrative Plan, and implementation on hold due to State budget deficit. SBCOG still awaits the SCAG REAP award to move forward and has submitted a request for federal earmark funding.	COG
	Partner with local and government agencies to improve opportunities in workforce development.	Work with state, County and cities to expand participation of our Business to Business event as a tool for improving access for smaller businesses - Event scheduled in Q2.	Completed.	
	Establish Housing Trust JPA, pending Board approval and successful REAP application.	Execute JPA with member agencies - Q3	On hold due to State budget deficit. SBCOG still awaits SCAG REAP award to move forward, and had submitted request a request for federal earmarks.	
		Review draft Administrative Plan - Q4	Delayed.	
	Smart County Master Plan.	Complete draft of Early Action Plan - Q1	Completed.	
	Continue close coordination with Brightline West to support their construction along the San Gabriel Subdivision between I-15 and Cucamonga Station, as well as coordinated development of the Cucamonga Station.	Ongoing	Ongoing.	Transit
Notes				
SBCTA received a \$25 million RAISE grant for the Brightline West High-Speed Intercity Passenger Rail System-High Desert Stations Project. SBCTA, Brightline and FRA working to complete the grant agreement and a sub-recipient agreement between Brightline and SBCTA. Brightline was awarded \$3 billion in Federal-State Partnership for Intercity Passenger Rail Grant Program funds on 12/5/23. Establishment of the Housing Trust has been delayed due to State's draft budget proposal that could potentially cut the REAP 2.0 program in half. Staff is working with SCAG to preserve the funding level of the REAP 2.0, but at this point SCAG has sent out a Stop-Work order.				

Division Strategy: Enhance COG role, and leverage synergy of being the CTA and COG

Action Plan	Milestones	Milestone Status	Responsibility	
3B	Plan annual City/County Conference.	In person conference set for Spring 2024.	Completed. Conference was held May 16-17, 2024.	Legislative/Public Affairs, COG
	Collaborate with member agencies through City/County Manager Technical Advisory Committee (CCMTAC).	Ongoing bimonthly meetings.	Ongoing.	
Notes				

Division Strategy: Enhance SBCOG's and the region's ability to compete for grant funding

Action Plan	Milestones	Milestone Status	Responsibility	
3C	Host grant writing workshop for our members and other local government partners.	Host Workshop - Q3	Shifted direction and are instead providing direct grant-writing assistance, outreach, and graphic support for ATP Cycle 7. Worked with local jurisdictions to varying degrees on 8 ATP grant applications, 11 REAP applications, and 7 Carbon Reduction Program applications.	COG
	Communicate grant opportunities to member agencies.	Ongoing	Ongoing.	
Notes				

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Division Strategy: Assist local governments with environmental and efficiency initiatives				
Action Plan	Milestones	Milestone Status	Responsibility	
3D	Develop a plan to replace the EV chargers where needed at the Depot.	Q2	See notes. Release RFP - Q1 FY 2025	Management Services, Transit
	Work with local agencies with Zero Emission Vehicle (ZEV) readiness plan and assist in identifying grant opportunities for charging infrastructure.	Include EV charging infrastructure grants when available in monthly grant updates.	Initiative for ZEV was included in the Smart County Master Plan and reviewed by Board on November 1. Application for ZEV funding was included in EPA Climate Pollution Reduction Grant. Priority Climate Action Plan was completed. CPRG grant submitted 4/1. Worked with AQMD to support their application.	Air Quality/Mobility
	Assist local agencies with reducing energy consumption and achieving savings through formation of the Inland Regional Energy Network (I-REN).	Implement energy programs in partnership with local jurisdictions in three focus areas: Public Sector, Workforce Education and Training, and Codes and Standards - Ongoing	SBCOG I-REN has conducted nine orientations, which resulted in 18 data meetings and 15 completed facility audits. In addition, five I-REN Energy Fellows were deployed. and 13 Codes & Standards training webinars have been offered.	
Notes				
In December 2023, the Board authorized the Executive Director, or designee, to release a RFP to replace chargers at depot, including administering of EV program by a third party. RFP scope of work is being developed and is scheduled to be released Q1 FY 2025.				
Initiative #4: Accelerate Delivery of Capital Projects				
Division Strategy: Deliver the Redlands Passenger Rail Project & Implement Arrow Service				
Action Plan	Milestones	Milestone Status	Responsibility	
4A	Complete project close-out	Q2	Delayed to Q4.	Transit
	Notes			
Final contract acceptance for the mainline construction and maintenance facility issued in Q3 scheduled to be completed by end of Q4 as part of the FY close-out process.				
Division Strategy: Support Delivery the West Valley Connector Phase I				
Action Plan	Milestones	Milestone Status	Responsibility	
4B	Start construction	Q1	Completed.	Transit
	Notes			
Contract award approved at September 2023 Board meeting.				
Division Strategy: Produce Zero Emission Multiple Unit				
Action Plan	Milestones	Milestone Status	Responsibility	
4C	Begin ZEMU testing in US	Q2	Completed.	Transit
	Start construction of hydrogen fuel station	Q2	Completed - Contract awarded.	
	Start construction of maintenance facility retrofit	Q1	Completed - Contract awarded.	
Notes				
ZEMU vehicle testing in Europe concluded on 5/26/2023 and was delivered to U.S. (Pueblo, Colorado) in August 2023. ZEMU was presented at the APTA Expo in October 2023, and testing resumed in Pueblo, Colorado. The hydrogen fueling contract and Arrow maintenance facility retrofit contract were awarded in Q2.				
Division Strategy: Deliver the Tunnel to ONT Project				
Action Plan	Milestones	Milestone Status	Responsibility	
4D	Environmental Document approval	Q4	Delayed to FY 24/25 Q2.	Transit
	Award design-build contract	Q4	Delayed to FY 24/25 Q4.	
Notes				
Project delayed due to additional work to screen additional build alternatives requested by the Federal Transit Administration (FTA).				

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Division Strategy: Delivery of Capital Projects - Plans, Specifications and Estimate (PS&E); Engineering Reports Milestones:			
Action Plan	Milestones	Milestone Status	Responsibility
4E	I-15 Corridor Freight and Express Lanes Project (Contract 1)	PS&E approval - Q1	Completed.
	SR-210 Waterman Avenue	PS&E approval - Q1	Delayed to Q3. See note.
	I-215 Bi-County Landscaping	PS&E approval - Q2	On Schedule.
	I-10 Mount Vernon Avenue	PS&E approval - Q2	Delayed to Q4. See note.
	I-10 Corridor Freight and Express Lanes Project (Contract 2) Segment 2a	PS&E approval - Q4	On Schedule.
	US-395 Widening Project - Phase 2	PS&E approval - Q4	On Schedule.
	Notes		
Final PS&E package for SR 210 Waterman Avenue was submitted to Caltrans on 10/18; comments were received on January 24, 2024. Final PS&E package is being finalized for Caltrans approval. Final PS&E package for I-10 Mt. Vernon Avenue is delayed due to a project scope of work change that involved ROW and utility impacts.			

Division Strategy: Delivery of Capital Projects - Construction Milestones:			
Action Plan	Milestones	Milestone Status	Responsibility
4F	I-10 Eastbound Truck Climbing Lane	Start construction - Q1	Completed in Q2.
	I-215 University Parkway	Start construction - Q2	Delayed to FY24/25 Q1. See note.
	SR-210 Waterman Avenue	Start construction - Q2	Delayed to FY24/25 Q1.
	I-215 Bi-County Landscaping	Start construction - Q3	On Schedule.
	Metrolink ATP - Phase 2	Start construction - Q3	On Schedule.
	I-10 Mount Vernon Avenue	Start construction - Q4	Delayed to FY24/25 Q1.
	SR-210 Waterman Avenue	Complete for Beneficial Use - Q4	Delayed to FY24/25 Q1.
Notes			
I-215 University Parkway start of construction was delayed due to ROW and utility issues that delayed final design approval. Construction contract is expected to be brought before Board for approval in September 2024.			

Division Strategy: Delivery of Express Lanes Projects			
Action Plan	Milestones	Milestone Status	Responsibility
4G	I-15 Corridor Freight and Express Lanes Project (Contract 1)	Start construction - Q3	Delayed to FY 24/25 Q2.
	I-10 Express Lanes Contract 1 Toll Collections	Revenue Service Commencement Readiness - Q2	Readiness delayed to FY 24/25 Q1 to coincide with I-10 Contract 1 Revenue Service Commencement.
	I-10 Corridor Freight and Express Lanes Project (Contract 1)	Complete for Beneficial Use - Q4	Delayed to FY 24/25 Q1.
Notes			

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Initiative #5: Maximize Funding Opportunities and Cost-Effectiveness of Investments

Division Strategy: Conduct regional forums to discuss issues of importance across our region

Action Plan	Milestones	Milestone Status	Responsibility
5A Advocate for policies and funding formulas at the state and federal levels that are favorable for SBCTA to construct and deliver transportation projects.	Support for legislation regarding progressive design build delivery and oppose legislation that would adversely impact transportation funding. Build coalitions in support of state and federal transportation grant applications and budget items as well as additional transit operational funding. Maintain good working relationships and communication with state and federal officials.	This Legislative cycle SBCTA will sponsor AB 2590 (Reyes) to increase procurement thresholds. Monitoring legislative proposals that are currently in a spot bill format - Ongoing	Legislative/Public Affairs

Notes

Division Strategy: Operate and Maintain SB Express Lanes

Action Plan	Milestones	Milestone Status	Responsibility
5B I-10 Express Lanes Contract 1 Operations and Maintenance.	Ongoing starting Q3	Operations and Maintenance delayed to FY 24/25 Q1 to coincide with I-10 Contract 1 Revenue Service Commencement.	Toll Operations

Notes

Initiative #6: Awareness of SBCTA Programs, Services, and Transit Options

Division Strategy: Build awareness of SBCTA programs and services

Action Plan	Milestones	Milestone Status	Responsibility
6A Highlight Measure I's contributions to the region's transportation system.	Ongoing: Annual state of transportation event; monthly blog series "Measure I (Impact)".	B2B and State of Transportation Complete; Blog series ongoing.	Legislative/Public Affairs, Fund Administration
Market SBCTA identity, promote awareness of programs and services.	Ongoing: Employee spotlight blog series.	Ongoing. Added Arrow Outreach and ZEMU campaigns to marketing effort.	Legislative/Public Affairs

Notes

Division Strategy: Leverage and grow public outreach and communication services

Action Plan	Milestones	Milestone Status	Responsibility
6B Continue to enhance traditional and social media presence.	Ongoing: providing project updates, alerts, and information.	Growth on all platforms continue.	Legislative/Public Affairs
Utilize On-Call Public Outreach Contracts, On-Call Graphic Design Services Contracts, Marketing & Branding Services Contract, and Redlands Passenger Rail Project Outreach Contract to utilize new tools and capitalize on communication opportunities throughout the region.	Ongoing: providing services for Mt. Vernon Viaduct, I-10 Express Lanes, 210 freeway, Redlands Passenger Rail Project.	Business programs initiated for WVC and Mt. Vernon Viaduct Projects - ongoing	Legislative/Public Affairs, Transit
Utilize On-Call Graphic Design Services Contracts & Marketing and Branding Services Contract to support each department in their efforts to communicate internally and externally.	Ongoing: provide assistance with presentations, graphics (i.e. Budget Book), and collateral materials.	Ongoing.	Legislative/Public Affairs, Fund Administration

Notes

Division Strategy: Highlight transit options in San Bernardino County

Action Plan	Milestones	Milestone Status	Responsibility
6C In partnership with transit operators, highlight transit connectivity options in the region.	Ongoing: provide legislative information and updates, advocate at the state and federal levels for transit maintenance and operations funding.	Ongoing. "Transit is Easy" campaign active in Q3.	Legislative/Public Affairs, Transit

Notes

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Division Strategy: SB Express Lanes Customer Support				
Action Plan	Milestones	Milestone Status	Responsibility	
6D	Open SB Express Lanes Walk-In Center.	Q2	Opening delayed until Q4, opening anticipated June 2024.	Toll Operations
	SB Express Lanes Website Live.	Q2	Live website delayed until Q4. Site build out and ready to launch June 2024.	Toll Operations
	Notes			
Initiative #7: Long Range Strategic Planning				
Division Strategy: Analyze long range transportation strategy in a financially constrained framework				
Action Plan	Milestones	Milestone Status	Responsibility	
7A	Prepare a Long Range Multimodal Transportation Plan (LRMTP).	Draft Existing Conditions Report - Q2	Existing Conditions Story Map was published on SBCTA website. Separate Existing Transit Conditions report also published.	Planning, Transit, Fund Administration
		Vision Document and Scenario Analysis - Q4	Analysis of four scenarios prepared: work-at-home, land use, transit service, and pricing.	
	Complete San Bernardino County input on growth and projects to the Southern California Association of Governments (SCAG) Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS).	Provide input to the Draft RTP/SCS - Q2	Completed.	Planning, Fund Administration
		Provide comments and final input to the RTP/SCS - Q3	Final 2024 RTP/SCS being prepared by SCAG in response to comments. Approved by SCAG in April 2024.	
Notes				
Division Strategy: Conduct strategic planning of Measure I projects and update policies to be consistent with practice				
Action Plan	Milestones	Milestone Status	Responsibility	
7B	Maintain Measure I Strategic Plan Parts 1 and 2.	Ongoing	No updates in Q4.	Planning, Fund Administration
	Notes			
Division Strategy: Provide current, quality planning data				
Action Plan	Milestones	Milestone Status	Responsibility	
7C	Support other departments with data analysis and mapping/Geographic Information System (GIS).	Multiple analysis/mapping efforts conducted for Project Delivery, Transit, and Air Quality/Mobility - Ongoing	Ongoing. Supported grant applications and analysis activities.	Planning
	Update SBTAM "Plus" modeling system.	Model Validation Report - Q1	Validation report completed.	
		VMT/Land Use Model and Scenario Samples - Q2	VMT/Land Use Model completed.	
		Final Documentation & Presentation - Q4	SBTAM+ model completed in March. Additional training occurred in Q4.	
Incrementally implement an SBCTA agency-wide data and analytics dashboard.	Ongoing	Ongoing.		
Notes				

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Division Strategy: Conduct subarea and modal studies				
Action Plan	Milestones	Milestone Status	Responsibility	
7D	State Route 247/62 Emergency Bypass Lane Study.	Initiate study - Q3	Consultant selected. Notice to proceed issued in June.	Planning
	Conduct SR-18/138 Corridor Study with Metro and Caltrans.	Prepare two PSR-PDS documents (Project Study Report - Project Development Support): One for near-term and one for long-term - Q2	PSR-PDS completed for near-term project. Discussing joint funding with Caltrans for PA&ED phase. Preparation of PSR-PDS for long term project deferred until more appropriate time in future.	
Notes				

Initiative #8: Environmental Stewardship, Sustainability, and Grant Applications

Division Strategy: Monitor and Provide Input to State, Federal, and Regional Plans and Guidelines				
Action Plan	Milestones	Milestone Status	Responsibility	
8A	Provide technical comments on draft reports, plans, and guidelines from Caltrans, CTC, OPR, CARB, CalSTA, and other state agencies.	Ongoing	CTC continued workshops on SB 1 grant application guidelines in Q4. SBCTA providing input.	Planning, COG
	Prepare Grant Applications for state (e.g. SB 1, Active Transportation, etc.), federal (e.g. RAISE, INFRA/Mega, etc.) and other funding.	Senate Bill 1 (SB1) Grants Identified - Q2	ONT Connector submitted for partnership opportunity with Caltrans for SCCP grant. Strategy defined for TCEP applications.	Planning, Fund Administration
		Other state and federal grants - Ongoing	Applications prepared for EPA, CEC in partnership with other regional agencies.	
Notes				

Division Strategy: Assist jurisdictions, developers, and other stakeholders with area-wide sustainability studies

Action Plan	Milestones	Milestone Status	Responsibility	
8B	Begin development of Vehicle Miles Traveled (VMT) mitigation bank and/or approaches to mitigation under SB 743, subject of funding.	Apply for REAP 2.0 VMT Mitigation Bank Funding - Q1	REAP 2.0 funds awarded for VMT Mitigation Bank in Q1. Agreements being developed. Grants on hold due to state's budget deficit.	Planning
		Start MOU/RFP Process - Q2/Q3	MOU development with SCAG initiated in Q1. Selections made for Contract Task Order (CTO) consultant services. To prepare for eventual funding, a scope of work for future task order has been developed.	
	Work with California Department of Fish and Wildlife (CDFW) and other stakeholders to complete the Regional Conservation Investment Strategy (RCIS), subject to Board approval.	Final submittal to CDFW -Q4 Q2	Completed - Final RCIS submitted in Q2.	
	Assist local agencies with housing initiatives under Regional Early Action Plan (REAP) 2.0.	Apply for REAP 2.0 Planning Funding - Q1	REAP 2.0 awards announced by SCAG in Q1 - \$17.946 million across 5 SBCTA and SBCOG programs. Funds on hold due to state budget deficit.	
Work with SCAG on REAP 2.0 application to California Housing and Community Development - Q2		Working on worst case scenario of 50% funding cut on REAP 2.0.		
Notes				
The Regional Conservation Investment Strategy Action Plan milestone was updated from Quarter 4 to Quarter 2 to be consistent with the grant deadline. VMT Mitigation Bank Funding is another program dependent on REAP 2.0 funding. The program is on hold due to the State's budget deficit.				

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San Bernardino County Transportation Authority
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Division Strategy: Prepare effective active transportation plans				
Action Plan	Milestones	Milestone Status	Responsibility	
8C	Develop Active Transportation Plans for the Safe Routes to School Program (with SBCSS and the County DPH).	Begin outreach to schools - Q1	Outreach ongoing.	Planning
	Manage Transit Development Act (TDA) Article 3 bike/ped project invoicing.	Award announcements - Q1	Awards announced in Q1. Management ongoing.	
Notes				

Division Strategy: Implement components of ATP Metrolink Station Accessibility Grant				
Action Plan	Milestones	Milestone Status	Responsibility	
8D	Implementation of Phase 2 of the Bicycle and Pedestrian improvements around the Metrolink Stations on the San Bernardino and Riverside Lines.	Construction Completion - Q4	Delayed - Construction to be completed in January 2025.	Planning, Project Delivery
	Create Active Transportation Project Prioritization List based on input from local jurisdictions and assessment of funding opportunities.	Completion - Q2	Development of draft priority list completed in Q2 and circulated to Transportation TAC for comment.	Planning
Notes				

Division Strategy: Develop and administer programs to improve the efficient use of our existing freeway network				
Action Plan	Milestones	Milestone Status	Responsibility	
8E	Implement a mobile call box program for 511 program.	Award program implementation contract. Needs to occur after call handling contractor has been secured and able to implement systems/program - Q4	Delayed - See notes.	Air Quality/Mobility
	Administer Freeway Service Patrol (FSP) and call box system to improve traffic safety, reduce congestion and traffic delays.	Ongoing. Present annual report on programs to Board - Q4	On Schedule.	
	Maintain the SB County Call-Box System.	Ongoing	Ongoing.	
	Merge the regional rideshare database with OCTA, LA Metro, RCTC, and VCTC enhancing ride matching functionality and customer experience.	Q2	Completed.	Transit
Notes				
The implementation of a mobile call box program for 511 will be delayed due to change in approach currently being evaluated wherein CHP would answer mobile 511 calls. To be resolved in FY 24/25. The regional rideshare database was consolidated on September 26th between LA Metro, OCTA, RCTC, SBCTA and VCTC, enhancing commuter ride matching options for users. The five partner agencies are working together to help reduce vehicle miles traveled and traffic congestion, with a goal of improving air quality in Southern California.				

Division Strategy: Support access to jobs, healthcare, and education while reducing roadway congestion.				
Action Plan	Milestones	Milestone Status	Responsibility	
8F	Administer multi-modal programs to reduce congestion and improve quality of life including coordination with transit providers and Consolidated Transportation Service Agencies (CTSA) serving San Bernardino County.	Work with the transit providers and CTSAs, to identify key activities for inclusion in the SBCTA LRMTF, and proposed Fiscal Year 2022/2023 budget based on the approved Public Transit-Human Services Transportation Coordination Plan – Q3	Completed.	Transit, Fund Administration, Legislative/Public Affairs, Planning
Notes				

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Initiative #9 Meet Equity Goals of SBCTA/SBCOG				
Division Strategy: Ensure Equity goals met for internal structure and policies.				
	Action Plan	Milestones	Milestone Status	Responsibility
9A	Begin Equity Policy Framework to establish equity goals and policies for ensuring structural equity within the business processes and procedures within SBCTA/SBCOG.	Begin project following procurement - Q2	Consultant selection completed in Q2. Notice to Proceed given to consultant in Q4.	COG
	Notes			
Division Strategy: Ensure Equity goals met for projects and programs implemented in collaboration with SBCOG/SBCTA member agencies.				
	Action Plan	Milestones	Milestone Status	Responsibility
9B	Outdoor Equity Program, pending funding agreement from state department of parks.	Begin Program - Q1	Outdoor Equity will not be moving forward as vendor could not produce required insurance. SBCOG did not accept the grant.	COG
	Small Business Training Program	Finish study - Q1	Study completed in Q2. Will be presenting to CCMTAC and GPC in Q4.	COG
Notes				

Yellow shading means the work is behind schedule
 Red text signifies urgent and significant challenges in completing the task

Minute Action

AGENDA ITEM: 4

Date: June 12, 2024

Subject:

Biennial Review of Conflict of Interest Code Policy No. 10102

Recommendation:

That the General Policy Committee recommend the Board, acting as the San Bernardino County Transportation Authority (SBCTA):

A. Perform the biennial review of SBCTA’s Policy No. 10102 Conflict of Interest Code and amend Appendix A with updated employee job titles and disclosure categories, as outlined in the attachment.

B. Direct the SBCTA Clerk of the Board to submit the Policy and Appendix A to the San Bernardino County Board of Supervisors for approval.

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. San Bernardino County Transportation Authority (SBCTA) has adopted a Conflict of Interest Code and it is set forth in SBCTA 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. As the filing officer, the SBCTA Clerk of the Board coordinates the biennial review, which shall be completed by September 1st of every even-numbered year. SBCTA staff has reviewed Policy No. 10102, Conflict of Interest Code, and recommends amendments to Appendix A, which lists designated positions which make or participate in the making of decisions which may foreseeably have a material effect on private financial interests. It is recommended that Appendix A be amended to reflect current job titles. The amended Appendix A attached to this item reflects the most current titles for those positions covered under the Conflict of Interest 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 SBCTA Board reviews SBCTA’s Conflict of Interest Code and amends Appendix A, it must be submitted to the San Bernardino County Board of Supervisors for their review.

Financial Impact:

This item has no financial impact on the adopted Budget for Fiscal Year 2024/2025.

Reviewed By:

This item is not scheduled for review by any other policy committee or technical advisory committee. SBCTA General Counsel has reviewed this item and the policy revisions.

Entity: San Bernardino Council of Governments, San Bernardino County Transportation Authority

General Policy Committee Agenda Item
June 12, 2024
Page 2

Responsible Staff:
Marleana Roman, Clerk of the Board

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Approved
General Policy Committee
Date: June 12, 2024
Witnessed By:

San Bernardino Council of Governments
San Bernardino County Transportation Authority

San Bernardino County Transportation Authority	Policy	10102
Adopted by the Board of Directors —Sept. 2, 1992	Revised	<u>9/7/2022</u> <u>07/03/2024</u>
Conflict of Interest Code	Revision No.	<u>45</u> <u>16</u>

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I. PURPOSE

The Political Reform Act, Government Code Sections 81000, et seq., requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission adopted a regulation, Title 2 Calif. Code of Regulations (CCR) Section 18730, which contains terms of a standard conflict of interest code, which can be incorporated by reference into a local agency's conflict of interest code, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings.

II. POLICY

The terms of Title 2 CCR Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference and, along with the attached [Appendix A](#) in which officials and employees are designated and disclosure categories are set forth, constitute the Conflict of Interest Code of SBCTA.

Designated employees shall file statements of economic interests with the Clerk of the Board who will make the statements available for public inspection and reproduction (Government Code Section 81008). Statements for all designated employees will be retained by the Clerk of the Board.

SBCTA will review this policy every even-numbered year, and if change in the policy is required, will revise the policy. SBCTA will file a statement of review with the San Bernardino County Board of Supervisors, SBCTA's code reviewing body, every even-numbered year.

III. REVISION HISTORY

Revision No.	Revisions	Adopted
0	Amended Conflict of Interest Code for SANBAG approved.	09/02/92
1	Modifications to Appendix A and Appendix B approved.	02/05/97
2	Amendment to Appendix A approved by SANBAG Board of Directors.	04/05/00
3	Appendix A: Removed Advanced Transportation Development Manager	01/10/07
4	Par. I: Added paragraph heading PURPOSE. Par. II: Added paragraph heading POLICY; amended the first paragraph and added two new paragraphs that replace the existing text. Appendix A: Added Construction Manager, Contracts/Controls Manager, and Project Delivery Manager; changed category designation for Board of Directors (City designees, Executive Director, and Chief Financial Officer from Category 2 to Category 1; added clarification that Form 700s filed by the Board of Directors (County designees) are filed with the Clerk of the Board of Supervisors, not SANBAG; and revised the descriptions for Category 1 and Category 2.	06/03/09
5	Appendix A: Added Director of Programming, Chief of Planning, Chief of Programming, Chief of Transit & Rail Programs, Human Resources & Information Services Administrator, and Procurement/Risk Management/Contracts Administrator. Changed the following titles: Director of Freeway Construction to Director of Project Delivery, Director on Intergovernmental & Legislative Affairs to Director of Legislative Affairs, Director of Planning/Programming to Director of Planning, and Director of Air Quality/Mobility Programs to Chief of Air Quality/Mobility Programs. Removed the Contracts/Controls Manager.	06/30/12
6	Appendix A: Added General Counsel – missed in Rev. 5. Corrected titles for Director and Chief of Fund Administration and Programming.	08/06/12
7	Amended Purpose, Policy, and Appendix A per BOD 12/3/14 (Agenda item 10)	12/03/14

8	Amended Purpose, Policy, and Appendix A per BOD 1/6/16 (Agenda item 7)	01/06/16
9	Revised to be consistent with SB1305. Change approved by the Board on January 4, 2017, Agenda Item 6.	01/04/17
10	Amendment to Appendix A approved by SBCTA Board of Directors 7/11/18 (Agenda item 5)	07/11/18
11	Appendix A: Revised category for Chief of Fiscal Resources and added Corridor Manager. Approved by the Board on June 5, 2019, Agenda Item 24.	06/05/19
12	Amendment to Appendix A approved by SBCTA Board of Directors 6/3/2020	6/3/2020
13	Appendix A: Revised footnote regarding when consultants are required to file Form 700. Approved by the Board on March 3, 2021, Agenda Item 38.	03/03/21
14	Appendix A: Revised job titles and provision defining which consultants are required to file a Form 700	02/02/2022
15	Appendix A: Updates to job titles. Approved by the Board on September 7, 2022, Agenda Item 6.	09/07/2022
<u>16</u>	<u>Appendix A: Updates to job titles.</u>	<u>07/03/2024</u>

Conflict of Interest Code – Designated Employees	Policy	10102 Appendix A
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	Designated Employees	Categories
1.	Accounting Manager	1
2.	Accounting Supervisor	2
3.	Assistant General Counsel	2
4.	Board of Directors (County designees)*	1
5.	Board of Directors (City designees)	1
6.	Board of Directors Alternates (City designees)	1
7.	Board of Directors Ex Officio Alternate Member	1
8.	Board of Directors Ex Officio Member	1
9.	Chief Financial Officer	1
10.	Chief of Air Quality/Mobility Programs	2
11.	Chief of Council of Governments and Equity Programs	2
12.	Chief of Express Lanes	2
44.13	Chief of Fiscal Resources	1
42.14	Chief of Fund Administration	2
43.15	Chief of Information Technology	2
44.16	Chief of Legislative and Public Affairs	2
45.17	Chief of Project Controls	2
46.-	Chief of Toll Operations	2
47.18	Clerk of the Board/Administrative Supervisor Manager	2
48.19	Construction Manager	2
49.20	Consultant **	2
20.21	Corridor Manager	2
21.22	Council of Government and Equity Programs Manager	2
23.	Data and Analytics Manager	2
22.24	Deputy Director of Planning and Regional Programs	1
23.25	Deputy Director of Transit and Rail Programs – Capital Delivery	1
24.26	Deputy Executive Director	1
27.	Director of Express Lanes	1
25.28	Director of Fund Administration	1
26.29	Director of Legislative and Public Affairs	1
27.30	Director of Management Services	1
28.31	Director of Planning and Regional Programs	1
29.32	Director of Project Delivery	1
30.-	Director of Special Projects and Strategic Initiatives	4
31.-	Director of Toll Operations	4
32.33	Director of Transit and /Rail Programs	1
33.34	Energy Project Program Manager	2
35.	Enterprise Risk Manager	2
34.36	Executive Director	1
37.	Express Lanes Financial Supervisor	1

35-38	General Counsel	1
36-39	Legislative Analyst	1
37-40	Multimodal Mobility Programs Administrator	2
41.	Planning Manager	2
38-42	Procurement Analyst (I, II and III)	2
39-43	Procurement Manager	2
40-44	Project Controls Analyst (I, II and III)	2
41-45	Project Controls Manager	2
42-46	Project Delivery Manager	2
43-47	Right of Way Manager	1
44-48	Right of Way Specialist	1
45.-	Risk Manager	2
46.-	Senior Planner	2
47.-	Toll Financial Supervisor	4
48-49	Transit Manager	2

** Consultants will be required to file a Form 700 under the following circumstances, as determined by the Department Director:

(1) They serve in a staff capacity with SBCTA or SANBAG and either:

- Perform the same or substantially the same duties that would otherwise be performed by a staff member holding a position listed in this Policy; or
- Participate in making a government decision. A consultant participates in making a government decision if it provides information, an opinion or recommendation for the purpose of affecting a government decision without significant intervening substantive review.

Consultants ~~assigned under contract for~~ a specific project only are not required to file a Form 700.

(2) The consultant's scope of work includes the ability to do any of the following:

- Approve a rate, rule, or regulation;
- Adopt or enforce a law;
- Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement;
- Authorize the agency to enter into, modify, or renew a contract provided it is the type of contract that requires agency approval;
- Grant agency approval to a contract that requires agency approval and to which the agency is a party, or to the specifications for such a contract;
- Grant agency approval to a plan, design, report, study, or similar item;
- Adopt, or grant agency approval of, policies, standards, or guidelines for the agency, or for any subdivision thereof.

***Form 700s filed by the Board of Directors (County designees) are filed with the Clerk of the County Board of Supervisors. A copy of this form must be filed with SBCTA.**

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.

San Bernardino County Transportation Authority	Policy	10102
Adopted by the Board of Directors	Sept. 2, 1992	Revised
		07/03/2024
Conflict of Interest Code	Revision No.	16

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SBCTA will review this policy every even-numbered year, and if change in the policy is required, will revise the policy. SBCTA will file a statement of review with the San Bernardino County Board of Supervisors, SBCTA's code reviewing body, every even-numbered year.

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Conflict of Interest Code – Designated Employees	Policy	10102 Appendix A
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7.	Board of Directors Ex Officio Alternate Member	1
8.	Board of Directors Ex Officio Member	1
9.	Chief Financial Officer	1
10.	Chief of Air Quality/Mobility Programs	2
11.	Chief of Council of Governments and Equity Programs	2
12.	Chief of Express Lanes	2
13.	Chief of Fiscal Resources	1
14.	Chief of Fund Administration	2
15.	Chief of Information Technology	2
16.	Chief of Legislative and Public Affairs	2
17.	Chief of Project Controls	2
18.	Clerk of the Board/Administrative Manager	2
19.	Construction Manager	2
20.	Consultant **	2
21.	Corridor Manager	2
22.	Council of Government and Equity Programs Manager	2
23.	Data and Analytics Manager	2
24.	Deputy Director of Planning and Regional Programs	1
25.	Deputy Director of Transit and Rail Programs – Capital Delivery	1
26.	Deputy Executive Director	1
27.	Director of Express Lanes	1
28.	Director of Fund Administration	1
29.	Director of Legislative and Public Affairs	1
30.	Director of Management Services	1
31.	Director of Planning and Regional Programs	1
32.	Director of Project Delivery	1
33.	Director of Transit and Rail Programs	1
34.	Energy Program Manager	2
35.	Enterprise Risk Manager	2
36.	Executive Director	1
37.	Express Lanes Financial Supervisor	1
38.	General Counsel	1
39.	Legislative Analyst	1
40.	Multimodal Mobility Programs Administrator	2

41.	Planning Manager	2
42.	Procurement Analyst (I, II and III)	2
43.	Procurement Manager	2
44.	Project Controls Analyst (I, II and III)	2
45.	Project Controls Manager	2
46.	Project Delivery Manager	2
47.	Right of Way Manager	1
48.	Right of Way Specialist	1
49.	Transit Manager	2

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(1) They serve in a staff capacity with SBCTA or SANBAG and either:

- Perform the same or substantially the same duties that would otherwise be performed by a staff member holding a position listed in this Policy; or
- Participate in making a government decision. A consultant participates in making a government decision if it provides information, an opinion or recommendation for the purpose of affecting a government decision without significant intervening substantive review.

Consultants under contract for a specific project only are not required to file a Form 700.

(2) The consultant's scope of work includes the ability to do any of the following:

- Approve a rate, rule, or regulation;
- Adopt or enforce a law;
- Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement;
- Authorize the agency to enter into, modify, or renew a contract provided it is the type of contract that requires agency approval;
- Grant agency approval to a contract that requires agency approval and to which the agency is a party, or to the specifications for such a contract;
- Grant agency approval to a plan, design, report, study, or similar item;
- Adopt, or grant agency approval of, policies, standards, or guidelines for the agency, or for any subdivision thereof.

***Form 700s filed by the Board of Directors (County designees) are filed with the Clerk of the County Board of Supervisors. A copy of this form must be filed with SBCTA.**

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: June 12, 2024

Subject:

Resolution No. 24-026 Authorizing Placement of Assessments on the Tax Roll and Agreement for Collection of Special Taxes Related to the Property Assessed Clean Energy Program

Recommendation:

That the General Policy Committee recommend the Board, acting as the San Bernardino Council of Governments:

A. Approve Resolution No. 24-026, authorizing the placement of assessments related to the Property Assessed Clean Energy Program on the tax roll for Fiscal Year 2024/2025.

B. Approve Agreement No. 24-1003168 with the San Bernardino County Auditor-Controller/Treasurer/Tax Collector, authorizing the Collection of Special Taxes, Fees, and Assessments.

Background:

On March 6, 2013, the San Bernardino Associated Governments (SANBAG) (now known as San Bernardino Council of Governments or SBCOG) Board of Directors held a public hearing and then adopted Resolution No. 13-044, creating the Home Energy Renovation Opportunity (HERO) Program, a Property Assessed Clean Energy (PACE) Program, that allows a jurisdiction and an interested property owner to enter into a contractual agreement to finance the installation of eligible renewable energy, energy efficiency, or water efficiency improvements that are permanently affixed to the property. SANBAG loaned the property owner the funds for the improvements. The amount of the loan plus a fixed interest amount is repaid through an assessment on the property tax bill for the property. SANBAG obtained the funds to loan by selling bonds to private investors secured by the property tax assessments paid by the property owners.

The HERO Program, administered by SBCOG, ended on June 30, 2017. However, during the four (4) years of the program, more than 15,000 assessments were created and SBCOG has a continuing obligation to bond holders to see that those existing assessments are collected.

The table below summarizes the assessments outstanding.

As of May 16, 2024				
Settlement Year	Original Assessments	Prepaid	Matured	Active
2013	477	340	26	111
2014	5,043	3,791	275	977
2015	5,097	3,760	322	1,015
2016	4,962	3,629	251	1,082
2017	2,318	1,646	67	605
Total	17,897	13,166	941	3,790

Entity: San Bernardino Council of Governments

Resolution No. 24-026 requests the San Bernardino County Auditor-Controller/Treasurer/Tax Collector to enter the special assessments on the tax roll consistent with the obligations agreed to by the property owners that participated in the HERO Program and with SBCOG’s obligations to the trustee and bondholders. The complete list of properties to be included on the tax roll is on file with the Clerk of the Board and available for review.

Additionally, the San Bernardino County Auditor-Controller/Treasurer/Tax Collector requests that each agency sign their Agreement for Collection of Special Taxes, Fees, and Assessments each year. This agreement is required by San Bernardino County (County) and covers the expectations and responsibilities of the agency requesting the collection of the assessment or special tax and the County in the collection of that assessment or special tax.

Financial Impact:

This item has no financial impact on the adopted Budget for Fiscal Year 2024/2025.

Reviewed By:

This item is not scheduled for review by any other policy committee or technical advisory committee. SBCOG General Counsel has reviewed this item, the draft resolution, and the draft agreement.

Responsible Staff:

Lisa Lazzar, Chief of Fiscal Resources

Approved
General Policy Committee
Date: June 12, 2024
Witnessed By:

RESOLUTION NO. 24 - 026

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN BERNARDINO COUNCIL OF GOVERNMENTS (FORMERLY KNOWN AS SAN BERNARDINO ASSOCIATED GOVERNMENTS) MAKING CERTAIN REPRESENTATIONS AND AUTHORIZING THE PLACEMENT OF ASSESSMENTS ON THE TAX ROLL IN SAN BERNARDINO COUNTY

WHEREAS, pursuant to Chapter 29 of Part 3 of Division 7 of the Streets and 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 into October 17, 1975, as further amended to date, and each separate Memorandum of Understanding by and between SANBAG and those parties to the Joint Exercise of 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 known as the "SANBAG HERO Program" (the "HERO Program"), to assist commercial and residential property owners within the jurisdictional boundaries of each Participating Party (the "Program Area") with the costs 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 commercial and residential property; and

WHEREAS, the aforementioned Joint Powers Agreement was amended by Amendment No. 4, effective May 9, 2024, by which amendment the Joint Powers Authority changed its name from San Bernardino Associated Governments (SANBAG) to San Bernardino Council of Governments (SBCOG); and

WHEREAS, SBCOG has by previous resolutions declared its intent to levy assessments for the purpose of financing Authorized Improvements under the provisions of Chapter 29; and

WHEREAS, assessment contracts have been entered into for properties located within the jurisdictional boundaries of San Bernardino County (the "County"); and

WHEREAS, the special assessments levied against the real property within the County are not levied with regard to property values but rather are fixed special assessments based upon the costs of the Authorized Improvements and the financing of such improvements; and

WHEREAS, SBCOG has determined and hereby certifies that the assessments are exempt from the provisions of Proposition 218, which was passed by the voters in November 1996; and

WHEREAS, SBCOG has further determined that the assessments are in compliance with all applicable laws; and

WHEREAS, SBCOG requests that the Auditor-Controller of the County enter those special assessments identified in Exhibit A on the tax roll for collection by the Auditor-Controller for the 2024-25 fiscal year.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the San Bernardino Council of Governments as follows:

Section 1. The above recitals are true and correct.

Section 2. SBCOG orders the levy and collection of such special assessments identified on Exhibit A within the jurisdictional boundaries of each Participating Party within the County for the 2024-25 fiscal year, and in each subsequent fiscal year in which the charges may validly be levied; that a copy of this resolution shall be delivered to the Auditor-Controller of the County for placement of such assessments on the 2024-25 Tax Roll of the County, and in each subsequent fiscal year in which the charges may validly be levied.

Section 3. The special assessments are in compliance with all applicable laws and are exempt from the provisions of Proposition 218.

Section 4. In the event of delinquencies, SBCOG will pursue the removal of the delinquent special taxes from the delinquent secured tax roll in accordance with the provisions of the Master Indenture.

Section 5. The Deputy Executive Director, the Chief of Fiscal Resources or any designee of the Deputy Executive Director (each, an "Authorized Representative"), is hereby authorized and directed to take any other actions in the judgment of the Deputy Executive Director or such Authorized Representative necessary to place the special assessments on the 2024-25 Tax Roll of the County, including, but not limited to making additions, deletions and modifications to Exhibit A attached hereto.

Section 6. This resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED at a meeting of the Board of Directors of the San Bernardino Council of Governments held on July 3, 2024.

Dawn Rowe, President

ATTEST:

Marleana Roman, Clerk of the Board

EXHIBIT A



AUDITOR-CONTROLLER/TREASURER/TAX COLLECTOR
 AGREEMENT FOR COLLECTION OF SPECIAL
 TAXES, FEES, AND ASSESSMENTS
 FISCAL YEAR 2024-25

THIS AGREEMENT is made and entered into this ____ day of _____, 2024, by and between the COUNTY OF SAN BERNARDINO, hereinafter referred to as "County" and the _____, hereinafter referred to as "District".

WITNESSETH:

WHEREAS, Government Code Sections 29304 and 51800 authorize the County to recoup its collection costs when the County collects taxes, fees, or assessments for any city, school district, special district, zone or improvement district thereof; and

WHEREAS, the District and County have determined that it is in the public interest that the County, when requested by District, collect on the County tax rolls the special taxes, fees, and assessments for District.

NOW, THEREFORE, IT IS AGREED by and between the parties hereto as follows:

1. County agrees, when requested by District as hereinafter provided to collect on the County tax rolls the special taxes, fees, and assessments of District, and of each zone or improvement District thereof.

2. When County is to collect District's special taxes, fees, and assessments, District agrees to notify in writing the Auditor-Controller (268 W. Hospitality Lane, 4TH floor, San Bernardino, CA 92415) of the County on or before the 10th day of August of each fiscal year of the Assessor's parcel numbers and the amount of each special tax, fee, or assessment to be so collected. Any such notice, in order to be effective, must be received by the Auditor-Controller by said date.

3. County may charge District an amount per parcel for each special tax, fee, or assessment that is to be collected on the County tax rolls by the County for the District, not to exceed County's actual cost of collection.

4. District warrants that the taxes, fees, or assessments imposed by District and collected pursuant to this Agreement comply with all requirements of state law, including but not limited to, Articles XIIC and XIID of the California Constitution (Proposition 218).

5. District hereby releases and forever discharges County and its officers, agents, and employees from any and all claims, demands, liabilities, costs and expenses, damages, causes of action, and judgments, in any manner arising out of District's responsibility under

this agreement, or other action taken by District in establishing a special tax, fee, or assessment and implementing collection of special taxes, fees or assessments as contemplated in this agreement.

6. The County Auditor-Controller has not determined the validity of the taxes or assessments to be collected pursuant to this contract, and the undersigned District hereby assumes any and all responsibility for making such a determination. The undersigned District agrees to indemnify, defend, and hold harmless the County and its authorized officers, employees, agents, and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this contract or the imposition of the taxes or assessments collected pursuant to this contract, and for any costs or expenses incurred by the County on account of any claim therefore, except where such indemnification is prohibited by law. If any judgment is entered against County or any other indemnified party as a result of action taken to implement this Agreement, District agrees that County may offset the amount of any judgment paid by County or by any indemnified party from any monies collected by County on District's behalf, including property taxes, special taxes, fees, or assessments. County may, but is not required to, notify District of its intent to implement any offset authorized by this paragraph.

7. District agrees that its officers, agents and employees will cooperate with County by answering inquiries made to District by any person concerning District's special tax, fee, or assessment, and District agrees that its officers, agents, and employees will not refer such individuals making inquiries to County officers or employees for response.

8. District shall not assign or transfer this agreement or any interest herein and any such assignment or transfer or attempted assignment or transfer of this agreement or any interest herein by District shall be void and shall immediately and automatically terminate this agreement

9. This agreement shall be effective for the 2024-25 fiscal year.

10. Either party may terminate this agreement for any reason upon 30 days written notice to the other party. The County Auditor-Controller shall have the right to exercise County's right and authority under this contract including the right to terminate the contract.

11. County's waiver of breach of any one term, covenant, or other provision of this agreement, is not a waiver of breach of any other term, nor subsequent breach of the term or provision waived.

12. Each person signing this agreement represents and warrants that he or she has been fully authorized to do so.

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

District: _____

By: _____

Printed Name: _____

Title: _____

Date: _____

ENSEN MASON CPA, CFA,
AUDITOR-CONTROLLER/TREASURER/TAX COLLECTOR
SAN BERNARDINO COUNTY

By Authorized Deputy: _____

Printed Name: Franciliza Zyss

Title: Chief Deputy, Property Tax

Date: _____

Minute Action

AGENDA ITEM: 6

Date: June 12, 2024

Subject:

Purchase and Sale Agreement No. 24-1003169 for Property Assessed Clean Energy Assessment Receivables with FNA California, LLC

Recommendation:

That the General Policy Committee recommend the Board, acting as the San Bernardino Council of Governments:

A. Approve Purchase and Sale Agreement No. 24-1003169 with FNA California, LLC, to grant their first right of refusal and to allow them to advance funds to cover the Property Assessed Clean Energy Assessment delinquencies for the 2015-2016 through 2023-2024 tax years, and authorize the Executive Director, or his designee, with the approval of General Counsel as to legal form, to finalize the terms of the agreement, including the final amount and the delinquent properties to be included, and to execute the final agreement.

B. Defer the judicial foreclosure proceedings for the delinquent properties.

Background:

Under the Master Indentures that outline how San Bernardino Council of Governments (SBCOG) (formerly known as San Bernardino Associated Governments or SANBAG) will issue bonds for the Property Assessed Clean Energy (PACE) Program, any property owner that is delinquent in their tax bill on October 1st of each year will be subject to SBCOG starting a judicial foreclosure process. The Master Indentures provide that SBCOG may elect to defer the judicial foreclosure proceedings if SBCOG has received or advanced funds to cover the delinquent amounts.

In May 2024, SBCOG’s Special Tax Consultant, David Taussig & Associates (DTA), reported that there were 125 properties considered delinquent for the 2023-2024 tax year and 109 properties delinquent from the 2016-2017 through 2022-2023 tax years combined. DTA transmits delinquency notices to the delinquent property owners after the 1st and 2nd tax installments are not paid. The delinquencies by tax year are shown in the table below.

Tax Year	Amount of Tax Levy	Number of Properties	Amount Delinquent	Number of Delinquent Properties	Delinquency Rate by Value
14/15	\$7,856,008.93	3,160	\$0.00	0	0.00%
15/16	\$19,058,514.63	7,103	\$0.00	0	0.00%
16/17	\$29,734,139.75	10,557	\$2,745.98	1	0.01%
17/18	\$35,736,978.72	12,384	\$12,315.19	6	0.03%
18/19	\$31,123,600.04	10,731	\$35,053.28	12	0.11%
19/20	\$25,179,345.70	8,766	\$44,802.21	14	0.18%
20/21	\$19,906,970.38	7,062	\$34,179.89	14	0.17%
21/22	\$14,356,417.31	5,275	\$51,046.54	22	0.36%
22/23	\$10,831,868.07	4,082	\$90,569.90	40	0.84%
23/24	\$9,714,788.26	3,679	\$232,595.49	125	2.39%

In order for the Board of Directors to defer the judicial foreclosure process, the delinquent amounts must be advanced to the Trustee--either by SBCOG or by a third party, such as FNA

Entity: San Bernardino Council of Governments

California, LLC, pursuant to an agreement with SBCOG allowing that third party to advance the funds and to be reimbursed for such advance when the delinquent assessments are brought current. Purchase and Sale Agreement No. 24-1003169 accomplishes this task.

This contract allows FNA California, LLC, to exercise its right of first refusal to purchase the PACE assessment delinquencies as of June 30, 2024, as outlined in Purchase and Sale Agreement No. 21-1002484 approved by SANBAG and dated October 27, 2020. FNA California, LLC, will pay a fee equal to 7.5% of the delinquent assessments, which is the same rate as prior years, at a cost of \$17,444.66 based on current delinquencies, to be used by SBCOG to cover its administrative costs as well as the additional costs incurred by the Special Tax Consultant. FNA California, LLC, is providing a similar service with the same fee for Western Riverside Council of Governments for their local and statewide PACE programs.

Staff recommends that it is in the best interest of SBCOG and property owners to defer the judicial foreclosure process and to approve the agreement with FNA California, LLC, and allow them to advance the delinquent amounts. These actions will provide property owners more time to become current on their assessments and will allow SBCOG to meet the conditions of the Master Indentures for the bonds.

Financial Impact:

This item has no financial impact on the adopted Budget for Fiscal Year 2024/2025.

Reviewed By:

This item is not scheduled for review by any other policy committee or technical advisory committee. SBCTA General Counsel has reviewed this item and the draft agreement.

Responsible Staff:

Lisa Lazzar, Chief of Fiscal Resources

Approved
General Policy Committee
Date: June 12, 2024

Witnessed By:

General Contract Information

Contract No: 24-1003169 Amendment No.: _____
 Contract Class: Receivable Department: Council of Governments
 Customer ID: 03543 Customer Name: FNA California, LLC
 Description: Fees related to purchase of PACE Program Delinquent Assessments

List Any Accounts Payable Related Contract Nos.: _____

Dollar Amount					
Original Contract	\$	17,444.66	Original Contingency	\$	-
Prior Amendments	\$	-	Prior Amendments	\$	-
Current Amendment	\$	-	Current Amendment	\$	-
Total/Revised Contract Value	\$	17,444.66	Total Contingency Value	\$	-
Total Dollar Authority (Contract Value and Contingency)					\$ 17,444.6

Contract Authorization

Board of Directors Date: 7/3/2024 Committee # Item #

Contract Management (Internal Purposes Only)

Local Services

Accounts Receivable

Total Contract Funding: \$ 17,444.66 Funding Agreement No: 24-1003169
 Beginning POP Date: 8/15/2024 Ending POP Date: 6/30/2025 Final Billing Date: 6/30/2025
 Expiration Date: 6/30/2025

Local							Services						
Fund	Prog	Task	Sub-Task	Revenue	Total Contract Funding:		Fund	Prog	Task	Sub-Task	Revenue	Total Contract Funding:	
GL: 2911	10	0111	0708	48007000	17,444.66		GL:					-	
GL:					-		GL:					-	
GL:					-		GL:					-	
GL:					-		GL:					-	
GL:					-		GL:					-	

Hilda Flores

Hilda Flores

Project Manager (Print Name)

Task Manager (Print Name)

Additional Notes: Final terms and listing of delinquent properties will be finalized and approved by Executive Director

Attachment: CSS 24-1003169 Purchase and Sale Agreement Delinquent PACE Assessments [Revision 2] (10330 : Purchase and Sale

PURCHASE AND SALE AGREEMENT

Dated as of August 15, 2024

between

SAN BERNARDINO ASSOCIATED GOVERNMENTS,

as Seller

and

FNA CALIFORNIA, LLC,

as Purchaser

**Regarding
Assessment Installment Receivables
for the 2023-2024 Tax Year**

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Attachment: Purchase and Sale Agreement - SANBAG - FY 2023-2024 w_ FNA California LLC-c1 (10330 : Purchase and Sale Agreement for

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this "Agreement"), dated as of August 15, 2024, between San Bernardino Council of Governments ("SBCOG"), formerly known as San Bernardino Associated Governments ("SANBAG"), a joint exercise of powers authority existing under the Joint Exercise of Powers Act, being Chapter 5 of Division 7, Title 1 of the Government Code of the State of California and a Joint Exercise of Powers Agreement originally made and entered into as of March 15, 1973, as further amended to date, and FNA California, LLC, an Illinois limited liability company ("Company").

BACKGROUND

SANBAG has levied assessments under Chapter 29 (as defined below) payable in installments under the 1915 Act (defined below) on properties participating in the SANBAG HERO Program (as defined below) which are collected on the secured property tax roll of the County (as defined below) in which the participating properties are located.

Certain installments of such assessments are delinquent (the "Assessment Installment Receivables") as of the Cut-off Date (as defined below).

SANBAG has determined that it is in the best interests of SANBAG at this time to sell to the Company the Assessment Installment Receivables it is entitled to receive arising from the collection of certain delinquent assessments for the tax years specified in this Agreement, upon the terms and conditions provided herein.

Now, THEREFORE, for and in consideration of the premises and the material covenants hereinafter contained, the parties hereto hereby formally covenant, agree and bind themselves as follows:

Article I Definitions

Section 1.01 Definitions. Whenever used in this Agreement, the following words and phrases, unless the context otherwise requires, shall have the following meanings:

“1915 Act” means the Improvement Bond Act of 1915, Division 10 of Part I (commencing with Section 8500) of the California Streets and Highways Code.

“Agreement” means this Purchase and Sale Agreement, as originally executed or as it may from time to time be supplemented, modified or amended in accordance with the provisions hereof.

“Assessment” means each “Assessment” as defined in an Assessment Contract and levied pursuant to such Assessment Contract against a Property (as defined below) to which such Assessment Contract is subject.

“Assessment Administrative Fee” means, as to each Property, the assessment administrative fee due and payable pursuant to the applicable Assessment Contract that shall be collected on the property tax bill pertaining to such Property.

“Assessment Administrator” means David Taussig & Associates, and its successors, or any financial consultant or firm of such financial consultants judged by SANBAG to have experience in the administration for and on behalf of public agencies of assessments similar to the Assessments levied by such public agencies in the State of California.

“Assessment Contract” shall have the meaning given such term in the applicable Master Indenture.

“Assessment Installment” means, as to each Property, the portion of the principal amount of an Assessment, together with the interest on the Assessment, due and payable pursuant to an Assessment Contract that shall be collected on the property tax bill for a particular Tax Year pertaining to such Property.

“Assessment Installment Receivable” means, with respect to a Property for a particular Tax Year, the Assessment Installment and the related Assessment Administrative Fee on the secured tax roll of the County that:

(i) was levied by SANBAG on one of the Properties listed on the Assessment Installment Receivables Schedule for such Tax Year in accordance with the Chapter 29, the 1915 Act and the applicable Assessment Contract and is payable to SANBAG if and when collected,

(ii) was levied on account of the applicable Purchased Tax Year, was delinquent as of the Cut-off Date and was shown as such on the Delinquent Tax Roll maintained by the County for the applicable Purchased Tax Year,

(iii) had not been received by SANBAG or the Trustee, on behalf of SANBAG, as of the Cut-off Date,

(iv) is due and owing to SANBAG in an amount equal to the amount of such Assessment Installment and Assessment Administrative Fee, penalties and accrued interest set forth on the Assessment Installment Receivables Schedule,

(v) includes, to the extent permitted by law and the terms of the applicable Master Indenture, all penalties and accrued interest thereon to the date of collection, and

(vi) has not become a Defective Assessment Installment Receivable.

“Assessment Installment Receivable Balance” means, with respect to an Assessment Installment Receivable as of a particular date, the sum of

(i) an amount equal to the delinquent Assessment Installments and Assessment Administrative Fees levied by or on behalf of SANBAG and payable to the SANBAG with respect to such Assessment Installment Receivable as shown on the Assessment Installment Receivables Schedule,

(ii) to the extent permitted by law and the applicable Master Indenture, the ten percent (10%) penalty payable on the Assessment Installment Receivable in accordance with Sections 2617 and 2618 of the California Revenue and Taxation Code, and

(iii) to the extent permitted by law and the applicable Master Indenture, interest accrued on the amount in clause (A) from the July 1 of the Tax Year following the Tax Year in which such Assessment Installment Receivable first became delinquent through the date of determination at the rate of one and half percent (1.5%) per month in accordance with Section 4103 of the California Revenue and Taxation Code.

“Assessment Installment Receivables Schedule” means the schedule attached as (or incorporated by reference in) EXHIBIT A hereto, as such schedule may be amended from time to time in accordance with Section 3.01(e) hereof, with respect to the Assessments levied on the Properties described on EXHIBIT A hereto.

“Assessment Installments Purchased” has the meaning set forth in Section 2.01(a) hereof.

“Assessment Lien” means any lien that attaches, by operation of Section 2187 of the California Revenue and Taxation Code, to the fee interest in real property.

“Bond Counsel” means Best Best & Krieger LLP or any other attorney or firm of attorneys of nationally recognized expertise with respect to legal matters relating to public financing in the State.

“Business Day” means any day that is not a Saturday, Sunday or other day on which commercial banking institutions in New York or California are authorized or obligated by law or executive order to be closed.

“Chapter 29” means Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code (commencing with Section 5898.12 et seq.)

“Closing Date” means August 15, 2024.

“Collections” means, with respect to an Assessment Installment Receivable, the amount collected by the County (whether as payments by the related Property Owner in a lump sum, payments by the related Property Owner pursuant to an installment payment plan, as proceeds of sale of the related tax-defaulted Property, or otherwise) on the Assessment Installment Receivable. Collections include but are not limited to the following:

- (i) the delinquent Assessment Installments payable for the Tax Year to which the Assessment Installment Receivable is related,
- (ii) the ten percent (10%) penalty payable thereon in accordance with Sections 2617 and 2618 of the California Revenue and Taxation Code,
- (iii) interest accruing at the rate of one and half percent (1.5%) per month in accordance with Section 4103 of the California Revenue and Taxation Code, and
- (iv) all Assessment Administrative Fees levied in connection therewith that are distributable to SANBAG, if any.

“Company” means FNA California, LLC, a limited liability company organized and existing under the laws of the state of Illinois or any successor thereto.

“County” means the County of San Bernardino, California.

“Cut-off Date” means August 10, 2024.

“Defective Assessment Installment Receivable” has the meaning set forth in Section 3.01(c) hereof.

“Defective Assessment Installment Receivable Purchase Amount” means, as to any Defective Assessment Installment Receivable, an amount equal to the Purchase Price and Premium of such Defective Assessment Installment Receivable set forth on the Assessment Installment Receivables Schedule reduced by the amount, if any, of Collections on such Defective Assessment Installment Receivable which have been

applied to the recovery of such Purchase Price and Premium and paid to the Company as of the date of calculation.

“Delinquent Tax Roll” means the delinquent tax roll which is delivered by the Treasurer-Tax Collector of the County to the Auditor-Controller of the County pursuant to Section 2627 of the Revenue and Taxation Code of the State, or such other report, file or data of the Treasurer-Tax Collector or Auditor-Controller of the County as may be available from the County and mutually satisfactory to SANBAG and the Company.

“Master Indenture” means, as applicable, each of the master indentures listed on EXHIBIT B, incorporated herein by reference.

“Opinion of Counsel” means one or more written opinions of counsel, who may be an employee of or counsel to SANBAG, which counsel shall be acceptable to the recipient of such opinion or opinions.

“Person” any individual, corporation, partnership (general or limited), limited liability company, limited liability partnership, firm, joint venture, association, joint-stock company, trust, estate, unincorporated organization, governmental body or other entity.

“Premium” has the meaning set forth in Section 2.01(a) hereof.

“Property” means, with respect to an Assessment Installment Receivable, the real property that is encumbered by the Assessment Lien of such Assessment Installment Receivable.

“Property Owner” means, with respect to an Assessment Installment Receivable, the fee owner or owners of the related Property.

“Purchase Price” has the meaning set forth in Section 2.01(a) hereof.

“Purchased Tax Year” means, for a given Assessment Installment Receivable, the Tax Year ending on June 30 of the applicable calendar year, as set forth in EXHIBIT A hereto.

“Purchased Receivables” means the Assessment Installment Receivables listed on the Assessment Installment Receivables Schedule and purchased by the Company pursuant to this Agreement.

“Responsible Officer” means, with respect to SANBAG, the Executive Director, and the Deputy Executive Director, or any other official of SANBAG customarily performing functions similar to those performed by any of the above designated officials, and also with respect to a particular matter, any other official of SANBAG to whom such matter is referred because of such official’s knowledge of and familiarity with the particular subject.

“SANBAG” means San Bernardino Associated Governments, a joint exercise of powers authority organized and existing under the laws of the State, including any entity with which it may be consolidated or which otherwise succeeds to the interests of

SANBAG and includes San Bernardino Council of Governments, or SBCOG, the current name of aforementioned joint exercise of powers authority, pursuant to Amendment No. 4 to the Joint Exercise of Powers Agreement referenced in the Preamble.

“SANBAG HERO Program” means the SANBAG HERO Program established by SANBAG pursuant to Chapter 29 and the 1915 Act.

“State” means the State of California.

“Tax Year” means the 12-month period beginning on July 1 in any year and ending on the following June 30. Whenever in this Agreement reference is made to the Tax Year of a certain year, such reference is to the Tax Year ending June 30 of that year.

“Trustee” shall mean Deutsche Bank National Trust Company, a national banking association duly organized and existing under the laws of the United States of America, acting as trustee and not in its individual capacity, its successors and assigns, and any other corporation or association which may be at any time substituted in its place, as provided in the applicable Master Indenture.

Section 1.02 Other Definitional Provisions.

(a) All terms defined in this Agreement shall have the defined meanings when used in any certificate or other document made or delivered pursuant hereto unless otherwise defined therein.

(b) As used in this Agreement and in any certificate or other document made or delivered pursuant hereto or thereto, accounting terms not defined in this Agreement or in any such certificate or other document, and accounting terms partly defined in this Agreement or in any such certificate or other document to the extent not defined, shall have the respective meanings given to them under generally accepted accounting principles. To the extent that the definitions of accounting terms in this Agreement or in any such certificate or other document are inconsistent with the meanings of such terms under generally accepted accounting principles, the definitions contained in this Agreement or in any such certificate or other document shall control.

(c) The words “hereof”, “herein”, “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement; Article, Section, Schedule and Exhibit references contained in this Agreement are references to Articles, Sections, Schedules and Exhibits in or to this Agreement unless otherwise specified; and the term “including” shall mean “including without limitation.”

(d) The definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms and to the masculine as well as to the feminine and neuter genders of such terms.

(e) Any agreement, instrument or statute defined or referred to herein or in any instrument or certificate delivered in connection herewith means such agreement,

instrument or statute as from time to time amended, modified or supplemented and includes (in the case of agreements or instruments) references to all attachments thereto and instruments incorporated therein; references to a Person are also to its permitted successors and assigns.

Section 1.03 Term of this Agreement.

This Agreement shall remain in full force and effect for the period during which any of the Assessment Installment Receivables purchased under this Agreement remains outstanding.

Article II Purchase and Sale of Assessment Installment Receivables

Section 2.01 Purchase and Sale of Assessment Installment Receivables; Assignment of Rights.

(a) *Purchase and Sale.* In consideration of the Company's promise to deliver on the Closing Date to or upon the order of SANBAG the sum of \$_____ (the "Purchase Price"), which is equal to the principal amount of \$_____ of the delinquent Assessment Installments included in Assessment Installment Receivables to be purchased ("Assessment Installments Purchased"), plus a premium equal to seven and a half percent (7.5%) of the Assessment Installments Purchased (the "Premium") in the amount of \$_____, SANBAG does hereby sell, transfer, assign, set over and otherwise convey to the Company, without recourse (but subject to the obligations herein), all right, title and interest of SANBAG on the Closing Date, free and clear of all liens, claims and interest, whether now owned or hereinafter acquired, in and to:

- (i) the Assessment Installment Receivables;
- (ii) all Collections in respect of the Assessment Installment Receivables since the Cut-off Date; and
- (iii) the proceeds of any and all of the foregoing.

(b) *Collections.* The Company shall be entitled, from and after the Closing Date, to receive all Collections with respect to the Assessment Installment Receivables.

(c) *Payment and Application of Purchase Price.* On the Closing Date, the Company shall pay or cause to be paid the Purchase Price, together with the Premium thereon, in immediately available funds by federal funds wire to or upon the order of SANBAG. SANBAG covenants that (i) it shall treat the Purchase Price as Assessments or Assessment Administrative Fees, as applicable, for all purposes under the terms of the applicable Master Indenture or other document by which any bonds, notes or other evidences of indebtedness were issued and secured by the Assessments to which the Assessment Installment Receivables relate, and (ii) it shall apply the Purchase Price to the payment of the bonds secured by the Assessments to which the Assessment

Installment Receivables relate, and to the other authorized purposes to which the Assessments or the Assessment Administrative Fees may be applied (including without limitation replenishment of reserve funds and payment of administrative expenses), to the same extent that the proceeds of the Assessments and Assessment Administrative Fees constituting the Assessment Installment Receivables would have been required to be applied had they been paid by the respective property owner before delinquency and received by SANBAG.

Section 2.02 Closing Conditions. The obligation of the Company to purchase the Assessment Installment Receivables and pay the Purchase Price, together with the Premium thereon, will be subject to the accuracy of the representations and warranties of SANBAG herein, to the accuracy of statements to be made by or on behalf of SANBAG, to the performance by SANBAG of its obligations hereunder and to the following additional conditions precedent:

(a) *Executed Agreement.* At the Closing Date, this Agreement must have been authorized, executed and delivered by the respective parties thereto, and this Agreement and all official actions of SANBAG relating thereto must be in full force and effect and not have been amended, modified or supplemented.

(b) *Closing Documents.* The Company must receive the following opinions and certificates (which may be consolidated into a single certificate for convenience), dated the Closing Date and acceptable to the Company:

(i) *Legal Opinion of Bond Counsel.* An approving opinion of Bond Counsel to the effect that the obligations of SANBAG under this Agreement are valid, binding and enforceable, and as to certain other matters, addressed to, and in form and substance satisfactory to, SANBAG and the Company.

(ii) *Certificate of SANBAG.* A certificate signed by an appropriate official of SANBAG to the effect that:

(A) SANBAG is duly organized and validly existing as a joint exercise of powers authority under the Joint Exercise of Powers Act, being Chapter 5 of Division 7, Title 1 of the Government Code of the State of California and a Joint Exercise of Powers Agreement originally made and entered into as of March 15, 1973, as further amended to date,

(B) the representatives of SANBAG who executed this Agreement have been duly authorized to do so on behalf of SANBAG,

(C) the representations, agreements and warranties of SANBAG herein are true and correct in all material respects as of the Closing Date,

(D) SANBAG has complied with all the terms of this Agreement which are required to be complied with by SANBAG prior to or concurrently with the Closing Date, and

(E) the execution and delivery of this Agreement have been approved by the governing board of SANBAG, which approval was duly and regularly adopted in accordance with all applicable legal requirements.

Section 2.03 Right to Terminate. If SANBAG is unable to satisfy the conditions set forth in Section 2.02(a) and (b) hereof, as reasonably determined by the Company, this Agreement may be canceled either in part or in its entirety by the Company at any time. Notice of such cancellation shall be given to SANBAG in writing, or by telephone call confirmed in writing. Upon receipt of a notice of cancellation pursuant to this Section 2.03, SANBAG shall remit the full Purchase Price, together with the Premium thereon, to and upon the order of the Company.

Section 2.04 Pledge. Although the parties hereto intend that the sale of the Assessment Installment Receivables by SANBAG to the Company be characterized as an absolute sale rather than a secured borrowing, if the sale of the Assessment Installment Receivables is deemed to be a secured borrowing, then in order to secure SANBAG's obligations to the Company hereunder, SANBAG takes the actions set forth below.

(a) SANBAG hereby pledges, assigns and grants a lien to the Company on the following (the "Collateral"):

- (i) the Assessment Installment Receivables;
- (ii) the Collections; and
- (iii) all proceeds of the foregoing.

(b) SANBAG represents and warrants to the Company that:

(i) this Agreement creates a valid and continuing lien on the Collateral in favor of the Company, which is prior to all other liens, and is enforceable as such as against creditors of and purchasers from SANBAG;

(ii) SANBAG owns and has good and marketable title to the Collateral free and clear of any lien, claim or encumbrance of any person subject to the provisions of the applicable Master Indenture;

(iii) other than the lien granted to the Company pursuant to this Agreement, SANBAG has not pledged, assigned, sold, granted a lien on, or otherwise conveyed any of the Collateral; and

(iv) SANBAG is not aware of any judgment or tax lien filings against SANBAG.

These representations and warranties shall survive the Closing and may not be waived.

Section 2.05 Release of Collateral upon Repurchase of Assessment Installment Receivables. Any Assessment Installment Receivable that is repurchased by SANBAG in accordance with this Agreement shall be released from the Collateral when the required payment is made pursuant to Section 3.01(e) of this Agreement. Promptly upon such release, the Company shall amend the Assessment Installment Receivables Schedule to reflect the release of such Assessment Installment Receivable from the terms of this Agreement. Such Assessment Installment Receivable shall cease to be a part of the Collateral and be released from, and no longer be subject to, the pledge of this Agreement. The Company agrees to take or cause to be taken such actions and to execute, deliver and record such instruments and documents as may be set forth in a written request of SANBAG to release such Assessment Installment Receivable from the lien of this Agreement.

Article III The Assessment Installment Receivables

Section 3.01 Representations, Warranties and Covenants as to the Assessment Installment Receivables.

(a) *Representations and Warranties.* SANBAG hereby represents and warrants to the Company that to SANBAG's knowledge (1) as of the Closing Date for the Assessment Installment Receivables, the information set forth in the Assessment Installment Receivables Schedule will be correct in all material respects, and (2) as to each Assessment Installment Receivable transferred hereunder, as of the Closing Date:

(i) SANBAG was the sole owner of such Assessment Installment Receivable;

(ii) SANBAG has full right and authority to sell such Assessment Installment Receivable as provided in this Agreement;

(iii) SANBAG sold such Assessment Installment Receivable free and clear of any and all liens, pledges, charges, security interests or any other statutory impediments to transfer created by or imposed upon SANBAG encumbering such Assessment Installment Receivable (but subject to the right of redemption by the related Property Owner), except for liens that will be discharged by the application of the proceeds of the sale thereof;

(iv) the sale of such Assessment Installment Receivable by SANBAG did not contravene or conflict with any laws, rules or regulations applicable to SANBAG;

(v) the Assessment Installments and Assessment Administrative Fees of which the Assessment Installment Receivable constitutes a portion were validly levied by SANBAG and, to the best knowledge of SANBAG and its agents and representatives, also validly levied and collected by the County on the secured property tax roll on behalf of SANBAG, in accordance with all applicable provisions of the laws, rules and regulations of the State, the County and of the United States;

(vi) the amount of the Assessment Installment Receivable includes Assessment Installments and Assessment Administrative Fees on the secured tax roll which have been levied by SANBAG and by the County on the secured property tax roll on behalf of SANBAG during the applicable Purchased Tax Year which were delinquent as of the Cut-off Date;

(vii) the Assessment Installment Receivable was secured by a legal, valid, binding and enforceable lien on the related Property;

(viii) the lien of the Assessment Installment Receivable represented a valid, proper and enforceable lien on the related Property, the priority of which was subject only to other Assessment Liens on such Property and to certain other priorities prescribed by statute;

(ix) the amount of such Assessment Installment Receivable includes a ten percent (10%) penalty imposed pursuant to Revenue & Taxation Code Section 2617 and/or 2618 on the portion of such Assessment Installment Receivable consisting of the delinquent Assessment Installment(s) and the delinquent Assessment Administrative Fee(s);

(x) interest payable by the related Property Owner has accrued and will continue to accrue on the delinquent Assessment Installments and Assessment Administrative Fees of which the Assessment Installment Receivable constitutes a portion from July 1 of the Tax Year following the Tax Year in which such Assessment Installment Receivable first became delinquent to the date of payment of such Assessment Installments Receivable at the rate of one and a half percent (1.5%) per month (not compounded) as provided in California Revenue and Taxation Code Section 4103;

(xi) such Assessment Installment Receivable had not been discharged or disallowed (in whole or in part) in a bankruptcy proceeding;

(xii) such Assessment Installment Receivable had not been compromised, adjusted or modified (including by the granting of any discounts, allowances or credits, but not including installment payment plans in accordance with law);

(xiii) such Assessment Installment Receivable was not subject to a foreign government's diplomatic immunity from enforcement or treaty with the United States of America;

(xiv) there existed no fact, condition or circumstance that would prevent the County from being able to sell the related Property in a tax sale upon the expiration of a period of five years from July 1 of the Tax Year after the Tax Year in which the Assessment Installments became delinquent;

(xv) no right of rescission, setoff, counterclaim or defense had been asserted with respect to such Assessment Installment Receivable;

(xvi) SANBAG has not received notice that such Assessment Installment Receivable relates to a Property owned by a Property Owner that is subject to any bankruptcy proceeding commenced prior to the Closing Date;

(xvii) such Assessment Installment Receivable does not relate to a Property owned by a federal, state, or local governmental entity;

(xviii) SANBAG had not waived any penalties or interest with respect to such Assessment Installment Receivable;

(xix) each of the requirements included in the definition of "Assessment Installment Receivable" is satisfied with respect to such Assessment Installment Receivable; and

(xx) none of the exclusion criteria set forth in EXHIBIT C are applicable to such Assessment Installment Receivable unless, as of the Closing Date, any such criteria has been expressly waived in writing by the Company.

(b) Survival of Representations and Warranties; Liability of SANBAG.

(i) It is understood and agreed that the representations and warranties set forth in this Section 3.01, Section 2.04 Section 4.01 and Section 4.02 shall survive the consummation of the sale of the Assessment Installment Receivables on the Closing Date and shall inure to the benefit of the Company.

(ii) It is understood and agreed that the representations and warranties made by SANBAG in Section 3.01(a) hereof are made solely for the purpose of determining the existence of a Defective Assessment Installment Receivable, and in no case shall SANBAG or any of its officers or employees have any liability if it was subsequently discovered that such representations and warranties were in fact false at the time they were made, other than the obligation of SANBAG to repurchase Defective Assessment Installment Receivables as provided in this Agreement.

(c) *Defective Assessment Installment Receivables.* Upon discovery by SANBAG or the Company (based on information provided by the County, examination of the Delinquent Tax Roll, or otherwise) of a breach of any of the foregoing representations and warranties (without regard to any knowledge qualifier) that materially and adversely affects the value of any Assessment Installment Receivable (such Assessment Installment Receivable, a “Defective Assessment Installment Receivable”), the party making such discovery shall immediately notify SANBAG or the Company of such discovery and describe in reasonable detail the representations and warranties that were breached.

The Company may, at its option, require SANBAG to repurchase the Defective Assessment Installment Receivable. Under no circumstances will SANBAG have the right to require the resale of a Defective Assessment Installment Receivable to the Company. SANBAG shall have no right to substitute another Assessment Installment Receivable for a Defective Assessment Installment Receivable.

If the Company elects to require SANBAG to repurchase a Defective Assessment Installment Receivable, the Company shall give written notice to SANBAG. Such notice must (i) identify the Defective Assessment Installment Receivable, (ii) if the Assessment Installment Receivable Balance as of the Closing Date is determined to be less than the amount thereof shown on the Assessment Installment Receivables Schedule, state the amount of such deficiency and (iii) be accompanied by documentation from the County which reasonably establishes the factual basis for the determination of the breach. SANBAG shall fully cooperate (at its own expense), or utilize all reasonable efforts to cause the County to cooperate, as reasonably requested by the Company in the investigation and reporting of the foregoing matters.

For purposes of clause (ii) of the preceding paragraph, if the adjustments to the Assessment Installment Receivable Balance result from adjustments to the Delinquent Tax Roll provided by the County, the Company will use its best reasonable efforts to obtain the reason(s) for the adjustments from the County, but if the Company is unable to obtain such reasons despite using its best reasonable efforts to do so, such inability shall not be grounds for rejection or disallowance of the adjustment.

(d) *Effect of Reduced Assessment Installment Receivable Amount.* If any Assessment Installment Receivable becomes a Defective Assessment Installment Receivable solely as a result of the determination that the Assessment Installment Receivable Balance as of the Closing Date (or applicable repurchase date) was less than the amount set forth on the Assessment Installment Receivables Schedule, then only the amount of the reduction of such Assessment Installment Receivable shall be deemed to be repurchased and such Assessment Installment Receivable, at its reduced Assessment Installment Receivable Balance, shall continue to be an Assessment Installment Receivable for all purposes of this Agreement.

(e) *Cure or Purchase of Defective Assessment Installment Receivables.* As to any Defective Assessment Installment Receivable, on or prior to the next date on which SANBAG receives the normal payments of Assessment Installments and

Assessment Administrative Fees from the County following the day on which it is discovered that what was supposed to be an Assessment Installment Receivable is, in fact, a Defective Assessment Installment Receivable, SANBAG shall, at its option, either (A) cure or cause to be cured such breach or (B) pay to the Company, in immediately available funds, the Defective Assessment Installment Receivable Purchase Amount.

If any Assessment Installment Receivable is determined to be a Defective Assessment Installment Receivable prior to the Closing Date, the Defective Assessment Installment Receivable Purchase Amount shall be subtracted from the Purchase Price and Premium payable to SANBAG on the Closing Date.

The obligations of SANBAG under this Section 3.01(e) shall constitute the sole remedies available to the Company with respect to a Defective Assessment Installment Receivable and SANBAG shall not incur any other liability to the Company or any other Person because of any inaccuracy of any representation or warranty made under this Section 3.01 with respect to the Assessment Installment Receivables. Upon the repurchase of a Defective Assessment Installment Receivable by SANBAG, the Company shall cause the Assessment Installment Receivables Schedule to be amended to delete the Defective Assessment Installment Receivable, and SANBAG shall have no further liabilities or obligations with respect to such Defective Assessment Installment Receivable.

(f) *Company's Calculation of Defective Assessment Installment Receivables.* The Company shall cause the Company's calculations and/or recalculations of any adjustments made under this Section 3.01 (herein, "Adjustments") to be delivered to SANBAG. SANBAG shall have ten (10) Business Days after delivery thereof to review the Adjustments and submit to the Company any objections and deliver revised Adjustments to SANBAG. If SANBAG does not respond to any such Adjustments (as they may be revised) within ten (10) Business Days after delivery, such Adjustments shall be deemed final and binding on SANBAG, and SANBAG shall remit any payment required by Section 3.01(e).

Section 3.02 Enforcement and Collection; Assignment of Rights.

(a) *Enforcement Rights of the Company.* Except as provided herein, the Company shall be entitled to assert all right, title, and interest of SANBAG in the enforcement and collection of the Purchased Receivables, including but not limited to SANBAG's lien priority, and SANBAG's right to receive the Collections on the Purchased Receivables. Notwithstanding the foregoing, the Company acknowledges that Streets & Highways Code Section 5898.28(b)(2) provides that (i) the Company is not authorized to initiate and prosecute a judicial foreclosure action upon the Properties securing the payment of the Purchased Receivables and (ii) prosecution of such a judicial foreclosure action remains the responsibility of SANBAG.

From and after the receipt by SANBAG of the Purchase Price on the Closing Date, SANBAG shall have no rights whatsoever in and to the Purchased Receivables, including but not limited to the right to receive any Collections in respect of the Purchased

Receivables, except with respect to Defective Assessment Installment Receivables repurchased by SANBAG in accordance with Section 3.01 hereof.

SANBAG shall cooperate fully with the Company as may be reasonably required by the Company to exercise any enforcement rights granted to the Company under this Agreement. SANBAG shall take all actions as may be reasonably required by law, including but not limited to the initiation of judicial foreclosure proceedings upon the request of the Company upon the Properties securing the payment of the Purchased Receivables upon behalf of the Company as provided for herein, fully to preserve, maintain, defend, protect and confirm the interests of the Company in the Purchased Receivables and the Collections. Any such enforcement actions, including judicial foreclosure proceedings, required to be undertaken by SANBAG at the Company's request shall be at the sole expense of the Company. If the cost of any such enforcement action is recovered by SANBAG such funds shall first be used to reimburse SANBAG for any such costs that have not been paid by the Company and, upon reimbursement of SANBAG for all such costs, such remaining funds shall be used to reimburse the Company for such costs as have been paid by the Company.

The Company and SANBAG agree that the primary means of enforcement of the payment of a Purchased Receivable shall be a tax sale by the County in which the Property securing such Purchased Receivable is located pursuant to the applicable provisions of Part 6 of Division 1 of the California Revenue and Taxation Code (the "R&T Code"). The Company shall initially forebear from requesting SANBAG to initiate judicial foreclosure proceedings upon any Property securing the payment of a Purchased Receivable for a period of nine (9) years from the date of the original delinquency of the Purchased Receivable. If the County fails to attempt to sell such Property as required pursuant to R&T Code Section 3692 within nine (9) years from the date such Property can be sold at a tax sale, the Company may request that SANBAG initiate judicial foreclosure proceedings to secure the payment of the Purchased Receivable. Following receipt of such request from the Company, SANBAG may, at its sole discretion, (1) initiate such foreclosure proceedings or (2) repurchase such Purchased Receivable from the Company for an amount equal to the Purchase Price and Premium of such Purchased Receivables set forth in the Assessment Installment Receivables Schedule reduced by the amount, if any of Collections on such Purchased Receivables which have been applied to the recovery of such Purchase Price and Premium and paid to the Company as of the date of calculation.

(b) *Change of Records; Further Actions and Assurances.* On or before the Closing Date, SANBAG shall mark its appropriate records so that, from and after the Closing Date, records of SANBAG shall indicate that such Purchased Receivables have been sold. SANBAG hereby agrees to (i) execute, deliver and cause to be approved and/or recorded all documents, and take all actions, as may be required to assign the Purchased Receivables and the Collections to the Company under this Agreement, and to notify the County of the assignments made under this Agreement, and (ii) execute, deliver and cause to be approved all amendments to any documents under which bonds or other debt secured by the Purchased Receivables were issued as may be required to assign the Purchased Receivables and the Collections to the Company under this

Agreement, and to notify any applicable bond trustee, fiscal agent or payment agent of the assignments made under this Agreement.

(c) *Administration and Remittances of Collections.* SANBAG shall take all commercially reasonable best efforts as may be required to cause the Collections, when remitted by the County to SANBAG, to be remitted as soon as reasonably possible, and in any event not less frequently than once per calendar year, by or on behalf of SANBAG to the Company by federal funds wire transfer to the following account:

CIBC Bank USA
 ABA 071006486
 Acct Number: 2202292
 Acct Name: Elm Limited LLC

If the Company becomes aware of Collections that have been remitted by the County to SANBAG and not paid to the Company, the Company may notify SANBAG in writing and SANBAG agrees to take all actions required to remit those Collections to the Company as soon as reasonably possible. If any Collections received by SANBAG from the County are not remitted to the Company within ten (10) business days of such notice, SANBAG agrees to pay to the Company upon demand interest on the amount of such unpaid Collections at the rate of ten percent (10%) per annum for each day such Collections remain unpaid after such date.

SANBAG shall cause all notices and reports relating to the Purchased Receivables to be provided to the Company as and when they are available from SANBAG, the Trustee or the Assessment Administrator. In addition, SANBAG shall provide, or cause the Assessment Administrator to provide monthly reporting to the Company on the status of Assessment Installment Receivables, cash reconciliations, and such other similar reports as the Company may reasonably request to enable the Company to account for the Assessment Installment Receivables. The costs of providing such notices and reports as described in this paragraph shall be borne by SANBAG.

(d) *Covenant Not to Waive Penalties.* SANBAG agrees not to waive all or any portion of delinquency penalties and redemption penalties as permitted by any provision of applicable law with respect to any delinquent Assessment Installments included within the Purchased Receivables.

Article IV SANBAG

Section 4.01 Representations of SANBAG. SANBAG makes the following representations on which the Company is deemed to have relied in acquiring the Assessment Installment Receivables. The representations speak as of the Closing Date, and shall survive the sale of the Assessment Installment Receivables to the Company and the pledge thereof to the Company pursuant to this Agreement.

(a) *Due Organization, Existence and Company.* SANBAG is a joint exercise of powers authority, duly organized and validly existing under the Joint Exercise

of Powers Act, being Chapter 5 of Division 7, Title 1 of the Government Code of the State of California and a Joint Exercise of Powers Agreement originally made and entered into as of March 15, 1973, as further amended to date, has full legal right, power and authority under the Constitution and laws of the State to enter into this Agreement, to sell the Assessment Installment Receivables and the Collections to the Company, and to carry out and consummate all transactions contemplated hereby.

(b) *Due Execution.* By all necessary official action of the governing board of SANBAG, SANBAG has duly authorized and approved the execution and delivery of, and the performance by it of the obligations contained in this Agreement, and, as of the date hereof, such authorizations and approvals are in full force and effect and have not been amended, modified or rescinded.

(c) *Valid, Binding and Enforceable Obligations.* This Agreement constitutes the legal, valid and binding obligation of SANBAG, enforceable in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles relating to or affecting creditors' rights, generally.

(d) *Consents and Approvals.* No consent or approval of any trustee or holder of any indebtedness of SANBAG or of the voters of SANBAG's member jurisdictions, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental agency, is necessary in connection with the execution and delivery of this Agreement, or the consummation of any transaction herein or therein contemplated, except as have been obtained or made and as are in full force and effect.

(e) *No Conflicts.* The authorization, execution and delivery of this Agreement and compliance with the provisions of this Agreement do not and will not conflict with or constitute a breach of or default under any applicable constitutional provision, law or administrative rule or regulation of the State or the United States, or any applicable judgment, decree, license, permit, trust agreement, loan agreement, bond, note, resolution, ordinance, agreement or other instrument to which SANBAG (or any of its officers in their respective capacities as such) are subject, or by which it or any of its properties are bound; nor will any such authorization, execution, delivery or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of its assets or properties or under the terms of any such law, regulation or instrument, except as may be provided by this Agreement.

(f) *No Litigation.* No action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, government agency, public board or body, is pending with service of process accomplished or, to the knowledge of SANBAG, pending or threatened, that:

(i) in any way questions the legal existence of SANBAG or the titles of the officers of SANBAG to their respective offices that would have

any material likelihood of affecting the obligations of SANBAG under this Agreement;

(ii) contests the validity or the power and authority of SANBAG to sell or pledge the Assessment Installment Receivables to Company;

(iii) affects, contests or seeks to prohibit, restrain or enjoin the execution and delivery of this Agreement, the sale or pledge of the Assessment Installment Receivables by SANBAG to Company, or the payment of Collections on the Assessment Installment Receivables to the Company;

(iv) in any way contests or affects the validity of this Agreement, the power or authority of SANBAG to enter into this Agreement and perform its obligations hereunder or the consummation of the transactions contemplated hereby; or

(v) may result in any material adverse change relating to SANBAG's ability to comply with its obligations under this Agreement or to the Assessment Installment Receivables.

Section 4.02 Additional Representations and Agreements. SANBAG makes the following additional representations and agreements as of the Closing Date, on which the Company is deemed to have relied in acquiring the Assessment Installment Receivables:

(a) SANBAG has transferred the Assessment Installment Receivables to the Company pursuant to this Agreement for the Purchase Price, together with the Premium thereon, specified in this Agreement in cash. The consideration paid to SANBAG represents the fair market value of the Assessment Installment Receivables. This consideration was agreed upon as the result of arm's length negotiations. SANBAG has determined that the transactions contemplated by this Agreement and the related documents provide the maximum available financial benefits to SANBAG consistent with other objectives and requirements of SANBAG.

(b) SANBAG properly treats the transfer of the Assessment Installment Receivables to the Company as a sale pursuant to generally accepted accounting principles.

(c) There are no other agreements between SANBAG and the Company relating to or affecting the Assessment Installment Receivables, other than this Agreement.

(d) SANBAG does not receive any payments with respect to the Assessment Installment Receivables, except pursuant to this Agreement.

(e) SANBAG will mark its appropriate records so that they indicate the Assessment Installment Receivables have been sold and that the Company is the owner

of such Assessment Installment Receivables. Such records of SANBAG may be in the form of a computer tape, microfiche, or other electronic or computer media.

(f) Sales of assets to the Company by SANBAG, including but not limited to the Assessment Installment Receivables, at all times have constituted and will constitute absolute transfers and conveyances, for fair and reasonably equivalent consideration, of all of the seller's right, title and interest in, to and under those assets for all purposes.

(g) SANBAG at no time has taken or will take any action that is inconsistent with any of the foregoing assumptions and that has given or will give (i) any creditor or future creditor of the Company cause to believe mistakenly that any obligation incurred by SANBAG has been or will be not only the obligation of SANBAG, but also of the Company, or (ii) any creditor or future creditor of either SANBAG or the Company cause to believe mistakenly that SANBAG and the Company have not been or will not continue to remain separate and distinct entities.

Section 4.03 Representations of Company. Company makes the following representations as of the Closing Date on which the SANBAG is deemed to have relied in selling the Assessment Installment Receivables to Company.

(a) *Due Organization, Existence and Company.* Company is a limited liability company, duly organized and validly existing under the laws of the State of Illinois, has full legal right, power and authority under the Constitution and laws of the State to enter into this Agreement, to purchase the Assessment Installment Receivables and the Collections from SANBAG, and to carry out and consummate all transactions contemplated hereby.

(b) *Due Execution.* By all necessary official action of Company, Company has duly authorized and approved the execution and delivery of, and the performance by it of the obligations contained in this Agreement, and, as of the date hereof, such authorizations and approvals are in full force and effect and have not been amended, modified or rescinded.

(c) *Valid, Binding and Enforceable Obligations.* This Agreement constitutes the legal, valid and binding obligation of Company, enforceable in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles relating to or affecting creditors' rights, generally.

(d) *No Conflicts.* The authorization, execution and delivery of this Agreement and compliance with the provisions of this Agreement do not and will not conflict with or constitute a breach of or default under any applicable constitutional provision, law or administrative rule or regulation of the State or the United States, or any applicable judgment, decree, license, permit, trust agreement, loan agreement, bond, note, resolution, ordinance, agreement or other instrument to which Company (or any of its officers in their respective capacities as such) are subject, or by which it or any of its

properties are bound; nor will any such authorization, execution, delivery or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of its assets or properties or under the terms of any such law, regulation or instrument, except as may be provided by this Agreement.

(e) *Consents and Approvals.* No consent or approval of any trustee or holder of any indebtedness of Company and no consent, permission, authorization, order or license of, or filing or registration with, any governmental agency, is necessary in connection with the execution and delivery of this Agreement, or the consummation of any transaction herein or therein contemplated, except as have been obtained or made and as are in full force and effect.

(f) *No Litigation.* No action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, government agency, public board or body, is pending with service of process accomplished or, to the knowledge of Company, pending or threatened, that:

(i) in any way questions the legal existence of Company or the titles of the officers of Company to their respective offices that would have any material likelihood of affecting the obligations of Company under this Agreement;

(ii) contests the validity or the power and authority of Company to purchase the Assessment Installment Receivables from SANBAG;

(iii) affects, contests or seeks to prohibit, restrain or enjoin the execution and delivery of this Agreement, the purchase of the Assessment Installment Receivables by Company from SANBAG, or the payment of Collections on the Assessment Installment Receivables to the Company;

(iv) in any way contests or affects the validity of this Agreement or the consummation of the transactions contemplated hereby; or

(v) may result in any material adverse change relating to Company's ability to comply with its obligations under this Agreement.

Article V Miscellaneous

Section 5.01 Amendment. This Agreement may be amended by an instrument in writing signed by SANBAG and the Company.

Section 5.02 Entire Agreement. This Agreement shall constitute the entire agreement between the parties hereto and is made solely for the benefit of the parties hereto. No other person shall acquire or have any right hereunder by virtue hereof, except as provided herein.

Section 5.03 Notices. All notices or communications to be given under this Agreement shall be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or at such address as the party may provide to the other party in writing from time to time. Notice shall be effective either (a) upon actual receipt after deposit in the United States mail, postage prepaid, or (b) in the case of personal delivery to any person, upon actual receipt. The Company or SANBAG may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

If to the Company: FNA California, LLC
c/o First National Assets
120 N. LaSalle, Suite 1220
Chicago, IL 60602
Attn: General Counsel

If to SANBAG: San Bernardino Council of Governments
1170 West 3rd Street, 2nd Floor
San Bernardino, California 92410
Attn: Raymond Wolfe, Executive Director

Section 5.04 No Assignment by SANBAG. Notwithstanding anything to the contrary contained herein, this Agreement may not be assigned by SANBAG.

Section 5.05 Limitations on Rights of Others. The provisions of this Agreement are solely for the benefit of SANBAG and the Company, and nothing in this Agreement, whether express or implied, shall be construed to give to any other Person any legal or equitable right, remedy or claim under or in respect of this Agreement or any covenants, conditions or provisions contained herein.

Section 5.06 Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 5.07 Separate Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

Section 5.08 Headings. The headings of the various Articles and Sections herein are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

Section 5.09 Governing Law and Venue.

(a) This Agreement shall be construed in accordance with the laws of the State, without reference to its conflict of law provisions, and the obligations, rights and remedies of the parties hereunder shall be determined in accordance with such laws.

(b) To the extent permitted by law, the parties hereto agree that any and all claims asserted against the Company arising under this Agreement or related thereto shall be heard and determined either in the courts of the United States located in Riverside, California or in the California State Courts located in San Bernardino, California.

(c) If SANBAG commences any action against the Company in a court located other than in Riverside or San Bernardino, California, upon request of the Company, SANBAG shall either consent to a transfer of the action to a court of competent jurisdiction located in Riverside (federal) or San Bernardino (State), California or, if the court where the action is initially brought will not or cannot transfer the action, SANBAG shall consent to dismiss such action without prejudice and may thereafter reinstitute the action in a court of competent jurisdiction in Riverside (federal) or San Bernardino (State), California.

(d) To the extent permitted by law, the parties hereto agree that any and all claims asserted against SANBAG arising under this Agreement or related thereto shall be heard and determined either in the courts of the United States located in Riverside County, California or in the California State Courts located in San Bernardino County, California.

(e) If the Company commences any action against SANBAG in a court located other than in Riverside (federal) or San Bernardino (State) County, California, upon request of SANBAG, the Company shall either consent to a transfer of the action to a court of competent jurisdiction located in Riverside (federal) or San Bernardino (State) County, California or, if the court where the action is initially brought will not or cannot transfer the action, the Company shall consent to dismiss such action without prejudice and may thereafter reinstitute the action in a court of competent jurisdiction in Riverside (federal) or San Bernardino (State) County, California.

(f) With respect to any action between SANBAG and the Company in California State Court brought in accordance with the provisions of this Section, SANBAG and the Company each hereby expressly waives and relinquishes any rights either might otherwise have (i) to move to dismiss on grounds of forum non conveniens; (ii) to remove to Federal Court; and (iii) to move for a change of venue to a California State Court outside the county in which it is pending.

(g) With respect to any action between SANBAG and the Company in Federal Court brought in accordance with the provisions of this Section, SANBAG and the Company each hereby expressly waives and relinquishes any right either might otherwise have to move to transfer the action to another United States Court.

Section 5.10 Nonpetition Covenants. Notwithstanding any prior termination of this Agreement, SANBAG shall not, prior to the date which is one (1) year and one (1) day after the termination of this Agreement with respect to the Company, acquiesce, petition or otherwise invoke or cause the Company to invoke the process of any court or government against Company for the purpose of commencing or sustaining a case against the Company under any Federal or state bankruptcy, insolvency or similar law or appointing a receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar official of the Company or any substantial part of its property, or ordering the winding up or liquidation of the affairs of the Company.

Section 5.11 Successor Is Deemed Included In All References To Predecessor. Whenever in this Agreement either SANBAG or the Company is named or referred to, such reference shall be deemed to include the successors thereof, and all the covenants and agreements in this Agreement by or for the benefit of SANBAG and Company shall bind and inure to the benefit of the respective successors thereof whether so expressed or not.

Section 5.12 Waiver of Personal Liability. No member, officer, agent or employee of the Company or SANBAG shall be individually or personally liable for the payment of any amount due hereunder or be subject to any personal liability or accountability by reason of the transactions described herein; but nothing herein contained shall relieve any such member, officer, agent or employee from the performance of any official duty provided by law or by this Agreement.

Section 5.13 Exclusive Right of First Refusal. SANBAG hereby grants to the Company an exclusive right of first refusal to purchase, upon similar and mutually agreeable terms in this Agreement, *mutatis mutandis*, Assessment Installment Receivables that become delinquent with respect to the Tax Years ending on June 30, 2025, June 30, 2026 and June 30, 2027 as follows:

(a) With respect to Assessment Installment Receivables secured by Properties that also secure Assessment Installment Receivables that were previously purchased by the Company, such purchases shall be documented by the execution of an agreement in the form of this Agreement, *mutatis mutandis*, with the purchase price and premium calculated in the same manner as this Agreement; and

(b) With respect to all other Assessment Installment Receivables, such purchases shall be documented by the execution of an agreement in the form of this Agreement, *mutatis mutandis*, with the purchase price and premium calculated in the same manner as this Agreement, modified as the parties mutually agree.

[Next page is signature page]

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

SAN BERNARDINO ASSOCIATED
GOVERNMENTS

By _____
Name: Raymond W. Wolfe
Title: Executive Director

Approved as to Form
BEST BEST & KRIEGER LLP, as Bond
Counsel

By: _____
Name: Mrunal M. Shah
Title: Partner

FNA CALIFORNIA, LLC

By _____
Name: John Eisinger
Title: CEO

Attachment: Purchase and Sale Agreement - SANBAG - FY 2023-2024 w_ FNA California LLC-c1 (10330 : Purchase and Sale Agreement for

EXHIBIT "B"

LIST OF MASTER INDENTURES

- (a) Master Indenture by and between SANBAG and Deutsche Bank National Trust Company, as Trustee, dated as of November 1, 2013, relating to the San Bernardino Associated Governments Limited Obligation Improvement Bonds (SANBAG HERO Program) (First Residential Property Tranche – Phase One);
- (b) Amended and Restated Master Indenture by and between SANBAG and Deutsche Bank National Trust Company, as Trustee, dated as of September 3, 2014, relating to the San Bernardino Associated Governments Limited Obligation Improvement Bonds (SANBAG HERO Program) (First Residential Property Tranche – Phase One);
- (c) Master Indenture by and between SANBAG and Deutsche Bank National Trust Company, as Trustee, dated as of September 3, 2014, relating to the San Bernardino Associated Governments Limited Obligation Improvement Bonds (SANBAG HERO Program) (Second Residential Property Tranche – Phase One);
- (d) Amended and Restated Master Indenture by and between SANBAG and Deutsche Bank National Trust Company, as Trustee, dated as of March 4, 2015, relating to the San Bernardino Associated Governments Limited Obligation Improvement Bonds (SANBAG HERO Program) (Second Residential Property Tranche – Phase One);
- (e) Master Indenture by and between SANBAG and Deutsche Bank National Trust Company, as Trustee, dated as of March 4, 2015 relating to the San Bernardino Associated Governments Limited Obligation Improvement Bonds (SANBAG HERO Program) (Third Residential Property Tranche – Phase One);
- (f) Master Indenture by and between SANBAG and Deutsche Bank National Trust Company, as Trustee, dated as of July 1, 2015, relating to the San Bernardino Associated Governments Limited Obligation Improvement Bonds (SANBAG HERO Program) (Fourth Residential Property Tranche – Phase One);
- (g) Master Indenture by and between SANBAG and Deutsche Bank National Trust Company, as Trustee, dated as of October 1, 2015, relating to the San Bernardino Associated Governments Limited Obligation Improvement Bonds (SANBAG HERO Program) (Fifth Residential Property Tranche – Phase One);

- (h) Master Indenture by and between SANBAG and Deutsche Bank National Trust Company, as Trustee, dated as of January 1, 2016, relating to the San Bernardino Associated Governments Limited Obligation Improvements Bonds (SANBAG HERO Program) (Sixth Residential Property Tranche – Phase One);
- (i) Master Indenture by and between SANBAG and Deutsche Bank National Trust Company, as Trustee, dated as of May 1, 2016 relating to the San Bernardino Associated Governments Limited Obligation Improvement Bonds (SANBAG HERO Program) (Seventh Residential Property Tranche – Phase One);
- (j) Master Indenture by and between SANBAG and Deutsche Bank National Trust Company, as Trustee, dated as of September 1, 2016, relating to the San Bernardino Associated Governments Limited Obligation Improvement Bonds (SANBAG HERO Program) (Eighth Residential Property Tranche – Phase One);
- (k) Master Indenture by and between SANBAG and Deutsche Bank National Trust Company, as Trustee, dated as of January 1, 2017, relating to the San Bernardino Associated Governments Limited Obligation Improvement Bonds (SANBAG HERO Program) (Ninth Residential Property Tranche – Phase One);
- (l) Master Indenture by and between SANBAG and Deutsche Bank National Trust Company, as Trustee, dated as of March 1, 2017, relating to the San Bernardino Associated Governments Limited Subordinate Obligation Improvement Bonds (SANBAG HERO Program) (First Residential Property Tranche – Phase One), as amended;
- (m) Master Indenture by and between SANBAG and Deutsche Bank National Trust Company, as Trustee, dated as of May 1, 2017, relating to the San Bernardino Associated Governments Limited Obligation Improvement Bonds (SANBAG HERO Program) (Tenth Residential Property Tranche – Phase One);
- (n) Master Indenture by and between SANBAG and Deutsche Bank National Trust Company, as Trustee, dated as of September 1, 2017, relating to the San Bernardino Associated Governments Limited Obligation Improvement Bonds (SANBAG HERO Program) (Eleventh Residential Property Tranche – Phase One);
- (o) Amended and Restated Master Indenture by and between SANBAG and Deutsche Bank National Trust Company, as Trustee, dated as of November 1, 2017, relating to the San Bernardino Associated Governments Limited Obligation Improvement Bonds (SANBAG HERO Program) (Eleventh Residential Property Tranche – Phase One).

EXHIBIT "C"
EXCLUSION CRITERIA

1. On the Closing Date, an Assessment Installment Receivable that is not lawfully collectable or no longer constitutes a valid and existing lien on the subject Property.
2. On the Closing Date, an Assessment Installment Receivable where the subject Property (i) has been or is expected to be designated as a CERCLA or government designated environmental cleanup site or (ii) is subject to environmental contamination that could materially decrease the market value thereof.
3. On the Closing Date, a subject Property that is described as, owned by, or used for (a) vacant land, (b) a church or religious organization, (c) orphanages or other non-profit or charitable services, (d) sanitariums, convalescent and rest homes, (e) military properties, (f) forests parks or recreational areas, (g) public schools, (h) public colleges (i) public hospitals, (j) county properties, (k) state properties, (l) federal properties, (m) municipal properties, (n) utility properties (e.g., gas, electric, telephone, water, sewage, railroads, pipelines, canals, radio/tv/mobile communications towers), (o) subsurface rights, (p) right-of-way, streets, roads, irrigation channels and ditches, (q) rivers, lakes or other submerged lands, (r) sewage, disposal, solid waste disposal, borrow pits, drainage reservoirs, waste lands, marshes, sand dunes, or swamps or (s) heavy manufacturing or mineral processing.
4. At the time of origination, a subject Property, including improvements thereon, has an assessed value or market value of less than \$75,000.
5. On the Closing Date, an Assessment Installment Receivable where the original date of delinquency is greater than three hundred sixty-five (365) days prior to the Cut-off Date.
6. An Assessment Installment Receivable that was not originated by a SANBAG or any of its authorized program administrators.
7. On the Closing Date, an Assessment Installment Receivable that has been (a) challenged as to amount, enforceability or validity, (b) the subject of litigation, (c) subject to right of rescission, right of setoff or counterclaim, or (d) subjected to the assertion of defenses with respect to any of the foregoing.
8. At the time of origination, an Assessment Installment Receivable where (a) the loan to value ratio of the existing mortgage is greater than ninety percent (90%) or (b) the ratio of the aggregate amount of debt secured by any lien on the related Property to the market value of the Property is greater than ninety-five percent (95%).
9. On the Closing Date, an Assessment Installment Receivable that is subordinate to other valid claims on the subject Property or that otherwise does not have a first lien.

Minute Action

AGENDA ITEM: 7

Date: June 12, 2024

Subject:

Award Contract No. 24-1003085 for Professional Audit Services

Recommendation:

That the General Policy Committee recommend the Board, acting as the San Bernardino County Transportation Authority:

Approve Contract No. 24-1003085 with Crowe LLP for Professional Audit Services for a five-year term, and a not-to-exceed amount of \$900,000, to be funded with Local Transportation Fund – Administration funds and Indirect funds.

Background:

On February 6, 2024, San Bernardino County Transportation Authority (SBCTA) released Request for Proposals (RFP) No. 24-1003085, for professional audit services, which was sent electronically to approximately 444 consultants registered on PlanetBids. Additionally, the RFP was posted on the SBCTA website and published in the Daily Journal. Fourteen firms downloaded the solicitation.

On March 5, 2024, five proposals were received and found to be responsive by the procurement analyst. The Evaluation Committee was comprised of three staff from SBCTA.

Evaluators concluded their individual review of the proposals and convened to review and discuss the proposals. The committee members individually scored the proposals based on the following evaluation criteria: Qualifications, Related Experience and References--25 points; Proposed Staffing and Project Organization--30 points; Work Plan--30 points; and Price--15 points. Technical Proposals not meeting at least the minimum technical score of 70% of the maximum number of points were eliminated from further consideration. Only four firms met the 70% requirement and were included in the interviews.

On March 26, 2024, the Evaluation Committee interviewed the four short-listed firms. After the interviews, the Evaluation Committee separately scored the interviews. The assigned weights for the technical proposal were 60% and 40% for the interview scores, for a total of 100%.

The Evaluation Committee considered all firms qualified to perform the work specified in the RFP. Based on the combined scoring of the technical proposal and interview, the highest-ranked firm is Crowe LLP. This firm was selected because they clearly demonstrated a thorough understanding of the scope of work, proposed a qualified and experienced team, and had a clear, concise, and innovative approach to completing the audit on schedule and within budget. In addition, Crowe LLP demonstrated extensive transportation experience and specific experience with the Transportation Infrastructure Finance and Innovation Act (TIFIA) program, single audit requirements, and implementation of new Generally Accepted Accounting Principles.

Entity: San Bernardino County Transportation Authority

General Policy Committee Agenda Item
June 12, 2024
Page 2

Financial Impact:

Audit services are included in the proposed Budget for Fiscal Year 2024/2025 and funded with Indirect and Transportation Development Act funds in Program 01.

Reviewed By:

This item is not scheduled for review by any other policy committee or technical advisory committee. SBCTA General Counsel and Procurement Manager have reviewed this item and the draft contract.

Responsible Staff:

Lisa Lazzar, Chief of Fiscal Resources

Approved
General Policy Committee
Date: June 12, 2024

Witnessed By:

General Contract Information

Contract No: 24-1003085 Amendment No.: _____
 Contract Class: Payable Department: Finance
 Vendor No.: 03291 Vendor Name: Crowe LLP
 Description: Professional Auditing Services for SBCTA
 List Any Related Contract Nos.: 17-1001615 (prior agreement)

Dollar Amount					
Original Contract	\$	900,000.00	Original Contingency	\$	-
Prior Amendments	\$	-	Prior Amendments	\$	-
Prior Contingency Released	\$	-	Prior Contingency Released (-)	\$	-
Current Amendment	\$	-	Current Amendment	\$	-
Total/Revised Contract Value	\$	900,000.00	Total Contingency Value	\$	-
Total Dollar Authority (Contract Value and Contingency)				\$	900,000.00

Contract Authorization

Board of Directors Date: 7/3/2024 Committee _____ Item # _____

Contract Management (Internal Purposes Only)

Other Contracts _____ Sole Source? No _____ N/A _____
 Local _____ Services _____ N/A _____

Accounts Payable

Estimated Start Date: 7/3/2024 Expiration Date: 6/30/2029 Revised Expiration Date: _____
 NHS: N/A QMP/QAP: N/A Prevailing Wage: N/A

Fund	Prog	Task	Sub-Task	Object	Revenue	PA Level	Revenue Code Name	Total Contract Funding:		Total Contingency:	
								\$		\$	
GL: 7001	01	0400	0000	52100	43001000		Indirect	675,000.00		-	
GL: 1030	01	0400	0000	52100	43001000		LTF Admin	225,000.00		-	
GL:								-		-	
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Lisa Lazzar _____ Hilda Flores _____
 Project Manager (Print Name) Task Manager (Print Name)

Additional Notes:

Attachment: CSS - Revised - 08-25-2022 10:11am [Revision 1] (10566 : Award Contract No. 24-1003085 for Professional Audit Services)

CONTRACT NO. 24-1003085

BY AND BETWEEN

**SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY**

AND

CROWE LLP

FOR

PROFESSIONAL AUDIT SERVICES

This contract (“Contract”) is made and entered into 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 Crowe LLP (“CONSULTANT”), whose address is 650 Town Center Drive, Suite 740, Costa Mesa, California 92626-7192. SBCTA and CONSULTANT are each a “Party” and are collectively the “Parties.”

RECITALS:

WHEREAS, SBCTA 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 SBCTA, with SBCTA’s satisfaction being based on prevailing applicable professional standards.

- 1.2 The Project Manager for this Contract is Lisa Lazzar, or such other designee as shall be designated in written notice to CONSULTANT from time to time by the Department Director of SBCTA or his or her designee. The Project Manager shall have authority to act on behalf of SBCTA in administering this Contract, including giving notices (including, without limitation, notices of default and/or termination), technical directions and approvals; 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 SBCTA's Procurement Analyst, and shall continue in full force and effect through **June 30, 2029** 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.

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 SBCTA) shall not exceed the amount set forth in section 3.2 below.
- 3.2 The total Contract Not-To-Exceed Amount is Nine Hundred Thousand Dollars (\$900,000.00). 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 Proposal for Time and Materials." 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 SBCTA 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. SBCTA will not reimburse CONSULTANT for any expenses not shown in Exhibit B or agreed to and approved by SBCTA as required under this Contract.
- 3.3 Intentionally Omitted.
- 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 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards..
- 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

2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, shall be repaid by CONSULTANT to SBCTA.

- 3.5 Any Work provided by CONSULTANT not specifically covered by the Scope of Work shall not be compensated without prior written authorization from SBCTA. It shall be CONSULTANT's responsibility to recognize and notify SBCTA 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 four (4) week billing period payments, forty-five (45) calendar days after receipt of an acceptable invoice by SBCTA prepared in accordance with the 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 SBCTA, which shall be accompanied by documentation supporting each element of measurement and/or cost. Each invoice will be for a four-week billing period and will be marked with SBCTA'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 except for the month of June, which will require the invoice to be submitted by July 10th. Invoices shall include request for payment for Work (including additional services authorized by SBCTA) 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 SBCTA has received and approved all Work and deliverables. Invoices should be e-mailed to SBCTA at the following address:

ap@gosbcta.com

For large files over 30 megabytes, invoices can be submitted using this link:
<https://sanbag-lfweb.sanbag.ca.gov/Forms/Invoice-submission>

- 4.3 CONSULTANT shall include a statement and release with each invoice, satisfactory to SBCTA, 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. SBCTA 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 SBCTA'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 SBCTA. CONSULTANT also agrees to return any retainage payments to each subconsultant within ten (10) calendar days after the subconsultant's 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 SBCTA. SBCTA reserves the right to request documentation from CONSULTANT showing payment has been made to its subconsultants. SBCTA 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 SBCTA.

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 SBCTA for the continuance of Work performed by CONSULTANT, Work directly or indirectly involved may be suspended or terminated by SBCTA at the end of the period for which funds are available. When SBCTA becomes aware that any portion of Work will or may be affected by a shortage of funds, it will promptly notify CONSULTANT. Nothing herein shall relieve SBCTA from its obligation to compensate CONSULTANT for work already performed pursuant to this Contract. No penalty shall accrue to SBCTA 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) 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 SBCTA, or until the conclusion of all litigation, appeals or claims related to this Contract, whichever is longer. CONSULTANT shall provide SBCTA, the California State Auditor, or other authorized representatives of SBCTA 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 SBCTA 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 SBCTA and/ or any state or federal agency funding this Work at any time. After CONSULTANT receives any audit recommendations, the cost or price proposal shall be adjusted by CONSULTANT and approved by SBCTA'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 SBCTA'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, except to the extent CONSULTANT's refusal to incorporate such recommendations is based upon CONSULTANT's reasonable judgment that such recommendations would impair CONSULTANT's independence required by professional standards. Any dispute concerning the audit findings of this Contract shall be reviewed by SBCTA's Chief Financial Officer. CONSULTANT may request a review of any recommendations by submitting the request in writing to SBCTA 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 SBCTA or the Project, CONSULTANT shall immediately document such matters and notify SBCTA in writing. CONSULTANT shall also similarly notify SBCTA 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 SBCTA 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 SBCTA to determine if CONSULTANT is performing to expectations and 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 SBCTA’s Project Manager, identified in Section 1.2, 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 SBCTA under the Contract.

11.1.4 SBCTA’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. SBCTA’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 SBCTA'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 the "DISPUTES" Article herein.
- 11.4 All Technical Direction shall be issued in writing by SBCTA's Project Manager.
- 11.5 CONSULTANT shall proceed promptly with the performance of Technical Direction issued by SBCTA'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 SBCTA'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 SBCTA in writing within five (5) working days after receipt of any such instruction or direction and shall request SBCTA to modify the Contract accordingly. Upon receiving the notification from CONSULTANT, SBCTA 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 SBCTA 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 SBCTA. CONSULTANT will be advised of any such changes by written notification from SBCTA describing the change. This notification will not be binding on SBCTA until SBCTA's Awarding Authority has approved an amendment to this Contract.
- 12.2 Promptly after such written notification of change is given to CONSULTANT by SBCTA, the Parties will attempt to negotiate a mutually agreeable adjustment to compensation or time of performance, and amend the Contract accordingly.
- 12.3 Notwithstanding anything herein this Agreement to the contrary, if, at any time during the Term, after being notified of a change to the Work, CONSULTANT determines in CONSULTANT's sole discretion that implementation of such a change would impair CONSULTANT's independence in accordance with professional standards, and CONSULTANT declines to so comply with the change in Work, CONSULTANT shall provide SBCTA with timely written notice of such election. SBCTA may then timely choose to waive in writing the requirement for compliance with the change to CONSULTANT, or to terminate the applicable this Agreement, for convenience, without liability or penalty to either party.

ARTICLE 13. EQUAL EMPLOYMENT OPPORTUNITY

- 13.1 During the term of this Contract, CONSULTANT shall not willfully discriminate against any employee or applicant for employment because of race, religious creed, color, national origin,

ancestry, physical disability, mental disability, medical condition, genetic information, gender, sex, marital status, gender identity, gender expression, sexual orientation, age, or military or veteran status. 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.

- 13.2 The CONSULTANT and all subconsultants shall comply with all provisions of Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color, and national origin. In addition, CONSULTANT and all subconsultants will ensure their services are consistent with and comply with obligations and procedures outlined in SBCTA's current Board-adopted Title VI Program, including the Public Participation Plan and the Language Assistance Plan.

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 SBCTA 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 SBCTA, in writing, any conflict of interest issues as soon as they are known to CONSULTANT. CONSULTANT agrees that CONSULTANT and its staff shall comply with SBCTA's Conflict of Interest Policy, No. 10102.

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 SBCTA 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 SBCTA's Project Manager. CONSULTANT shall not substitute any key personnel without the prior written consent of SBCTA. In the event that the Parties cannot agree as to the substitution of key personnel, SBCTA may terminate this Contract. Key Personnel are:

Name	Job Classification/Function
Bradley Schelle	Partner/Lead Partner
Kathy Lai	Partner/Concurring Review
Tony Boras	Partner/National Office
Joseph Widjaja	Senior Manager/Project Manager
Cassandra Taylor	Senior Manager/Project Manager
Kathleen San Andres	Senior/Senior in Charge
Liam Darwin	Senior Staff

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 SBCTA 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 SBCTA, shall deliver to SBCTA the original copies of audit opinions and working papers of all such Products, which shall become the sole property of SBCTA; provided, however, CONSULTANT's working papers and audit opinions shall remain the property of CONSULTANT.
- 17.2 All materials, documents, data or information obtained from SBCTA's data files or any SBCTA-owned medium furnished to CONSULTANT in the performance of this Contract will at all times remain the property of SBCTA. 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 SBCTA.
- 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 SBCTA, any information obtained by CONSULTANT from or through SBCTA unless (a) the information was known to CONSULTANT prior to obtaining same from SBCTA, 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 SBCTA 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 shall remain confidential until released in writing by SBCTA, except to the extent such materials and information become subject to disclosure by SBCTA under the California Public Records Act, or other law, or otherwise become public information through no fault of CONSULTANT, or its employees or agents. Any communications with or work product of SBCTA’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.
- 17.4 CONSULTANT shall not use SBCTA's name or photographs in any professional publication, magazine, trade paper, newspaper, seminar or other medium without first receiving the express written consent of SBCTA. CONSULTANT shall not release any reports, information or promotional material related to this Contract for any purpose without prior written approval of SBCTA.

- 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 SBCTA unless otherwise agreed to in writing by both Parties.
- 17.6 CONSULTANT, its employees, agents and subconsultants shall be required to comply with SBCTA's Confidentiality Policy; anyone who may have access to Personally Identifiable Information ("PII") and/or Sensitive Security Information ("SSI") will be required to execute a Confidentiality Agreement.

ARTICLE 18. TERMINATION

- 18.1 Termination for Convenience - SBCTA 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 SBCTA's instruction, and shall turn over such Work in accordance with SBCTA's instructions.
- 18.1.1 CONSULTANT shall deliver to SBCTA all deliverables prepared by CONSULTANT or its subconsultants or furnished to CONSULTANT by SBCTA. Upon such delivery, CONSULTANT may then invoice SBCTA 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 SBCTA 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 SBCTA'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, SBCTA may, without prejudice to any other rights or remedies SBCTA 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 SBCTA, SBCTA may take possession of the deliverables and finished Work by whatever method SBCTA may deem expedient. A waiver by SBCTA 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 SBCTA all finished and unfinished deliverables under this Contract prepared by CONSULTANT or its subconsultants or furnished to CONSULTANT by SBCTA 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 SBCTA, satisfactory in form and content to SBCTA and verified by SBCTA. In no event shall CONSULTANT be entitled to any payment for prospective profits or any damages because of such termination.

18.4 CONSULTANT's termination for cause. If CONSULTANT determines that auditors' professional standards would be violated by CONSULTANT's continuing Work for SBCTA due to action or inaction by SBCTA, CONSULTANT shall provide SBCTA written notice of such determination including the specific facts or circumstances and standards underlying and supporting such determination. Immediately, SBCTA shall commence curing such action or inaction to enable CONSULTANT to avoid violating such professional standards, and shall diligently prosecute such cure to completion within a reasonable time under the circumstances. If SBCTA fails to commence or prosecute such cure in accordance with this section, CONSULTANT may give SBCTA written notice of termination of this Contract specifying the date of Contract termination.

ARTICLE 19. STOP WORK ORDER

Upon failure of CONSULTANT or its subconsultants to comply with any of the requirements of this Contract, SBCTA 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" above.

ARTICLE 20. CLAIMS

SBCTA shall not be bound to any adjustments in the Contract amount or schedule unless expressly agreed to by SBCTA in writing. SBCTA 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, subject to the provisions of Article 21.2 "General Provisions", and at all times during the performance of the Work and for such additional periods as required herein, CONSULTANT and all sub-consultants of every tier performing any Work under this contract shall, at CONSULTANT's and sub-consultant's sole expense, procure and maintain broad form insurance coverage at least as broad as the following minimum requirements specified below:

21.1.1 Professional Liability. The policies must include the following:

- A limit of liability not less than \$5,000,000 per claim
- An annual aggregate limit of not less than \$5,000,000
- Coverage shall be appropriate for the CONSULTANT's profession and provided

services to include coverage for errors and omissions arising out of the CONSULTANT's professional services, or services of any person employed by the CONSULTANT, or any person for whose acts, errors, mistakes or omissions the CONSULTANT may be legally liable.

- If Coverage is on a claims made basis:
 - Policy shall contain a retroactive date for coverage of prior acts, which 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 three (3) years after Contract completion.

21.1.2 Worker's Compensation/Employer's Liability. 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. 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. The policy must include the following:

- Consultant shall maintain commercial general liability (CGL) insurance (Insurance Services Office (ISO) Form CG 00 01), and if necessary excess/umbrella commercial liability insurance, with a combined limit of liability of not less than **\$3,000,000 each occurrence**
- The policy shall, at a minimum, include coverage for any and all of the following: bodily injury, property damage, personal injury, broad form contractual liability (including coverage to the maximum extent possible for the indemnifications in this Contract), premises-operations , duty to defend in addition to (without reducing) the limits of the policy(ies), and products and completed operations.
 - \$3,000,000 per occurrence limit for property damage or bodily injury
 - \$1,000,000 per occurrence limit for personal injury and advertising injury
 - \$3,000,000 per occurrence limits for products/completed operations coverage (ISO Form 20 37 10 01) if SBCTA's Risk Manager determines it is in SBCTA's best interests to require such coverage,

- If a general aggregate applies, it shall apply separately to this project/location. The contract number and brief explanation of the project/work must be indicated under “Description of Operations/Locations” (ISO Form CG 25 03 or CG 2504).
- Coverage is to be on an “occurrence” form. “Claims made” and “modified occurrence” forms are not acceptable.
- A copy of the declaration page or endorsement page listing all policy endorsements for the CGL policy must be included.

All subconsultants of any tier performing any portion of the Work for CONSULTANT shall also obtain and maintain the CGL 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 SBCTA’s Risk Manager.

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

- If the CONSULTANT elects to include an umbrella or excess policy to cover any of the total limits required beyond the primary commercial general liability policy limits and/or the primary commercial automobile liability policy limits, then the policy must include the following:
 - 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.
 - The umbrella or excess policy must also extend coverage over the automobile policy if it is to be used in combination with the primary automobile policy to meet the total insurance requirement limits.

There shall be no statement limiting the coverage provided to the parties listed as additionally insureds or as indemnitees below.

21.1.5 Commercial Auto. The policy must include the following:

- A total limit of liability of not less than **\$1,000,000** each accident. This total limit of liability may be met by combining the limits of the primary auto policy with an umbrella or excess policy in accordance with subparagraph 4 (Umbrella/Excess CGL) of Section A of this Article.
- Such insurance shall cover liability arising out of any vehicle, including owned, hired, leased, borrowed and non-owned vehicles assigned to or used in performance of the CONSULTANT services.

- Combined Bodily Injury and Property Damage Liability insurance. The commercial automobile liability insurance shall be written on the most recent edition of ISO Form CA 00 01 or equivalent acceptable to SBCTA.

21.1.6 Pollution Liability Intentionally Omitted

21.1.7 Technology Professional Liability Errors and Omissions Insurance. Appropriate to the Consultant's profession and work hereunder, with limits not less than \$1,000,000 per occurrence. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by the Consultant in this agreement and shall include, but not be limited to, claims involving, invasion of privacy violations, information theft, release of private information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.

Cyber Liability coverage in an amount sufficient to cover the full replacement value of damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of SBCTA that will be in the care, custody, or control of CONSULTANT.

21.1.8 Railroad Protective Liability. Intentionally Omitted

21.2. General Provisions

- 21.2.1 Qualifications of Insurance Carriers. If policies are written by insurance carriers authorized and admitted to do business in the state of California, then the insurance carriers must have a current A.M. Best rating of A-VIII or better, and if policies are written by insurance carriers that are non-admitted but authorized to conduct business in the state of California, then they must meet the current A.M. Best rating of A-X or better, unless otherwise approved in writing by SBCTA's Risk Manager.
- 21.2.2 Additional Insured Coverage. All policies, except those for Workers' Compensation and Professional Liability insurance, shall be endorsed by ISO Form CG 20 43, or if not available, then the ISO Form most closely similar, to name San Bernardino County Transportation Authority and its officers, directors, members, employees, and agents, 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 SBCTA to vicarious liability, but shall allow coverage for SBCTA to the full extent provided by the policy.
- 21.2.3 Proof of Coverage. Evidence of insurance in a form acceptable to SBCTA's Risk Manager, certificates of insurance and the required additional insured endorsements, shall be provided to SBCTA's Procurement Analyst prior to issuance of the NTP or prior to commencing any Work, as SBCTA 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 SBCTA Project Manager's name on the face of the certificate.

- 21.2.4 Deductibles and Self-Insured Retention. Regardless of the allowance of exclusions or deductibles by SBCTA, CONSULTANT shall be responsible for any deductible or self-insured retention (SIR) amount and shall warrant that the coverage provided to SBCTA is consistent with the requirements of this Article. CONSULTANT will pay, and shall require its sub-consultants to pay, all deductibles, co-pay obligations, premiums and any other sums due under the insurance required in this Article. Any deductibles or self-insured retentions must be declared to and approved in writing by SBCTA's Risk Manager. Without SBCTA's Risk Manager's express written approval, no deductibles or SIR will be allowed. At the option of SBCTA, if the deductible or SIR is approved and it is greater than \$10,000 or one (1) percent of the amount of coverage required under this Contract, whichever is less, the CONSULTANT shall guarantee that either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to SBCTA, its directors, officials, officers, employees and agents; or, (2) the CONSULTANT shall procure a bond guaranteeing the amount of the deductible or self-insured retention. SBCTA shall have the right to review any and all financial records that SBCTA, at its sole discretion deems necessary to approve any deductible or SIR. SBCTA will have the right, but not the obligation, to pay any deductible or SIR due under any insurance policy. If SBCTA pays any sums due under any insurance required above, SBCTA may withhold said sums from any amounts due to CONSULTANT. The CONSULTANT's policies will neither obligate nor prohibit SBCTA or any other Additional Insured, from paying any portion of any CONSULTANT's deductible or SIR.
- 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, with a form at least as broad as ISO Form CG 20 01 04 13, to be primary coverage, and any coverage carried by any of the Additional Insureds shall be excess and non-contributory. Further, none of CONSULTANT's or subconsultants' pollution, automobile, general liability 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 SBCTA 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, excluding Technology/Cyber, to waive all rights of subrogation against the Additional Insureds (ISO Form CG 24 04 05 09). 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 SBCTA thirty (30) days prior written notice of such cancellation or nonrenewal. If the policy is cancelled for nonpayment of premium, CONSULTANT will provide SBCTA ten (10) days prior written notice. In any event, CONSULTANT will provide SBCTA 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 SBCTA at insurance@gosbcta.com, to the attention of SBCTA'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 Non-Limitation of Insurance Requirements. The insurance coverage provided and limits required under this Contract are minimum requirements and are not intended to limit the CONSULTANT's indemnification obligations under the Contract, nor do the indemnity obligations limit the rights of the Indemnified Parties to the coverage afforded by their insured status. To the extent required by Law in connection with Work to be performed, the CONSULTANT shall obtain and maintain, or cause to be obtained and maintained, in addition to the insurance coverage expressly required under this Contract, such other insurance policies for such amounts, for such periods of time and subject to such terms, as required by Law and any other agreements with which the CONSULTANT is required to comply, including any Third-Party Agreements. Liability insurance coverage will not be limited to the specific location designated as the Site, except that if the CONSULTANT arranges project-specific general liability, excess liability, or workers' compensation coverage, limitations of coverage to the Site will be permitted subject to SBCTA approval and use of the broadest available site-specific endorsements. No liability policy will contain any provision or definition that would serve to eliminate so-called "third-party-over action" claims, including any exclusion for bodily injury to an employee of the insured or of any Subcontractor. The CONSULTANT acknowledges and will at all times comply with the provisions of Labor Code Section 3700 which require every employer in the State to be insured against liability for workers' compensation, or to undertake self-insurance in accordance with the provisions of that code.
- 21.2.9 Enforcement. SBCTA 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, SBCTA 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 SBCTA 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.

- 21.2.10 No Waiver. Failure of SBCTA 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.
- 21.2.11 Project Specific Insurance. – Intentionally Omitted
- 21.2.12 No Representations or Warranties. SBCTA makes no representation or warranty that the coverage, limits of liability, or other terms specified for the insurance policies required under this contract are adequate to protect the CONSULTANT against its undertakings under this Contract or its liability to any third party, nor will they preclude SBCTA from taking any actions as are available to it under this Contract or otherwise at law.
- 21.2.13 Review of Coverage. SBCTA may at any time review the coverage, form, and amount of insurance required under this contract, and may require the CONSULTANT to make changes in such insurance reasonably sufficient in coverage, form, and amount to provide adequate protection against the kind and extent of risk that exists at that time. SBCTA may change the insurance coverages and limits required under this contract by notice to the CONSULTANT, whereupon the CONSULTANT will, within sixty (60) days of such notice date, procure the additional and/or modified insurance coverages. Upon such change any additional cost (at actual cost) from such change will be paid by SBCTA and any reduction in cost will reduce the Contract Price pursuant to a Contract amendment.
- 21.2.14 Subconsultant Insurance. Insurance required of the CONSULTANT shall be also provided by subconsultants or by CONSULTANT on behalf of all subconsultants to cover their services performed under this Contract. CONSULTANT may reduce types and the amounts of insurance limits provided by subconsultant(s) to be proportionate to the amount of the subconsultant's contract and the level of liability exposure for the specific type of work performed by the subconsultant. CONSULTANT shall be held responsible for all modifications, deviations, or omissions in these insurance requirements as they apply to subconsultant.
- 21.2.15 Higher limits. If CONSULTANT maintains higher limits than the minimums shown above, SBCTA 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 SBCTA.
- 21.2.16 Special Risks or Circumstances. SBCTA 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 Intentionally omitted.

22.2 CONSULTANT agrees to indemnify, defend (with legal counsel reasonably approved by SBCTA) and hold harmless SBCTA, the San Bernardino Council of Governments (“SBCOG”), SBCOG’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 the CONSULTANT’s negligent, grossly negligent, reckless, or willful acts or omissions under this Contract resulting in personal injury, death, or property damage, including for any costs or expenses incurred by any Indemnitee(s) 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 Indemnitees’ “active” as well as “passive” negligence, but does not apply to the “sole negligence” or “willful misconduct,” within the meaning of Civil Code section 2782, of any Indemnitee.

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 SBCTA’s 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, subject to section 17.1, shall become the sole property of SBCTA when prepared, whether delivered to SBCTA 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 SBCTA in writing of the intended subcontracting and obtaining SBCTA’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 SBCTA, CONSULTANT shall furnish SBCTA a copy of the proposed subcontract for SBCTA’s approval of the terms and conditions thereof and shall not execute such subcontract until SBCTA has approved such terms and conditions. SBCTA’s approval shall not be unreasonably withheld.

25.3 Approval by SBCTA 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 SBCTA. 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

SBCTA or any of its designees, representatives, or agents shall at all times have access during normal business hours to CONSULTANT's financial, time and expense data related to this project 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 SBCTA 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. SBCTA 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 SBCTA.

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 the following: Contract Articles, Exhibit A “Scope of Work,” Exhibit B “Price Proposal,” SBCTA’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, SBCTA’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 SBCTA in writing within three (3) business days of its discovery of the conflict and shall comply with SBCTA'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 or email during regular business hours; (b) the first business day following delivery by fax or email 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 SBCTA of any contact information changes within ten (10) business days of the change.

To CROWE LLP	To SBCTA
650 Town Center Drive, Suite 740	1170 W. 3rd Street, 2nd Floor
Costa Mesa, California 92626-7192	San Bernardino, CA 92410-1715
Attn: Bradley Schelle	Attn: Lisa Lazzar
Email: brad.schelle@crowe.com	Email: llazzar@gosbcta.com
Phone: (317) 208-2551	Phone: (909) 884-8276
2nd Contact: Kathy Lai	Copy: Procurement Manager
Email: kathy.lai@crowe.com	Email: procurement@gosbcta.com

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 SBCTA’s Procurement Manager within thirty (30) calendar days after notice thereof in writing, which notice 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 SBCTA’s Executive Director. If the Executive Director fails to resolve the dispute in a manner acceptable to CONSULTANT, then such dispute may be reviewed by a court of competent jurisdiction.

33.2 During resolution of the dispute, CONSULTANT shall proceed with performance of this Contract with due diligence, however, CONSULTANT may suspend performance at any time, without liability or penalty, if doing so is, in CONSULTANT's reasonable judgment, required by professional standards or its continued performance would result in an independence violation thereunder.

ARTICLE 34. GRATUITIES

CONSULTANT, its employees, agents, or representatives shall not offer or give to any officer, official, agent or employee of SBCTA, 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 SBCTA at any and all places where such performance may be carried on. Failure of SBCTA to make such review or to discover defective work shall not prejudice the rights of SBCTA at the time of final acceptance. All Work performed by CONSULTANT shall be subject to periodic and final review and acceptance by SBCTA upon completion of all Work.

ARTICLE 36. CONFIDENTIALITY

See Article 17.

ARTICLE 37. EVALUATION OF CONSULTANT

CONSULTANT's performance may be evaluated by SBCTA 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 SBCTA.

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 SBCTA 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, the Drug-Free Workplace Act of 1988, as amended, 41 U.S.C. § 8103, et seq.; U.S. DOT regulations, "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)," 49 CFR Part 32; and U.S. OMB regulatory guidance, "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)," 2 CFR Part 182, particularly where the U.S. OMB regulatory guidance supersedes comparable provisions of 49 CFR Part 32.

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 SBCTA. SBCTA's exercise of consent

shall be within its sole discretion. Any purported assignment without SBCTA'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

INTENTIONALLY OMITTED.

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, SBCTA 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 covenants 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, SBCTA, 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 SBCTA 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 SBCTA has any authority to bind SBCTA 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 SBCTA shall be the Effective Date of the Contract.

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

Attachment: 24-1003085-PDF (10566 : Award Contract No. 24-1003085 for Professional Audit Services)

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

CROWE LLP

**SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY**

By: _____
Bradley T. Schelle
Partner

By: _____
Dawn M. Rowe
President, Board of Directors

Date: _____

Date: _____

APPROVED AS TO FORM

By: _____
Julianna K. Tillquist
General Counsel

Date: _____

CONCURRENCE

By: _____
Shaneka M. Morris
Procurement Manager

Date: _____

Attachment: 24-1003085-PDF (10566 : Award Contract No. 24-1003085 for Professional Audit Services)

**EXHIBIT “A”
“SCOPE OF WORK”**

General:

San Bernardino County Transportation Authority (SBCTA) is requesting proposals from qualified certified public accounting firms to audit its financial statements beginning with the Fiscal Year ending June 30, 2024 through Fiscal Year 2026, and two additional option years for Fiscal Year 2027 and Fiscal Year 2028. SBCTA requires an audit of its Annual Comprehensive Financial Report in accordance with generally accepted accounting principles and the governmental auditing standards as promulgated by the Comptroller General of the United States. Additionally, this audit should include compliance with covenants and related testing as required by indenture for SBCTA's Sales Tax Revenue Bonds and testing of expenditures on federal grants.

Auditing Standards to be Followed –

The audit shall be performed to satisfy the audit requirements in accordance with the most current version of each of the following standards and guidelines:

- The standards set forth for financial audits in the General Accounting Office's (GAO) Government Auditing Standards
- The federal Single Audit Act Amendments of 1996 and the U.S. Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, Audit Requirements for Federal Awards, 2 CFR Part 200
- San Bernardino County Transportation Authority Ordinance 04-01, San Bernardino Valley Subarea Expenditure Plan (Section F and H), Mountain Desert Expenditure Plan (Section C and E)
- Transportation Development Act Regulations. CA Code Section 6664 discusses the fiscal and compliance audits of all claimants. Section 6666 provides the compliance audit tasks for non-transit claimants, and Section 6667 provides the compliance audit tasks for transit claimants.
- Proposition 1B Compliance Requirements. Public Transportation Modernization Improvement and Service Enhancement Account (PTMISEA) funds received through Caltrans
- California Transit Security Grant Program - California Transit Assistance Funds (CTSGP-CTAF) funds received through CalEMA or any other State agency.

Reports to be Issued –

Following the completion of the audit of the fiscal year's financial statements, the Auditor shall issue the following reports and letters:

1. Independent Auditor's Report on Annual Comprehensive Financial Report (ACFR);
2. Independent Auditor's Report on the Single Audit;
3. Local Transportation Fund (LTF) Financial and Compliance Report
4. State Transit Assistance Fund (STAF) Financial and Compliance Report
5. Report on Applying Agreed Upon Procedures for Appropriations Limit Calculation
6. Annual State Controller's Report
7. Management Letter (if required)
8. State Transportation Improvement Program (STIP) Planning, Programing, and Monitoring (PPM) Program fund Compliance Report
9. Transportation Development Act (TDA) Conformance Auditing Guide and the Public

Transportation Modernization, Improvement, and Service Enhancement Account (PTMISEA) Guidelines and Low Carbon Transit Operations Program (LCTOP) Final Guidelines Compliance Report

Additional Considerations –

1. It is expected that the Auditor shall keep SBCTA informed of new state and Federal Developments affecting municipal and local government finance. Additionally, reporting standards and trends including changes in federal or state grant program accounting and reporting requirements shall be communicated to SBCTA.
2. SBCTA may require other generalized auditing requirements as needed by SBCTA.

SCHEDULE –

Annual audit schedule, subject to change:

Interim field work	April to June (later depending on award date)
Year-end field work	October to November
Financial Statements	November
Executive Board Presentation	Early December
SBCTA Board of Directors Presentation	Early January

* Note: Auditors should be prepared to attend meetings as requested:

- Executive Board meetings (Normally held twice a year – end of interim work and end of year-end to present financial reports),
- General Policy Committee meetings, *if necessary* (Held after the Executive Board meetings. The meetings are held on the second Wednesday of the month), and
- Board of Directors meetings (held on the first Wednesday of the month).



Price Proposal for Time and Materials No. 24-1003085

Key Personnel

Name	Classification/Title	Job Function	Hourly Rate	Hours	Total
Brad Schelle	Partner	Lead Partner	\$ 330	75	\$ 24,750
Kathy Lai	Partner	Concurring Review	\$ 330	15	\$ 4,950
Tony Boras	Partner	National Office	\$ 330	10	\$ 3,300
Joseph Widjaja	Senior Manager	Project Manager	\$ 250	100	\$ 25,000
Cassandra Taylor	Senior Manager	IT Audit Manager	\$ 250	35	\$ 8,750
Kathleen San Andres	Senior	Senior In-Charge	\$ 180	190	\$ 34,200
Liam Darwin	Senior	Senior	\$ 180	170	\$ 30,600
Staff	Staff	Staff	\$ 130	270	\$ 35,100
TOTAL					\$ 166,650

Other Direct Cost Schedule (ODC)

All ODC's are to be proposed at cost-without mark-ups.

Type of ODC	Unit Cost	Estimated Budget Amount
	\$	\$
	\$	\$
	\$	\$
	\$	\$
TOTAL		\$

Annual Cost for First 5 Years (Separate page with breakdown should be attached)

Year	Amount	
FY24/25	\$ 166,650	
FY25/26	\$ 172,510	
FY26/27	\$ 179,730	
FY27/28	\$ 186,910	
FY28/29	\$ 194,200	
	\$	
TOTAL		\$ 900,000

GRAND TOTAL \$ 900,000

Fees for each additional Federal major program (if applicable):

FY24 - \$23,500
 FY25 - \$24,400
 FY26 - \$25,400
 FY27 - \$26,400
 FY28 - \$27,500

Minute Action

AGENDA ITEM: 8

Date: June 12, 2024

Subject:

Surrender of Lease - Amendment No. 4 to Contract No. 16-1001429 "Local Agency Formation Commission (LAFCO)"

Recommendation:

That the General Policy Committee recommend the Board, acting as the San Bernardino County Transportation Authority:

Approve Surrender of Lease, Amendment No. 4 to Contract No. 16-1001429, of the Local Agency Formation Commission's lease of Unit 150, effective September 23, 2024.

Background:

The San Bernardino County Transportation Authority (SBCTA) and the City of San Bernardino (City), as tenants-in-common of the Santa Fe Depot (Depot), share the responsibilities for the Depot as defined in Cooperative Agreement No. 04-040 (Cooperative Agreement). Pursuant to the Cooperative Agreement, SBCTA retains the exclusive right to enter into, amend, or terminate all leases at the Depot.

On July 6, 2016, the SBCTA Board of Directors (Board) approved Contract No. 16-1001429 (Contract) with the Local Agency Formation Commission (LAFCO) for the purpose of leasing Unit 150 at the Depot, consisting of approximately 3,513 rentable square feet. The term of the lease was five years, beginning June 1, 2017; the Contract also provided for two optional five-year extensions.

On September 29, 2017, the Executive Director approved Amendment No. 1 to the Contract regarding property improvements. The square footage was also updated to 2,970.

On July 1, 2020, the Board approved Amendment No. 2 to exclude certain costs from LAFCO's Common Area Maintenance (CAM) charges that provided no direct benefit to LAFCO, resulting in a reduction in lease revenue, estimated at \$42,792 for the duration of the contract term.

On June 1, 2022, the Board approved Amendment No. 3 to restructure the Contract eliminating LAFCO's CAM and increasing Base Rent to be inclusive of all CAM-type elements. With Amendment No. 3, LAFCO also exercised its first five-year option, extending the lease through July 23, 2027.

On May 8, 2024, LAFCO expressed its intent to surrender the lease effective September 23, 2024, as their operation no longer requires use of the unit. LAFCO has agreed to leave the custom-designed furniture within the unit.

LAFCO's current total monthly rent is \$5,041.40 and includes a 3% annual Consumer Price Index escalation. Terminating the lease will result in a reduction of lease revenue estimated at \$176,906.65 for the duration of the contract term, which was anticipated to run through July 23, 2027.

Entity: San Bernardino County Transportation Authority

General Policy Committee Agenda Item

June 12, 2024

Page 2

Once the unit becomes vacant, the expenses to maintain the non-leased space will be co-shared equally between SBCTA and the City, according to the terms of the Cooperative Agreement. Examples of these expenses include a portion of common area maintenance, utilities, security, perimeter landscaping and lighting.

If the surrender of lease is approved, staff will consult with the City and immediately begin working with the Depot Property Management Firm, CityCom Commercial Real Estate, to market the vacant space and find a new tenant.

Financial Impact:

The recommended action to approve the Surrender of Lease equates to an annual decrease in the fiscal year budgeted revenue of approximately \$50,413.97. A budget amendment is required due to the increased cost as described in the Background section of this item. The budget amendment will be presented in a consolidated budget adjustment item presented at a later date.

Reviewed By:

This item is not scheduled for review by any other policy committee or technical advisory committee. SBCTA General Counsel has reviewed this item and the draft agreement.

Responsible Staff:

Colleen Franco, Director of Management Services

Approved
General Policy Committee
Date: June 12, 2024

Witnessed By:

General Contract Information

Contract No: 16-1001429 Amendment No.: 4
 Contract Class: Receivable Department: Administration
 Customer ID: 02471 Customer Name: Local Agency Formation Commission (LAFCO)
 Description: Surrender of Lease for Unit 150 at the Depot, consisting of approximately 2,970 sf.
 List Any Accounts Payable Related Contract Nos.: 16-1001574

Dollar Amount

Original Contract	\$	474,241.00	Original Contingency	\$	-
Prior Amendments	\$	295,550.88	Prior Amendments	\$	-
Prior Contingency Released	\$	-	Prior Contingency Released (-)	\$	-
Current Amendment	\$	(176,906.65)	Current Amendment	\$	-
Total/Revised Contract Value	\$	592,885.23	Total Contingency Value	\$	-
Total Dollar Authority (Contract Value and Contingency)				\$	592,885.23

Contract Authorization

Board of Directors Date: 7/3/2024 Committee Item # _____

Contract Management (Internal Purposes Only)

Local Lease N/A

Accounts Receivable

Total Contract Funding: \$ 592,885.23 Funding Agreement No: 16-1001429
 Beginning POP Date: 6/1/2017 Ending POP Date: 9/23/2024 Final Billing Date: 9/23/2024
 Expiration Date: 9/23/2024 Fund Admin: N/A

Fund	Prog	Task	Sub-Task	Revenue	Total Contract Funding:
GL: 7001	01	0805	0980	43011000	592,885.23
GL:					-
GL:					-
GL:					-
GL:					-
GL:					-
GL:					-
GL:					-
GL:					-

Fund	Prog	Task	Sub-Task	Revenue	Total Contract Funding:
GL:					-
GL:					-
GL:					-
GL:					-
GL:					-
GL:					-
GL:					-
GL:					-
GL:					-

Colleen Franco

Project Manager (Print Name)

Colleen Franco

Task Manager (Print Name)

Additional Notes: Terminating the lease will result in a reduction of lease revenue estimated at \$176,906.65 for the duration of the contract term, which was anticipated to run through July 23, 2027.

Attachment: CSS -Amendment No. 4 Revised - 08-25-2022 10.11am (10643 : Surrender of Lease - Amendment No. 4 to Contract No. 16-

SURRENDER OF LEASE Amendment No. 4 to Contract No: 16-1001429

THIS SURRENDER OF LEASE (the "Surrender") is entered into and is effective as of September 23, 2024, by and between San Bernardino County Transportation Authority (SBCTA) ("Landlord"), and Local Agency Formation Commission for San Bernardino County (LAFCO) ("Tenant"), on the basis of the following:

RECITALS

A. Landlord and Tenant previously entered into a Lease agreement and Amendments (collectively, the "Lease") for the rental of approximately 2,970 rentable square feet described as 1170 W. 3rd Street, Unit 150, San Bernardino, California, also identified as Contract No. 16-1001429.

B. Tenant expressed an interest to surrender the Lease prior to its scheduled Expiration Date of July 23, 2027.

AGREEMENT

IT IS HEREBY AGREED by Landlord and Tenant on the basis of the foregoing and in consideration of the premises contained herein, as follows:

1. **Cancellation of Lease.** For good and valuable consideration, the receipt and sufficiency of which being hereby acknowledged, Tenant and Landlord do hereby mutually agree to terminate and cancel said Lease, effective September 23, 2024 ("Termination Date"), and all rights and obligations under said Lease shall thereupon be canceled excepting only for any obligations under the Lease accruing prior to the effective Termination Date.

2. **Condition of Premises.** This Surrender is conditional upon Tenant vacating the Premises no later than the Termination Date of September 23, 2024, and leaving the Premises in good, clean, operable condition as set forth in the Lease. The Surrender is further conditioned upon completion of a walk-through inspection by Landlord and Tenant, and Landlord's acceptance of the condition of the Premises as satisfactory. In addition, Tenant shall leave in place and surrender to Landlord the existing furniture in the Premises.

3. **Mutual Release and Waiver.** As of the Termination Date, except for obligations of Tenant which accrue prior to the Termination Date or survive termination of the Lease, Tenant and Landlord discharge and release each other, and their respective agents, employees, representatives, attorneys, officers, directors, predecessors, successors, and assigns, from all actions, claims, liabilities, debts, obligations, promises, damages, costs, expenses, and demands arising under the Lease ("Released Claims"). Landlord and Tenant agree to waive the Released Claims and all benefits and protections of California Civil Code Section 1542, which states:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

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

IN WITNESS WHEREOF, Landlord and Tenant have executed this Surrender as of the date first set forth above.

Landlord:
San Bernardino County
Transportation Authority (SBCTA)

Tenant:
Local Agency Formation Commission for
San Bernardino County (LAFCO)

By: _____
Dawn M. Rowe
President, Board of Directors

By: _____
Acquanetta Warren
Chair

Date: _____

Date: _____

APPROVED AS TO FORM

By: _____
Julianna K. Tillquist
General Counsel

By: _____
Paula de Sousa
LAFCO Legal Counsel

Date: _____

DRAFT

Attachment: 16-1001429 LAFCO revised 5-23-24 (10643 : Surrender of Lease - Amendment No. 4 to Contract No. 16-1001429)

CONTRACT NO: 16-1001429

BY AND BETWEEN

SAN BERNARDINO COUNTY TRANSPORTATION COMMISSION

AND

**LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY
(LAFCO)**

Attachment: 16-1001429 (10643 : Surrender of Lease - Amendment No. 4 to Contract No. 16-1001429)

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Attachment: 16-1001429 (10643 : Surrender of Lease - Amendment No. 4 to Contract No. 16-1001429)

1. Summary of Lease Provisions

1.01 **Parties:** This Lease, dated, for reference purposes only, October 5, 2015, is made by and between **San Bernardino Associated Governments, acting in its capacity as the San Bernardino County Transportation Commission (SANBAG)** (herein called "Landlord") and **Local Agency Formation Commission for San Bernardino County (LAFCO)** (herein called "Tenant").

1.02 **Premises:** Unit Number(s) 150, consisting of **3,513** rentable square feet, more or less, as defined in Section 2 (the "Premises").

1.03 **Building:** Commonly described as being located at **1170 West 3rd Street** in the City of **San Bernardino**, County of **San Bernardino**, State of California.

1.04 **Term:** **Five (5) years**, commencing **June 1, 2017** ("Commencement Date") and ending **March 31, 2022**, as defined in Section 5.

1.05 **Base Rent:** **\$.95** per rentable square foot of Premises per month, payable quarterly in advance on the **first** calendar day of each quarter , per Section 6.

1.06 **Base Rent Increase:** Annually, the monthly Base Rent payable under Section 1.05 shall be adjusted as provided in Section 7.

1.07 **Late Charges:** **6%** if any installment of Base Rent, Operating Expense Increase, or any other sum due from Tenant shall not be received by Landlord within **five (5)** business days after the first day of each month.

1.08 **Security Deposit:** **\$0.00.**

1.09 **Tenant's Share of Common Area Operating Expenses:** **9.3%** as defined in Section 6.

1.10 **Parking:** Maximum **fourteen (14)** unreserved and unassigned vehicle parking spaces for Tenant's employees and visitors (who shall not utilize any spaces reserved for other occupants of the Depot), as provided for in Section 4.

1.11 **Use:** **LAFCO Offices.**

1.12 **Utilities:** Provided by Landlord (subject to reimbursement as may be provided for in this Lease): **Water/Sewer/Gas/Trash** Provided by Tenant: **Electricity/Phone/Data**, as further defined and subject to the provisions in Section 11.

1.13 **Maintenance & Repairs:** Interior of Premises maintained by **Tenant**; Exterior of Building maintained by **Landlord** subject to and in accordance with Section 10.

1.14 **Insurance:** **\$1,000,000** liability policy required to be carried by Tenant prior to Occupancy - see Section 13.

1.15 **Options to Extend:** Tenant has **two (2)** Options to Extend the term of this Lease for a period of **five (5)** years each, as provided for in Section 25.

1.16 **Tenant Improvements:** (check one) |

- Tenant to accept Premises in as-is condition.
- Landlord to provide Tenant Improvements as provided for in Paragraph 28.
- Tenant to provide Tenant Improvements as provided for in Paragraph ____.

1.17 **Notices:**

To Landlord:

**San Bernardino Associated Governments
(SANBAG)**

**c/o City Commercial Management
10722 Arrow Route - Suite 500
Post Office Box 548
Rancho Cucamonga, CA 91729-0548**

To Tenant:

**Local Agency Formation Commission for
San Bernardino County (LAFCO)**

**215 N. D Street, Suite 204
San Bernardino, CA 92415-0490**

Attachment: 16-1001429 (10643 : Surrender of Lease - Amendment No. 4 to Contract No. 16-1001429)

Telephone: (909) 948-1662
 FAX : (909) 948-1349
 Email: mike@city-commercial.com

(909) 388-0480
 (909) 885-8170 fax
 Email: lafco@lafco.sbcounty.gov

2. Premises.

Landlord hereby leases to Tenant for the term, at the rental, and upon all of the conditions set forth herein, the Premises as defined in Section 1.02. The Premises, the Building(s), the Common Areas, and the land upon which the same are located, are collectively referred to as the "Depot" (as per the attached Site Plan). It is understood and agreed that the square footage figures set forth in the Basic Lease Provisions are approximations which Landlord and Tenant agree are reasonable and shall not be subject to revision except in connection with an actual change in the size of the Premises.

Tenant hereby accepts the Premises and the Depot in their condition existing as of the Lease Commencement Date or the date that Tenant takes possession of the Premises, whichever is earlier, subject to all applicable zoning, municipal, county and state laws, ordinances and regulations governing and regulating the use of the Premises, and any easements, covenants or restrictions of record, and accepts this Lease subject thereto and to all matters disclosed thereby and by any exhibits attached hereto. Tenant acknowledges that it has satisfied by its own independent investigation that the Premises are suitable for its intended use, and that neither Landlord nor Landlord's agent or agents has made any representation or warranty as to the present or future suitability of the Premises, Common Areas, or Depot for the conduct of Tenant's business. LANDLORD HEREBY DISCLOSES THAT PURSUANT TO CALIFORNIA CIVIL CODE SECTION 1938, THE PREMISES, COMMON AREAS, AND THE BUSINESS PARK HAS NOT UNDERGONE INSPECTION BY "CERTIFIED ACCESS SPECIALIST" (A CASp), AND THUS HAS NOT BEEN VERIFIED TO MEET ALL APPLICABLE CONSTRUCTION-RELATED ACCESSIBILITY STANDARDS.

3. Common Areas.

"Common Areas" are defined as all areas outside the confines of the Premises, including but not limited to parking areas, loading and unloading zones, trash enclosures, roadways, sidewalks, walkways, parkways, ramps, driveways, landscaped areas, and that are within the Depot that are provided and designated for the general non-exclusive use of Landlord, Tenant, and all other Tenants of the Depot. Tenant, Tenant's employees, visitors, and invitees hereby agree to abide by and conform to all rules and regulations, which Landlord shall have the right in its sole reasonable discretion to modify from time to time. Landlord shall have the exclusive control and management of the Common Areas; however, Landlord shall not be responsible for the non-compliance of said rules and regulations by other tenants, employees, and invitees to the Depot. Landlord shall have the right in its sole discretion to (1) make changes to the Building exterior and/or Common Areas; (2) close temporarily any of the Common Areas for maintenance purposes so long as reasonable access remains available; and (3) to add additional improvements to the Common Areas. Under no circumstances shall the right herein granted to use the Common Areas be deemed to include the right to store any property, temporarily or permanently, in the Common Areas. Any such storage shall be permitted only by the prior written consent of Landlord or Landlord's designated agent, which consent may be revoked at any time. In the event that any unauthorized storage shall occur then Landlord shall have the right, without notice, in addition to such other rights and remedies it may have, to remove the property and charge the cost to Tenant, which cost shall be immediately payable upon demand by Landlord.

4. Parking.

Tenant shall be entitled to use the vehicle parking spaces as provided for in Section 1.10 on those portions of the Common Areas designated by Landlord for parking. Tenant shall not use more spaces than said maximum number, and spaces shall be used only for vehicles no larger than full-sized passenger vehicles, pick-up trucks, or sport utility vehicles. Any vehicle loading or unloading shall only be permitted in areas and at times designated by Landlord for such activities. Landlord shall have the right, without notice, to tow any of Tenant's vehicles (or Tenant's employees, invitees, contractors, or visitors) that are in violation of any parking rules and regulations, the cost of which shall be the sole responsibility of Tenant.

5. Term.

"Possession" of the Premises shall be deemed tendered to Tenant when (1) improvements, if any, are substantially completed, and (2) Tenant has been given reasonable access to the Premises, including delivery by Landlord of keys to the Premises. If for any reason Landlord cannot deliver possession of the Premises on the Commencement Date as provided for in Section 1.04, the Commencement Date and ending dates shall be correspondingly extended in relation to the Term of this Lease, and Landlord shall not be subject to any liability, nor shall such delay in commencement affect the validity of this Lease or the obligations of Tenant hereunder (except that Tenant shall not be obligated to pay rent until possession of the Premises has been delivered as provided for herein). However, there shall be no abatement of rent or adjustment of the Commencement Date if such delays are caused by actions of Tenant, Tenant's agents or contractors.

6. Rent.

Rent and Base Rent. Any and all amounts from time to time payable to Landlord by Tenant hereunder shall be referred to herein as Rent, including, but not limited to, Base Rent, and shall be paid in full when due without right of offset, setoff or deduction. Tenant shall pay to Landlord the Base Rent for the Premises as provided of in Section 1.05. Base Rent for any period less than one month shall be prorated based upon the actual number of days in the calendar month involved. Rent shall be payable in lawful money of the United States to Landlord at the address stated herein or to any such other persons or at any such other places as Landlord may designate in writing.

Common Area Maintenance Expenses ("CAM"). Tenant shall pay to Landlord during the term hereof, in addition to the Base Rent, Tenant's Share as provided for in Section 1.09 and hereinafter defined, of all Common Area Maintenance Expenses, as herein defined, during each calendar year, also referred to as "CAM Charges", in accordance with the following provisions:

(a) "Common Area Maintenance Expenses" are defined, for purposes of this Lease, as all costs incurred by Landlord, relating to the ownership and operation of the Depot, including, but not limited to, the following:

(i) The operation, repair and maintenance, in neat, clean, good order and condition, of the following:

(aa) The Common Areas, including parking areas, loading and unloading areas, trash areas, public restrooms, roadways, sidewalks, walkways, parkways, driveways, landscaped areas, striping, bumpers, irrigation systems, Common Area lighting facilities, fences and gates, elevators, escalators, and roof;

(bb) Exterior signs and any tenant directories.

(cc) Fire detection (including monitoring costs) and sprinkler systems.

(ii) The cost of water, gas, electricity, and telephone to service the Common Areas.

(iii) Trash disposal, property management, security services, association fees, and the costs of any environmental inspections.

(iv) Reserves set aside for maintenance and repair of Common Areas.

(v) Real Property Taxes (as defined in Section 14) for the Building and the Common Areas.

(vi) The cost of the premiums for the insurance policies maintained by Landlord under Section

13.

(vii) Any deductible portion of an insured loss concerning the Building or the Common Areas.

(viii) Any other services to be provided by Landlord that are stated elsewhere in this Lease to be a Common Area Maintenance Expense.

(ix) Any management fees incurred by Landlord in connection with the operation of the Depot or, at Landlord's option, in lieu of any such management fees, 15% of CAM Charges as computed without regard to this clause (ix).

(b) Any Common Area Maintenance Expenses and Real Property Taxes that are specifically attributable to the Building or to any other building in the Depot or to the operation, repair, and maintenance thereof, shall be allocated entirely to the building or to such other building. However, any Common Area Operating Expenses and Real Property Taxes that are not specifically attributable to the Building or to any other building or to the operation, repair, and maintenance thereof, shall be equitably allocated by Landlord to all buildings in the Depot.

(c) The inclusion of the improvements, facilities, and services set forth in this Section shall not be deemed to impose an obligation upon Landlord to either have said improvements or facilities or to provide those services unless the Depot already has the same or Landlord already provides the services.

(d) Tenant's Share of Common Area Operating Expenses (CAM Charges) shall be payable by Tenant within ten (10) days after a reasonably detailed statement of actual expenses is presented to

Tenant by Landlord's agent. At Landlord's option, however, an amount may be estimated by Landlord from time to time of Tenant's Share of annual CAM Charges and the same shall be payable monthly or quarterly, as Landlord shall designate, during each 12-month period of the Lease term, on the same day as the Base Rent is due hereunder. Landlord shall deliver to Tenant within sixty (60) days after the expiration of each calendar year a reasonably detailed statement showing Tenant's Share of the actual CAM Charges incurred during the preceding year (the "Reconciliation"). If Tenant's payments during said preceding year exceed Tenant's Share as indicated on said Reconciliation, Landlord shall be credited the amount of such overpayment against Tenant's Share of CAM Charges next becoming due. If Tenant's payments during said preceding year were less than Tenant's Share as indicated on said Reconciliation, Tenant shall pay to Landlord the amount of the deficiency within ten (10) days after delivery by Landlord to Tenant of said Reconciliation.

7. Rent Increase.

On each anniversary date of this Lease, the Base Rent shall be increased by CPI Adjustment (see subsection "A" below) or fixed rental adjustment (see subsection "B" below).

A. CPI Rental Adjustment ("CPI"): At the times set forth in paragraph 1.06 of the Basic Lease Provisions, the monthly Base Rent shall be adjusted by the increase, if any, in the Consumer Price Index of the Bureau of Labor Statistics of the Department of Labor for All Urban Consumers, (1982-84=100), "All Items", for the City nearest the location of the Building, herein referred to as "CPI.", since the date of this Lease. The monthly Base Rent shall be calculated as follows: the Base Rent payable for the first month of the term of this Lease shall be multiplied by a fraction the numerator of which shall be the CPI of the calendar month during which the adjustment is to take effect, and the denominator of which shall be the CPI for the calendar month in which the original Lease term commences. The sum so calculated shall constitute the new monthly Base Rent hereunder, but, in no event, shall such new monthly Base Rent be more than one hundred three percent (103%) of the Base Rent payable for the month immediately preceding the date for the rent adjustment. In the event the compilation and/or publication of the CPI shall be transferred to any other governmental department or bureau or agency or shall be discontinued, then the index most nearly the same as the CPI shall be used to make such calculations. Tenant shall continue to pay the rent at the rate previously in effect until the increase, if any, is determined. Within ten (10) days following the date on which the increase is determined, Tenant shall make such payment to Landlord as will bring the increased rental current. Thereafter the rental shall be paid at the increased rate.

8. Security Deposit – Intentionally Omitted

9. Use.

The Premises shall be used and occupied only for the purpose as provided for in Section 1.11 and for no other purpose. Tenant shall conduct its business in a lawful manner (including obtaining and maintaining any required governmental permits and licenses) and shall not use or permit use of the Premises or the Common Areas in any manner that will tend to create waste or a nuisance or shall tend to disturb other occupants of the Depot.

10. Maintenance and Repairs.

Landlord's Obligations: Landlord shall keep the Office Building Project, including the Premises, interior and exterior walls, roof, and common areas, replacement of light bulbs, tubes, and ballasts, and the equipment whether used exclusively for the Premises or in common with other premises, in good condition and repair; provided, however, Landlord shall not be obligated to paint, repair, or replace wall coverings, or to repair or replace any improvements that are not ordinarily a part of the Building or are above the Building standards. There shall be no abatement of rent or liability of Tenant on account of any injury or interference with Tenant's business with respect to any improvements, alterations, or repairs made by Landlord to the Office Building Project or any part thereof. Tenant expressly waives the benefits of any statute now or hereafter in effect which would otherwise afford Tenant the right to make repairs at Landlord's expense or to terminate this Lease because of Landlord's failure to keep the Premises in good order, condition, and repair.

Tenant's Obligations: Tenant shall be responsible for payment to Landlord as additional rent of the cost for all repairs to the Premises to the extent such cost is attributable to causes beyond normal wear and tear, including the cost of any maintenance and repair of any equipment (wherever located) that serves

only Tenant or the Premises. Tenant shall be responsible for the cost of painting, repairing or replacing wall coverings, and to repair or replace any Premises improvements that are not ordinarily a part of the Building or that are above the Building standards.

Hazardous Substances. The term "Hazardous Substance" as used in this Lease shall mean any product, substance, chemical, material, or waste whose presence, nature, quantity, and/or intensity of existence, use, manufacture, disposal, transportation, spill, release, or effect, either by itself or in combination with other materials expected to be on the Premises, is either (i) potentially injurious to the public health, safety, or welfare, the environment, or the Premises; (ii) regulated or monitored by any governmental authority; or (iii) a basis for potential liability of Landlord to any governmental agency or third party under any applicable statute or common law theory. Tenant shall not engage in any activity in or about the Premises which constitutes a use of Hazardous Substances without the express written consent of Landlord and compliance in a timely matter (at Tenant's sole cost and expense) with all governmental requirements (including but not limited to compliance with all laws, rules, regulations, ordinances, directives, covenants, easements, and restrictions of record, permits, and the requirements of any applicable fire insurance underwriter or rating bureau). Landlord may (but without any obligation to do so) condition its consent, if granted, to Tenant's use of any Hazardous Substance upon Tenant's giving Landlord such additional assurances as Landlord, in its reasonable discretion, deems necessary to protect itself, the public, the Premises, and the environment against damage, contamination, or injury and/or liability therefor, including but not limited to the installation (and, at Landlord's option, removal on or before Lease expiration or earlier termination) of reasonably necessary protective modifications to the Premises and/or the deposit of an additional Security Deposit. Tenant shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including, without limitation, through the plumbing or sanitary sewer system).

Tenant shall indemnify, protect, defend, and hold Landlord, its agents, employees, lenders, and ground Landlord, if any, and the Premises, harmless from and against any and all damages, liabilities, judgments, costs, claims, liens, expenses, penalties, loss of permits and attorneys' and consultants' fees arising out of and involving and Hazardous Substance brought onto the Premises by or for Tenant or by anyone under Tenant's control. Tenant's obligations under this subsection shall include, but not be limited to, the effects of any contamination or injury to person, property, or the environment created or suffered by Tenant, and the cost of investigation (including consultants' and attorneys' fees and testing), removal, remediation, restoration, and/or abatement thereof, or of any contamination therein involved, and shall survive the expiration or earlier termination of this Lease. No termination, cancellation, or release agreement entered into by Landlord and Tenant shall release Tenant from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Landlord in writing at the time of such agreement.

11. Utilities & Services.

Landlord shall be responsible for the payment of the following utilities and services that serve the Premises, subject to reimbursement of same as provided for herein (check those that apply):

- Electricity
- Gas
- Water/Sewer
- Telephone & Data Service
- Trash
- Security Alarm Monitoring
- Janitorial Service & Supplies

Tenant shall be responsible for the direct payment or reimbursement to Landlord of the following utilities and services that serve the Premises (check those that apply):

- Electricity
- Gas
- Water/Sewer
- Telephone & Data Service
- Trash
- Security Alarm Monitoring
- Janitorial Service & Supplies

In the event any of Tenant's afore-mentioned utilities are not separately metered to the Premises,

Attachment: 16-1001429 (10643 : Surrender of Lease - Amendment No. 4 to Contract No. 16-1001429)

Tenant shall pay at Landlord's option, either Tenant's Share or a reasonable proportion to be determined by Landlord of all charges jointly metered with other Premises in the Building.

Said services and utilities shall be provided during generally accepted business days and hours or such other days or hours as may hereafter be set forth. Utilities and services required at other times shall be subject to advance request and reimbursement by Tenant to Landlord of the cost thereof. Tenant shall not make connection to the utilities except by or through existing outlets and shall not install or use machinery or equipment in or about the Premises that uses excess water, lighting, or power, or suffer or permit any act that causes extra burden upon the utilities or services. Landlord shall require Tenant reimburse Landlord for any excess expenses or costs that may arise out of a breach of this subparagraph by Tenant at actual cost or at a predetermined rate of **\$50.00** per hour of usage. Landlord may, in its sole discretion, install at Tenant's expense supplemental equipment and/or separate metering applicable to Tenant's excess usage or loading.

There shall be no abatement of rent and Landlord shall not be liable in any respect whatsoever for the inadequacy, stoppage, interruption, or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair, or other cause beyond Landlord's reasonable control or in cooperation with governmental request or directions.

Promptly upon request from Landlord,, Tenant shall provide monthly electricity and other utility usage data for the Premises to Landlord for the period of time requested by Landlord in electronic or paper format, or, at Landlord's sole option, provide any written authorization or other documentation required for Landlord to request information regarding Tenant's electricity and other utility usage data with respect to the Premises directly from the appropriate utility company.

12. Alterations and Additions.

Tenant shall not without Landlord's prior written consent make any alterations, improvements, additions, or repairs (hereinafter collectively referred to as "Alterations") in, on or about the Premises or the Depot. Should Landlord permit Tenant to make its own Alterations, Tenant shall use only contractors that are properly and adequately licensed and insured, and Landlord may require Tenant to provide Landlord, at Tenant's sole cost and expense, a lien and completion bond in an amount equal to one and one-half times the estimated cost of such improvements, to insure Landlord against any liability for mechanic's and materialmen's liens and to ensure completion of the work. Any Alterations in or about the Premises or the Depot that Tenant shall desire to make shall be presented to Landlord in written form, with proposed detailed plans. If Landlord shall give its consent to making such Alteration, the consent shall be deemed conditioned upon Tenant acquiring a permit to do so from the applicable governmental agencies, furnishing of a copy thereof to Landlord prior to the commencement of the work, and compliance by Tenant of all conditions of said permit in a prompt and expeditious manner.

Tenant shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Tenant at or for use in the Premises, which claims are or may be secured by any mechanic's or materialmen's lien against the Premises, the Building, or the Depot, or any interest therein. Tenant shall give Landlord not less than ten (10) days' notice prior to the commencement of any work in the Premises by Tenant, and Landlord shall have the right to post notices of non-responsibility in or on the Premises or the Building as provided by law.

All Alterations which may be made on the Premises by Tenant shall be made and done in a good and workmanlike manner and of good and sufficient quality and materials and shall be the property of Landlord and shall remain upon and be surrendered with the Premises at the expiration of the Lease term, unless Landlord requires their removal pursuant to Section 18.

Tenant further acknowledges that the Depot is an historical landmark and thus cannot be altered or modified in any way (including hanging anything on the walls or puncturing wall surfaces with any nail, screw, etc.) without the express written consent of Landlord.

13. Insurance and Indemnity.

Liability and Property Insurance -Tenant: Tenant shall provide a certificate of self insurance to Landlord of not less than \$1,000,000 per occurrence of bodily injury and property damage, or Tenant shall, at Tenant's expense, obtain and keep in force during the term of this Lease a policy of Comprehensive General Liability insurance in an amount of not less than \$1,000,000 per occurrence of bodily injury and property damage combined and damage to premises rented by Tenant or in a greater amount as

reasonably determined by Landlord and shall insure Tenant with Landlord as additional insured against liability arising out of the use, occupancy, or maintenance of the Premises. The policy shall be endorsed to provide: "This insurance will be primary and noncontributory with any other insurance of the additional insureds." Compliance with the above requirement shall not, however, limit the liability of Tenant hereunder. Tenant shall also maintain insurance coverage on all of Tenant's personal property, trade fixtures, and alterations and improvements in, on, or about the Premises similar in coverage to that carried by Landlord (such insurance shall be full replacement cost coverage with a deductible not to exceed \$2,500 per occurrence, and the proceeds from any such insurance shall be used exclusively for the replacement of personal property and the restoration of trade fixtures, alterations, and improvements). To the fullest extent permitted by law, Tenant hereby waives all rights of recovery under subrogation against the Additional Insured, and any other consultant, subconsultant or sub-subconsultant performing work or rendering services on behalf of SANBAG, in connection to the Depot. Tenant shall deliver to Landlord certificates evidencing the existence and amounts of such insurance within seven (7) days after the Commencement Date of this Lease, and shall, at least thirty (30) days prior to the expiration of such policies, furnish Landlord with renewals thereof.

The cost of the premiums for the insurance policies maintained by Landlord hereinafter shall be a Common Area Operating Expense.

Liability Insurance - Landlord: Landlord shall obtain and keep in force during the term of this Lease a policy of Combined Single Limit Bodily Injury and Broad Form Property Damage Insurance, plus coverage against such other risks Landlord deems advisable from time to time, insuring Landlord, but not Tenant, against liability arising out of the ownership, use, occupancy, or maintenance of the Depot in an amount not less than \$1,000,000 per occurrence.

Property Insurance: Landlord shall obtain and keep in force during the term of this Lease a policy or policies of insurance covering loss or damage to the Depot improvements, but not Tenant's personal property, fixtures, equipment, or tenant improvements, in an amount of the full replacement cost thereof, as the same may exist from time to time, providing protection against all perils included within the classification of fire, extended coverage, vandalism, malicious mischief, plate glass, and such other perils as Landlord deems advisable or may be required by a lender having a lien on the Depot. In addition, Landlord shall obtain and keep in force, during the term of this Lease, a policy of rental value insurance covering a period of one year, with loss payable to Landlord, which insurance shall also cover all Operating Expenses for said period. Tenant shall not be named in any such policies carried by Landlord and shall have no right to any proceeds therefrom. In the event that the Premises shall suffer any insured losses, the deductible amounts under the applicable insurance policies shall be deemed an Operating Expense. Tenant shall not do or permit to be done anything which shall invalidate the insurance policies carried by Landlord. Tenant shall pay the entirety of any increase in the property insurance premium for the Depot over what it was immediately prior to the commencement of the term of this Lease if the increase is specified by Landlord's insurance carrier as being caused by the nature of Tenant's occupancy or any act or omission of Tenant.

Waiver of Subrogation: Tenant and Landlord each hereby release and relieve the other, and waive their entire right of recovery against the other for direct or consequential loss or damage arising out of or incident to the perils covered by property insurance carried by such party, whether due to the negligence of Landlord or Tenant or their agents, employees, contractors, and/or invitees.

Indemnity: Tenant shall indemnify and hold harmless Landlord and its agents, Landlord's master or ground|Landlord, partners and lenders, from and against any and all claims for damage to the person or property of anyone or any entity arising from Tenant's use of the Depot, or from the conduct of Tenant's business or from any activity, work or things done, permitted or suffered by Tenant in or about the Premises or elsewhere and shall further indemnify and hold harmless Landlord from and against any and all claims, costs and expenses arising from any breach or default in the performance of any obligation on Tenant's part to be performed under the terms of this Lease, or arising from any act or omission of Tenant, or any of Tenant's agents, contractors, employees, or invitees, and from and against all costs, attorney's fees, expenses and liabilities incurred by Landlord as the result of any such use, conduct, activity, work, things done, permitted or suffered, breach, default, or negligence, and in dealing reasonably therewith, including but not limited to the defense or pursuit of any claim or any action or proceeding involved therein; and in case any action or proceeding be brought against Landlord by reason of any such matter. Tenant, upon notice from Landlord, shall defend the same at Tenant's expense by counsel reasonably satisfactory to Landlord and Landlord shall cooperate with Tenant in such defense. Landlord need not have first paid any such claim in order to be so indemnified.

Exemption of Landlord from Liability: Tenant hereby agrees the Landlord shall not be liable to Tenant's

business or any loss of income therefrom or for damage to the goods, wares, merchandise or other property of Tenant, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defects of pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures, or from any other cause, whether said damage results from conditions arising upon the Premises or upon other portions of the Depot, or from other sources or places, or from new construction or the repair, alteration, or improvement of any part of the Depot, or of the equipment, fixtures, or appurtenances applicable thereto, and regardless of whether the cause of such damage or the means or repairing the same is inaccessible. Landlord shall not be liable for any damages arising from any act or neglect of any other Tenant, occupant or user of the Depot, nor from the failure of Landlord to enforce the provisions of any other lease of any other Tenant of the Depot.

14. Property Taxes.

Real Property Taxes: Landlord shall pay real property taxes and associated assessments applicable to the Depot, subject to reimbursement as a Common Area Operating Expense by Tenant in accordance with the provisions of Sections 1.09 and 6. Tenant shall also pay to Landlord the entirety of any increase in real property tax if assessed solely by reason of additional improvements placed upon the Premises by Tenant or at Tenant's request. Real property taxes shall include any form of real estate tax or assessment, general, special, ordinary or extraordinary, and any license fee, commercial rental tax, improvement bond or bonds, levy or tax (other than inheritance, personal income, or estate taxes) imposed on the Depot or any portion thereof by any authority having the direct or indirect power to tax, including any city, county, state or federal government, or any school, agriculture, sanitary, fire, street, drainage or other improvement district thereof.

Personal Property Taxes: Tenant shall pay prior to delinquency all taxes assessed against and levied upon trade fixtures, furnishings, equipment and all other personal property of Tenant contained in the Premises or elsewhere.

15. Assignment & Subletting.

Tenant shall not voluntarily or by operation of law assign, transfer, mortgage, sublet, or otherwise transfer or encumber all or any part of Tenant's interest in the Lease or in the Premises, without Landlord's prior written consent, which Landlord shall not unreasonably withhold (however, Landlord reserves the right to condition any approval to assign or sublet upon Landlord's determination that (a) the proposed assignee or subtenant shall conduct a business on the Premises of a quality substantially equal to that of Tenant and consistent with the general character of the other occupants of the Depot and not in violation of any exclusives or rights then held by other tenants, and (b) the proposed assignee or subtenant be at least as financially responsible as Tenant was expected to be at the time of the execution of this Lease or of such assignment or subletting, whichever is greater). Regardless of Landlord's consent, no assignment or subletting shall release Tenant of Tenant's obligations hereunder or alter the primary liability of Tenant to pay the rent and other sums due Landlord hereunder including Tenant's Share of Operating Expense Increase, and to perform all other obligations to be performed by Tenant hereunder. If Tenant's obligations under this Lease have been guaranteed by third parties, then an assignment or sublease, and Landlord's consent thereto, shall not be effective unless said guarantors give their written consent to such sublease and the terms thereof. The consent by Landlord to any assignment or subletting shall not constitute a consent to any subsequent assignment or subletting by Tenant or to any subsequent or successive assignment or subletting by the subtenant. Landlord shall be a party to, and have the right to review, any proposed subleases and associated documents. If Tenant shall request the consent of Landlord for a proposed assignment or subletting, then Tenant shall pay Landlord's reasonable costs and expenses incurred in connection therewith, including attorneys', architects', engineers', or other consultants' fees.

In the event of any default under this Lease, Landlord may proceed directly against Tenant, any guarantors or anyone else responsible for the performance of this Lease, including the subtenant, without first exhausting Landlord's remedies against any other person or entity responsible therefor to Landlord, or any security held by Landlord or Tenant. The discovery of the fact that any financial statement relied upon by Landlord in giving its consent to an assignment or subletting was materially false shall, at Landlord's election, render Landlord's said consent null and void.

16. Default; Breach; Remedies.

Tenant's Default/Breach: The occurrence of any one or more of the following events shall constitute a material default of this Lease by Tenant:

(a) The breach by Tenant of any of the covenants, conditions or provisions contained within this Lease, where such breach is of an incurable nature.

(b) The failure by Tenant to make any payment of rent or any other payment required to be made by Tenant hereunder, and as when due, where such failure shall continue for a period of three (3) days after written notice thereof from Landlord to Tenant. In the event that Landlord serves Tenant with a Notice to Pay Rent or Quit pursuant to applicable Unlawful Detainer statutes such Notice to Pay Rent or Quit shall also constitute the notice required by this subparagraph.

(c) The failure of Tenant to observe or perform any of the covenants, conditions, or provisions of this Lease to be observed or performed by Tenant, where such failure is curable in nature and continues for a period of three (3) business days after written notice thereof from Landlord to Tenant; provided, however, that if the nature of Tenant's noncompliance is such that more than three (3) business days are reasonably required for its cure, then Tenant shall not be deemed to be in default if Tenant commenced such cure within said three (3) business day period and thereafter diligently pursues such cure to completion. Such three (3) business day notice shall constitute the sole and exclusive notice required to be given to Tenant under applicable Unlawful Detainer statutes.

(d) The discovery by Landlord that any financial statement given to Landlord by Tenant, or its successor in interest or by any guarantor of Tenant's obligation hereunder, was materially false.

Landlord's Default/Breach: Landlord shall not be in default unless Landlord fails to perform obligations required of Landlord within a reasonable time, but in no event later than three (3) business days after written notice by Tenant to Landlord; provided, however, that if the nature of Landlord's obligation is such that more than three (3) business days are required for performance then Landlord shall not be in default if Landlord commences performance within such three (3) business day period and thereafter diligently pursues the same to completion.

Remedies: In the event of any material default or breach of this Lease by Tenant, Landlord may at any time thereafter, with or without notice or demand and without limiting Landlord in the exercise of any right or remedy which Landlord may have by reason of such default:

(a) Terminate Tenant's right to possession of the Premises by any lawful means, in which case this Lease and the term hereof shall terminate and Tenant shall immediately surrender possession of the Premises to Landlord. In such event Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default including, but not limited to, the cost of recovering possession of the Premises; expenses of reletting, including necessary renovation and alteration of the Premises, recapture of any inducement such as abated rent periods, reasonable attorneys' fees, and any real estate commission actually paid; the worth at the time of award of the court having jurisdiction thereof the amount by which the unpaid rent for the balance of the term after the time of such award exceeds the amount of such rental loss for the same period that Tenant proves could be reasonably avoided; that portion of the leasing commission paid by Landlord applicable to the unexpired term of this Lease.

(b) Maintain Tenant's right to possession in which case this Lease shall continue in effect whether or not Tenant shall have vacated or abandoned the Premises. In such event Landlord shall be entitled to enforce all of Landlord's rights and remedies under this Lease, including the right to recover the rent as it becomes due hereunder.

(c) Pursue any other remedy now or hereafter available to Landlord under the laws or judicial decisions of the state wherein the Premises are located. Unpaid installments of rent and other unpaid monetary obligations of Tenant under the terms of this Lease shall bear interest from the date due at the maximum rate then allowable by law.

Late Charges: Tenant hereby acknowledges that the late payment by Tenant to Landlord of Base Rent, Tenant's Share of Operating Expense Increase or other sums due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Accordingly, if any installment of Base Rent, Operating Expense Increase, or any other sum due from Tenant shall not be received by Landlord or Landlord's designee within **five business (5)** days after such amount shall be due, then, without any requirement for notice to Tenant, Tenant shall pay to Landlord a late charge equal to **six percent (6%)** of such overdue amount. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Landlord will incur by reason of late payment by Tenant. Acceptance of such late charge by Landlord shall in no event constitute a waiver of Tenant's default with respect to such overdue amount, nor prevent Landlord from exercising any of the other rights and remedies granted hereunder.

17. Estoppel Certificate.

Each party (as "responding party") shall at any time upon not less than ten (10) days' prior written notice from the other party ("requesting party") execute, acknowledge, and deliver to the requesting party a

statement in writing (i) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect) and the date to which the rent and other charges are paid in advance, if any, and (ii) acknowledging that there are not, to the responding party's knowledge, any uncured defaults on the part of the requesting party, or specifying such defaults if any are claimed. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrancer of the Depot or of the business of Tenant. At the requesting party's option, the failure to deliver such statement within such time shall be conclusive upon such party that (i) this Lease is in full force and effect, without modification except as may be represented by the requesting party, (ii) there are no uncured defaults in the requesting party's performance, and (iii) if Landlord is the requesting party, not more than one month's rent has been paid in advance.

18. Surrender; Move-out.

On the last day of the term hereof, or on any sooner termination, Tenant shall surrender the Premises to Landlord, which shall include the return of all keys and access control devices, in the same condition as received, ordinary wear and tear excepted, clean and free of debris. Any damage or deterioration of the Premises shall not be deemed ordinary wear and tear if the same could have been prevented by reasonable maintenance practices by Tenant. Tenant shall repair any damage to the Premises occasioned by the installation or removal of Tenant's trade fixtures, alterations, furnishings and equipment, and shall leave the HVAC equipment, power panels, electrical distribution systems, lighting fixtures and lamps, window coverings, wall and floor coverings, ceilings, plumbing fixtures, and all other building systems in the Premises in good operating condition.

19. Holding Over.

If Tenant, with Landlord's consent, remains in possession of the Premises or any part thereof after the expiration of the term hereof, such occupancy shall be a tenancy from month to month upon all the provisions of this Lease pertaining to the obligations of Tenant, except that the rent payable shall be **125%** of the rent immediately preceding the termination date of this Lease, and all Options, if any, granted under the terms of this Lease shall be deemed terminated and be of no further effect during said month to month tenancy.

20. Substituted Premises - Intentionally Omitted

21. Landlord's Access.

Landlord and Landlord's agents shall have the right to enter the Premises at reasonable time for the purpose of inspecting the same, performing any services required of Landlord, showing the same to prospective purchasers, lenders, or tenants, making such alterations, repairs, improvements, or additions to the Premises or to the Depot as Landlord may reasonably deem necessary or desirable and the erecting, using, and maintaining of utilities, services, pipes, and conduits through the Premises and/or other premises as long as there is no unreasonable interference with Tenant's property or business use of the Premises. Landlord may at any time place on or about the Premises or the Building any ordinary "For Sale" signs and Landlord may at any time during the last 120 days of the term hereof place on or about the Premises any ordinary "For Lease" signs. All activities of Landlord pursuant to this paragraph shall be without abatement of rent, nor shall Landlord have any liability to Tenant for the same.

Landlord shall have the right to retain keys to the Premises and to unlock all doors in or upon the Premises other than to files, vaults, and safes, and in the case of emergency to enter the Premises by any reasonably appropriate means, and any such entry shall not be deemed a forcible or unlawful entry or detainer of the Premises or an eviction. This Section shall in no event constitute a waiver of Tenant's right to quiet enjoyment of the Premises.

22. Security.

Tenant hereby acknowledges that Landlord shall have no obligation whatsoever to provide guard service or other security measures for the benefit of the Premises or the Depot. Tenant assumes all responsibility for the protection of Tenant, its agents, and invitees and the property of Tenant and of Tenant's agents and invitees from acts of third parties. Nothing herein contained shall prevent Landlord, at Landlord's sole option, from providing security protection for the Depot or any part thereof, in which event the cost thereof shall be included within the definition of Common Area Operating Expenses.

Tenant shall not permit anyone, except in emergency or with Landlord's prior approval, to go upon the roof of the building nor to access electrical, utility, elevator, machinery or equipment rooms.

23. Signs.

Tenant shall not place any sign upon the Premises or the Depot without Landlord's prior consent. Under no circumstances shall Tenant place a sign on any roof of the Depot. Lettering on directory or monument signs, if applicable and which must be expressly approved herein, shall be provided by Landlord Tenant, and shall conform to the Depot sign criteria. In the event Tenant is permitted signage on the Building exterior, such signage shall be subject to the Depot sign criteria and in accordance with applicable codes, requirements, and governmental approval of the City in which the Building is located. The installation, maintenance, repair, and removal (including any underlying damage caused by removal) of such exterior signage shall be provided by Tenant, at Tenant's sole cost and expense. Failure to maintain such signage shall, at Landlord's option, result in forfeiture of the sign position(s) and removal of existing signage (at Tenant's cost).

24. Subordination.

This Lease, and any Option or first refusal granted hereby, at Landlord's option, shall be subordinate to any ground lease, mortgage, deed of trust, or any other hypothecation or security now or hereafter placed upon the Depot. Notwithstanding such subordination, Tenant's right to quiet possession of the Premises shall not be disturbed if Tenant is not in default and so long as Tenant shall pay the rent and observe and perform all of the provisions of this Lease, unless otherwise terminated pursuant to its terms. Tenant agrees to execute any documents required to effectuate an attornment, a subordination, or to make this Lease or any Option granted herein prior to the lien of any mortgage, deed of trust, or ground lease, as the case may be. Tenant's failure to execute such documents within ten (10) days after written demand shall constitute a material default by Tenant hereunder without further notice to Tenant or, at Landlord's option, Landlord shall execute such documents on behalf of Tenant as Tenant's attorney-in-fact.

25. Options.

As used in this paragraph the word "Option" means the right or option to extend the term of this Lease or to renew this Lease;

Each Option granted to Tenant in this Lease is personal to the original Tenant and may be exercised only by the original Tenant while occupying the Premises. In the event that Tenant has multiple options to extend or renew this Lease a later option cannot be exercised unless the prior option to extend or renew this Lease has been so exercised. All rights of Tenant under the provisions of an Option shall terminate and be of no further force or effect, notwithstanding Tenant's due and timely exercise of the Option, if, during the term of this Lease, (i) Tenant fails to pay Landlord a monetary obligation of Tenant for a period of thirty (30) days after such obligation becomes due (without any necessity of Landlord to give notice thereof to Tenant), or (ii) Tenant fails to commence to cure any curable default or breach of any other provision of this Lease within thirty (30) days after the date that Landlord gives notice to Tenant of such default and/or Tenant fails thereafter to diligently prosecute said cure to completion, or (iii) Landlord gives to Tenant three or more notices of default for the non-payment of rent, whether or not the defaults are cured, or (iv) if Tenant has committed any non-curable breach or is otherwise in default of any of the terms, covenants, and conditions of this Lease.

Any and all Options granted to Tenant, if any, are hereby prescribed as follows:

Option to Extend: So long as Tenant is not in default of this Lease, and has not been habitually in default during the initial or any previously extended Term as determined by Landlord in its sole discretion, Landlord hereby grants Tenant the right to extend the term of this Lease for two (2) additional periods of five (5) years each. Each successive option shall be deemed to have been automatically exercised by Tenant unless Tenant notifies Landlord, in writing, no later than ninety (90) days prior to the expiration of the preceding term, of its intent not to exercise the Option to Extend. The monthly Base Rent for these Option periods granted herein, if exercised, shall be increased annually in accordance with Section 7(a) of this Lease.

26. Damage or Destruction.

In the event the Premises sustains damages of less than fifty percent (50%) of its then replacement value, then Landlord shall repair such damage (except for Tenant's improvements, trade fixtures and equipment) as soon as reasonably possible, and this Lease shall continue in full force and effect, and Rent and other charges shall be abated in proportion to the degree to which Tenant's use of the Premises is impaired. In the event such damages are uninsured, Landlord may elect not to restore and repair the Premises, in which case this Lease shall be terminated. In either case, if such damages or destruction was caused by a negligent or willful act of Tenant, then Tenant shall make all necessary repairs and restorations at its sole cost and expense and this Lease shall continue in full force and effect with no abatement of rent.

In the event the Premises sustains damages of more than fifty percent (50%) of its then replacement value, (unless caused by a negligent or willful act of Tenant in which case Tenant shall make all necessary repairs and restorations at its sole cost and expense and this Lease shall continue in full force and effect with no abatement of rent), this Lease shall terminate effective on the date of such damage or destruction.

27. Eminent Domain.

Eminent domain proceedings resulting in the condemnation of part of the Premises herein that leave the remaining portion usable by Tenant for purposes of the business for which the Premises are leased will not terminate this Lease. If Tenant determines that the remaining portion is not reasonably usable, Tenant may terminate this Lease by giving written notice of termination to Landlord no more than ninety (90) days after the notice of condemnation or taking. The effect of such condemnation, should Tenant not terminate this Lease, will be to terminate this Lease as to the portion of the Premises condemned and leave it in effect as to the remainder of the Premises, and the Rent and all other expenses provided for herein shall be adjusted accordingly. Compensation awarded as a result of such condemnation shall belong to Landlord (including damages for the bonus value of Tenant's leasehold improvements), except to the extent that part of the award is allocated as damages to fixtures of the Depot which were furnished by Tenant, or expenses for Tenant's relocation.

28. General Lease Terms:

Severability. The invalidity of any provision of this Lease as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

Time of Essence. Time is of the essence with respect to the obligations to be performed under this Lease.

Additional Rent. All monetary obligations of Tenant to Landlord under the terms of this Lease, including but not limited to Tenant's Share of Operating Expense Increase and any other expenses payable by Tenant hereunder shall be deemed to be rent.

Prior Agreements; Amendments. This Lease contains all agreements of the parties with respect to any matter mentioned herein. No prior or contemporaneous agreement or understanding pertaining to any such matter, including but not limited to Letters of Intent, Proposals to Lease, and other documentation associated with the negotiation of this tenancy, shall be effective. This Lease may be modified in writing only, signed by the parties in interest at the time of the modification. Except as otherwise stated in this Lease, Tenant hereby acknowledges that no real estate broker on this transaction nor the Landlord or any employee or agents of any said persons has made any oral or written warranties or representations to Tenant relative to the condition or use by Tenant of the Premises or the Depot and Tenant acknowledges that Tenant assumes all responsibility regarding the legal use and adaptability of the Premises and the compliance thereof with all applicable laws and regulations in effect during the term of this Lease, including but not limited to the Occupational Safety Health Act and the Americans with Disabilities Act ("ADA"); However, Tenant shall not be responsible for ADA and/or CAL OSHA related requirements which may or may not have been addressed prior to the initiation of this Lease.

Notices. Any notice required or permitted to be given hereunder shall be in writing and may be given by personal delivery or by certified or registered mail, and shall be deemed sufficiently given if delivered or addressed to Tenant or to Landlord at the address noted in Section 1.17. Mailed notices shall be deemed given upon actual receipt at the address required, or forty-eight hours following deposit in the mail, postage prepaid, whichever first occurs. Either party may by notice to the other specify a different address for notice purposes. A copy of all notices required or permitted to be given to Landlord hereunder shall be concurrently transmitted to such party or parties at such addresses as Landlord may from time to time

hereafter designate by notice to Tenant.

Waivers. No waiver by Landlord or any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by Tenant of the same or any other provision. Landlord's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Landlord's consent to or approval of any subsequent act by Tenant. The acceptance of rent hereunder by Landlord shall not be a waiver of any preceding breach by Tenant of any provision hereof, other than the failure of Tenant to pay the particular rent so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such rent.

Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

Performance Under Protest. If at any time a dispute shall arise as to any amount or sum of money to be paid by one party to the other under the provisions hereof, the party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment, and there shall survive the right on the part of said party to institute suit for recovery of such sum. If it shall be adjusted that there was no legal obligation on the part of said party to pay such sum or any part thereof, said party shall be entitled to recover such sum or so much thereof as if it was not legally required to pay under the provisions of this Lease.

Covenants and Conditions. Each provision of this Lease performable by Tenant shall be deemed both a covenant and a condition.

Binding Effect; Jurisdiction. This Lease shall bind the parties, their personal representatives, successors, and assigns. This Lease shall be governed by the laws of the State where the Depot is located and any litigation concerning this Lease between the parties hereto shall be initiated in the county in which the Depot is located.

Attorney's Fees. If either party brings an action to enforce the terms hereof or declare rights hereunder, the prevailing party in any such action, trial or appeal thereon, shall be entitled to his reasonable attorneys' fees to be paid by the losing party as fixed by the court in the same or a separate suit, and whether or not such action is pursued to decision or judgment. Landlord shall be entitled to reasonable attorneys' fees and all other costs and expenses incurred in the preparation and service of notice of default (including but not limited to notices required under the Unlawful Detainer statutes) and consultations in connection therewith, whether or not a legal transaction is subsequently commenced in connection with such default. The costs, salary and expenses of the City Attorney and members of his office in enforcing this contract on behalf of the City of San Bernardino shall be considered as "attorney's fees" for the purposes of this paragraph".

Consents. Wherever in this Lease the consent of one party is required to an act of the other party such consent shall not be unreasonably withheld or delayed.

Guarantor. In the event that there is a guarantor of this Lease, said guarantor shall have the same obligations as Tenant under this Lease.

Authority. The individuals executing this Lease on behalf of the Landlord represent and warrant to Tenant that they are fully authorized and legally capable of executing this Lease on behalf of Landlord and that such execution is binding upon all parties holding an ownership interest in the Depot. If Tenant is a corporation, trust, or general or limited partnership, Tenant, and each individual executing this Lease on behalf of such entity represent and warrant that such individual is duly authorized to execute and deliver this Lease on behalf of such entity.

Conflict. Any conflict between the printed provisions, Exhibits, or Addenda of this Lease and the typewritten or handwritten provisions, if any, shall be controlled by the typewritten or handwritten provisions.

Multiple Parties. If more than one person or entity is named as either Landlord or Tenant herein, except as otherwise expressly provided herein, the obligations of the Landlord or Tenant herein shall be the joint and several responsibility of all persons or entities named herein as such Landlord or Tenant, respectively.

ATTACHMENTS:

Attached hereto are the following documents which constitute a part of this Lease:

- Exhibit "A" - Rules and Regulations**
- Exhibit "B" - [Intentionally omitted]**
- Exhibit "C" - Space Plan**

ADDITIONAL TERMS:

29. Tenant Improvements. Landlord shall provide tenant improvements and other site improvements for the Premises based upon working drawings and specifications mutually agreed upon by Landlord and Tenant and prepared in accordance with the Space Plan and Specifications, attached hereto as Exhibit "C". The cost of such improvements, including but not limited to architects ' and engineers' fees, cost of permits, materials, labor, general contractor's fees, overhead, Landlord's construction management fee, and other costs related to the construction of the improvements (but shall not include costs for Tenant's cabling, furniture, fixtures, or equipment) shall be paid for by Landlord initially, and Tenant shall reimburse Landlord for such costs, with \$100,000 paid up front in a lump sum due at the beginning of construction, and the remaining balance amortized over the initial term of the Lease and payable monthly concurrent to other rents due. The cost of the tenant improvements is currently estimated to be approximately \$230,000. In addition to the tenant improvements, the parties have identified and estimated the cost of certain necessary site improvements outside of the Tenant's actual leased space that are necessary or beneficial to Tenant's use and occupancy of the Premises. Landlord has agreed to contribute \$45,000 toward the cost of these site improvements, which will not be reimbursed by Tenant. By way of example only using estimated figures (which may not be accurate and are dependent upon the final scope of work and actual costs incurred):

Total improvements costs:	\$275,000.00
Less site improvement costs paid by Landlord:	\$45,000.00
Total tenant improvement costs reimbursed by Tenant:	\$230,000.00
Up front lump sum due from Tenant:	\$100,000.00
Balance owed by Tenant:	\$130,000.00

Amortized monthly over 5 years: \$2,166.67 per month (Amortization Payment)

The Amortization Payment each month shall be paid separately and directly to SANBAG regardless of any agent relationship SANBAG may have for collection of rents.

In the event

LANDLORD AND TENANT HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN AND, BY EXECUTION OF THIS LEASE, SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LANDLORD AND TENANT WITH RESPECT TO THE PREMISES.

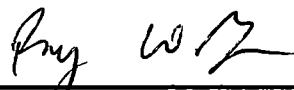
THIS LEASE HAS BEEN PREPARED FOR SUBMISSION TO YOUR ATTORNEY FOR APPROVAL. NO REPRESENTATION OR RECOMMENDATION IS MADE BY THE REAL ESTATE BROKERS, OR ANY OF THEIR AGENTS OR EMPLOYEES AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTION RELATING THERETO. THE PARTIES SHALL RELY SOLELY UPON THE ADVISE OF THEIR OWN LEGAL COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE.


----- Signatures on next page -----

Attachment: 16-1001429 (10643 : Surrender of Lease - Amendment No. 4 to Contract No. 16-1001429)

San Bernardino Associated Governments

**Local Agency Formation Commission
for San Bernardino County (LAFCO)**


By: 
Raymond W. Wolfe, Ph.D.
Executive Director

By: 
Name: Kimberly Cox
Title: Commission Chair

Date: 8/1/16

Date: 7-20-16

APPROVED AS TO FORM

By: 
Robert D. Herrick
Assistant General Counsel

CONCURRENCE

By: 
Jeffrey Hill
Procurement Manager

Attachment: 16-1001429 (10643 : Surrender of Lease - Amendment No. 4 to Contract No. 16-1001429)

EXHIBIT "A" RULES AND REGULATIONS

GENERAL RULES

1. Tenant shall not suffer or permit the obstruction of any Common Areas.
2. Landlord reserves the right to refuse access to any persons Landlord in good faith judges to be a threat to the safety, reputation, or property of the Depot or its occupants.
3. Tenant shall not make or permit any noise or odors that annoy or interfere with other Tenants or persons having business within the Depot.
4. Tenant shall not keep animals or birds within the Depot (unless a part of approved use as per Section 9 of this Lease), and shall not bring bicycles, motorcycles, or other vehicles into areas not designated as authorized for same.
5. Tenant shall not make, suffer, or permit litter except in appropriate receptacles for that purpose. All garbage and refuse shall be placed in containers designated for refuse collection, and such items must fit entirely within the receptacles. All large boxes and other refuse shall be broken down prior to placing in the containers. The outside areas immediately adjoining the Premises shall be kept clean and free from dirt and rubbish by Tenant to the satisfaction of Landlord.
6. Tenant shall not alter any exterior lock or install new or additional locks or bolts on exterior doors without providing Landlord copies of same.
7. Tenant shall not deface the walls, partitions, or other surfaces of the premises or the Depot.
8. Tenant shall not employ any service or contractor for services or work to be performed in the Building, except as approved by Landlord.
9. Tenant shall return all keys, including duplicates, at the termination of its tenancy and shall be responsible for the cost of replacing any keys that are lost.
10. No window coverings, shades, or awnings shall be installed or used by Tenant without Landlord's prior approval.
11. No Tenant, employee, or invitee shall go upon the roof of the Building without Landlord's prior approval.
12. Smoking shall be restricted to designated smoking areas, if any, and then not near, doors, windows, or other entrances, exits, or openings to other units within the Depot
13. Tenant shall not install, maintain, or operate any vending machines upon the Premises without Landlord's written consent.
14. The premises shall not be used for lodging or manufacturing, cooking, or food preparation, except as an approved Use per Section 9 of this Lease.
15. Tenant shall comply with all safety, fire protection, and evacuation regulations established by Landlord or any applicable governmental agency.
16. Landlord reserves the right to waive any one of these rules or regulations, and/or as to any particular Tenant, and any such waiver shall not constitute a waiver of any other rule or regulation or any subsequent application thereof to such Tenant.
17. Tenant assumes all risks from theft or vandalism and agrees to keep its Premises locked as may be required.
18. Landlord reserves the right to make such other reasonable rules and regulations as it may from time to time deem necessary for the appropriate operation and safety of the Depot and its occupants. Tenant agrees to abide by these and such rules and regulations.
19. Signs shall conform to sign criteria established by Landlord and shall not exceed the quantity or dimensions authorized by Landlord. No signs (other than signs that strictly conform to sign criteria), placards, pictures, advertisements, names, or notices shall be inscribed, displayed, painted, or affixed on or to any part of the outside or inside of the Building or within the Common Areas of the Depot. Landlord shall have the right to remove any such non-conforming signs without notice to Tenant, at the expense of Tenant.
20. Tenant shall not disturb, solicit, or canvass any other Tenant within the Depot.
21. Tenant, its contractors, employers, or invitees, shall not loiter in the Common Areas of the Depot or in any way obstruct the entrances and driveways.
22. No antenna, aerial, discs, satellite dishes, or other such device shall be erected on the roof or exterior walls of the Building without Landlord's express consent.

PARKING RULES

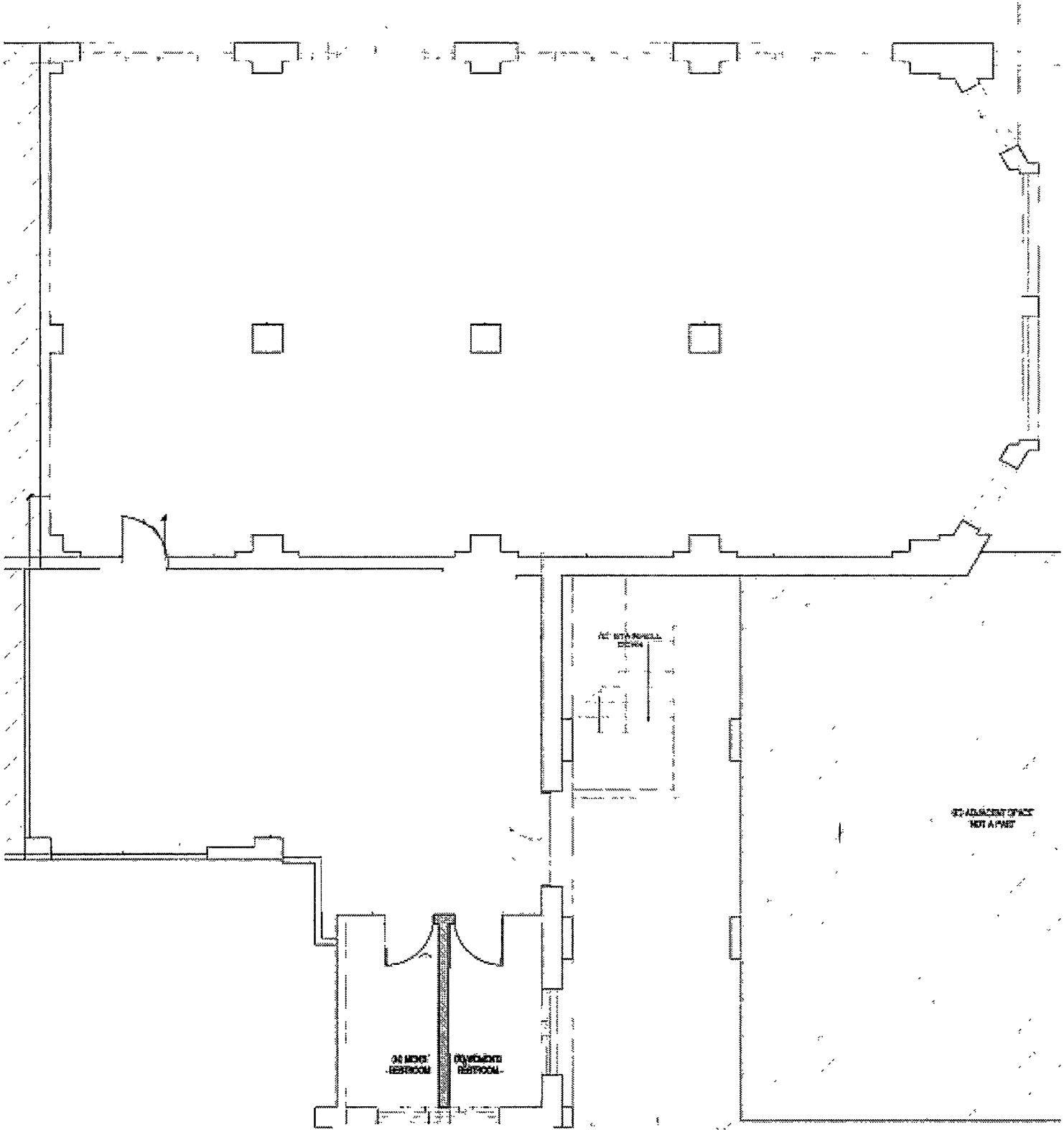
1. Parking areas shall be used only for parking by vehicles no longer than full size, passenger automobiles, non-commercial pick-up trucks, and sport utility vehicles herein called "Permitted Size Vehicles". Vehicles other than Permitted Size Vehicles are herein referred to as "Oversized Vehicles".
2. Tenant shall not permit or allow any vehicles that belong to or are controlled by Tenant or Tenant's employees, suppliers, shippers, customers, or invitees to be loaded, unloaded, or parked in areas other than those designated by Landlord for such activities.
3. Parking stickers or identification devices shall be the property of Landlord and be returned to Landlord by the holder thereof upon termination of the holder's parking privileges. Tenant will pay such replacement charge as is reasonably established by Landlord for the loss of such devices.
4. Landlord reserves the right to refuse the sale or issuance of identification devices to any person or entity that willfully refuses to comply with the applicable rules, regulations, laws, and/or agreements.
5. Landlord reserves the right to relocate all or a part of parking spaces, and to reasonable allocate them between compact and standard size spaces, as long as the same complies with applicable laws, ordinances, and regulations.
6. Users of the parking area will obey all posted signs and park only in the areas designated for vehicle parking.
7. Unless otherwise instructed, every person using the parking area is required to park and lock his own vehicle. Landlord will not be responsible for any damage to vehicles, injury to persons, or loss of property, all of which risks are assumed by the party using the parking area. No overnight parking shall be permitted.
8. The maintenance, washing, waxing, or cleaning of vehicles in the parking structure or Common Areas is prohibited.
9. Tenant shall be responsible for seeing that all of its employees, agents, and invitees comply with the applicable parking rules, regulations, laws, and agreements.
10. Landlord reserves the right to modify these rules and/or adopt such other reasonable and non-discriminatory rules and regulations as it may deem necessary for the proper operation of the parking area.
11. Such parking use as is herein provided is intended merely as a license only and no bailment is intended or shall be created hereby.
12. Violation of any of the parking rules or regulations may result, without notice, in the towing of any of Tenant's vehicles (or Tenant's employees, invitees, contractors, or visitors), the cost of which (including impound fees) shall be the sole responsibility of Tenant.

EXHIBIT "B"

[Intentionally omitted]

Attachment: 16-1001429 (10643 : Surrender of Lease - Amendment No. 4 to Contract No. 16-1001429)

EXHIBIT "C" SPACE PLAN



Attachment: 16-1001429 (10643 : Surrender of Lease - Amendment No. 4 to Contract No. 16-1001429)

Minute Action

AGENDA ITEM: 9

Date: June 12, 2024

Subject:

Approve License and Use Agreement No. 23-1002901 with National Railroad Passenger Corporation

Recommendation:

That the General Policy Committee recommend the Board, acting as the San Bernardino County Transportation Authority:

A. Approve License and Use Agreement No. 23-1002901 with the National Railroad Passenger Corporation (Amtrak) for access and use of the Santa Fe Depot for the period of July 3, 2024, through July 2, 2039, with the option to renew for two five-year terms.

B. Authorize the Executive Director, or his/her designee, to approve License and Use Agreement No. 23-1002901 for a total estimated revenue not-to-exceed \$374,692 through July 2, 2039, or \$646,095 including the two option terms.

Background:

The San Bernardino County Transportation Authority (SBCTA) and the City of San Bernardino (City), as tenants-in-common of the Santa Fe Depot (Depot), share the responsibilities for the Depot as defined in the Cooperative Agreement No. 04-040 (Cooperative Agreement). Pursuant to the Cooperative Agreement, SBCTA retains the exclusive right to enter into, amend, or terminate all leases and station use agreements at the Depot.

On October 19, 2007, the SBCTA Board of Directors (Board) approved Contract No. C08100 (00-1000369) with Amtrak for the purpose of providing Amtrak customers access to the San Bernardino Santa Fe Depot Main Lobby located at 1170 W. 3rd Street, San Bernardino. The agreement established a Station Host program developed at the request of Amtrak to provide services which would directly benefit passengers of the Amtrak Southwest Chief trains. The agreement was for a 15-year term commencing on December 1, 2007 and ending on November 30, 2022.

On April 2, 2007, Amendment No. 1 was approved amending the commencement date to March 1, 2008, with term ending February 28, 2023.

On February 1, 2023, Amendment No. 2 was approved extending the term of the existing lease an additional eight months from February 28, 2023 to October 31, 2023, to provide additional time for SBCTA and Amtrak staff to negotiate a new use agreement. Ultimately, negotiations continued to be delayed and a new agreement was not reached before the contract expiration date; however, Amtrak has continued paying the monthly fee of \$1,000.

New Proposed License and Use Agreement

Staff continued to work with Amtrak past the expiration of the prior agreement and has prepared a new License and Use Agreement No. 23-1002901 with Amtrak for the Board's approval. The terms of the agreement are generally:

Entity: San Bernardino County Transportation Authority

General Policy Committee Agenda Item

June 12, 2024

Page 2

1. Term: 15 years, commencing on July 3, 2024, with two five-year options to extend.
2. Fee: \$2,000 monthly to be increased by 2% every three years on the anniversary of the Commencement Date.
3. The total estimated revenue for the length of the initial agreement term is \$374,692.
4. The parties acknowledge that the base amount represents an allocated portion of the cost for having the main lobby opened to Amtrak’s customers during required station opening times and for the maintenance and repair of the station as required.

Financial Impact:

This item has no financial impact on the adopted Budget for Fiscal Year 2024/2025 as the Amtrak revenue for the Station Host program was already accounted for in the budget.

Reviewed By:

This item has not received prior policy committee or technical advisory committee review. SBCTA General Counsel and Enterprise Risk Manager have reviewed this item and the draft agreement.

Responsible Staff:

Colleen Franco, Director of Management Services

Approved
General Policy Committee
Date: June 12, 2024

Witnessed By:

General Contract Information

Contract No: 23-1002901 Amendment No.: _____
 Contract Class: Receivable Department: Management Services
 Customer ID: AMTRAK NRP Customer Name: Amtrak
 Description: License and Use of the Main Lobby of the San Bernardino Santa Fe Depot
 List Any Accounts Payable Related Contract Nos.: _____ 00-1000249

Dollar Amount					
Original Contract	\$	374,692.00	Original Contingency	\$	-
Prior Amendments	\$	-	Prior Amendments	\$	-
Prior Contingency Released	\$	-	Prior Contingency Released (-)	\$	-
Current Amendment			Current Amendment		
Total/Revised Contract Value	\$	374,692.00	Total Contingency Value	\$	-
Total Dollar Authority (Contract Value and Contingency)				\$	374,692.00

Contract Authorization

Board of Directors Date: 7/3/2024 Committee _____ Item # _____

Contract Management (Internal Purposes Only)

Local _____ Lease _____ N/A _____

Accounts Receivable

Total Contract Funding: \$ 374,692.00 Funding Agreement No: 23-1002901
 Beginning POP Date: 7/3/2024 Ending POP Date: 7/2/2039 Final Billing Date: 7/2/2039
 Expiration Date: 7/2/2039 Fund Admin: Yes
 Parent Contract 23-1002901 PM Description Amtrak Santa Fe Depot Lobby License and Use Agreement
 Z-Related Contracts Z23-1002901

Sub-Task Revenue						Total Contract Funding:	Sub-Task Revenue						Total Contract Funding:
Fund	Prog	Task	Sub-Task	Revenue			Fund	Prog	Task	Sub-Task	Revenue		
GL: 1091	01	0805	0000	43012000		374,692.00	GL:						-
GL:						-	GL:						-
GL:						-	GL:						-
GL:						-	GL:						-
GL:						-	GL:						-
GL:						-	GL:						-
GL:						-	GL:						-
GL:						-	GL:						-
GL:						-	GL:						-

Colleen Franco

Project Manager (Print Name)

Colleen Franco

Task Manager (Print Name)

Lease revenues for 1st option to extend = \$133,550.05. Lease revenues for 2nd option to extend = \$137,853.53. Total revenue if both options exercised = \$646,094.75.

Attachment: CSS Amtrak [Revision 1] (9811 : Approve Agreement 23-1002901 with the National Railroad Passenger Corporation)

LICENSE AND USE AGREEMENT
(Santa Fe Depot)

This License and Use Agreement (“**Agreement**”) is made and entered into as of this 3rd day of July 2024, (“**Effective Date**”), by and between San Bernardino County Transportation Authority, a public agency (“**LICENSOR**”), and National Railroad Passenger Corporation, a corporation organized under 49 U.S.C. §24101 *et seq.* and the laws of the District of Columbia, (“**AMTRAK**”). LICENSOR and AMTRAK are sometimes hereinafter referred to individually as a “**Party**” and collectively as the “**Parties**.”

RECITALS

WHEREAS, LICENSOR owns that certain real property located in the City of San Bernardino, San Bernardino County, California located at 1170 W. 3rd Street, San Bernardino, California 92410, which property is commonly known as Santa Fe Depot (“**Depot**”); and

WHEREAS, AMTRAK desires to access and use, and SBCTA desires to permit AMTRAK access to and use of, a portion of the Depot for AMTRAK’s continued use as a rail station, as defined in Section 1 (*Premises*) below, under the terms and conditions contained in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, hereby agree to incorporate the above Recitals into this Agreement and further agree as follows:

1. PREMISES

a. LICENSOR hereby grants to AMTRAK, and its employees, agents, licensees, contractors, passengers and invitees, a license for access to and use of the portion of the Depot, as delineated on the plan shown in Exhibit A attached hereto and made a part hereof, including the sidewalks, plazas, parking areas, driveways, public bathrooms, common entrances, lobbies (to the extent owned by LICENSOR), and any other public areas of the Depot which includes the right to place an AMTRAK ticket machine thereon (collectively, the “**Premises**”), and pursuant to the terms and conditions set forth herein. This Agreement does not alter or modify AMTRAK’s rights to access and use the platforms and the pedestrian footbridge which connect the Depot to the platforms pursuant to the terms of the agreement between AMTRAK, Southern California Regional Rail Authority, Los Angeles County Metropolitan Transportation Authority, Orange County Transportation Authority, Riverside County Transportation Commission, Ventura County Transportation Commission, and LICENSOR, dated March 1, 1994 (“**Operating Agreement**”).

2. TERM

a. The initial term of this Agreement shall commence on the 3rd day of July 2024 (“**Commencement Date**”) and shall remain in effect for fifteen (15) years (“**Initial Term**”), unless (a) sooner terminated: (i) by ninety (90) days’ prior written notice by either Party to the other Party; or (ii) in the event LICENSOR elects not to rebuild the Depot, as provided Section 11 (*Damage and Destruction*) and Section 12 (*Eminent Domain*) of this Agreement; or (b) extended pursuant to Section 2.b below.

b. The Parties agree that AMTRAK shall have the option to extend the Initial Term of this Agreement for two (2) additional five (5) year term(s). AMTRAK shall give LICENSOR notice of its intent to extend the term by giving written notice at least ninety (90) days before the end of the then-current term (“**Renewal Term(s)**” and collectively with the Initial Term, the “**Term**”).

c. Any Renewal Term shall be upon the same terms and conditions as set forth in this Agreement, except that the Fee shall be adjusted, as pursuant to Section 3.b below (*Fee*).

3. FEE

a. Beginning upon the Commencement Date of the License, and continuing for the entirety of the Initial Term, AMTRAK shall pay to LICENSOR a fee in the amount of TWO THOUSAND DOLLARS AND NO CENTS (\$2,000.00) per month, payable on the first day of each month during the Term (“**Fee**”). Fee for Renewal Terms shall be set as provided in 2.c. above (*Term*). The Fee shall be paid to LICENSOR at the address set forth in Section 19 (*Notices*), or such other address as LICENSOR may advise AMTRAK in writing from time to time.

b. The Fee shall be increased by two percent (2%) every (3) years of the Term, commencing on the third anniversary of the Commencement Date.

4. USE

AMTRAK may access and use the Premises for any lawful purpose reasonably related to AMTRAK's business operations, including use: (i) as a waiting area for passengers; (ii) for ticket machine area, including the repair, replacement or removal of the ticket machine.

5. HOURS OF OPERATION

LICENSOR shall ensure the Premises will be open to Amtrak passengers arriving or departing on Amtrak trains and buses. The regular hours for the Premises shall be Monday thru Friday, 3:16 a.m. – 11:46 p.m., and Saturday and Sunday, 6:11a.m. – 11:46 p.m (“**Regular Hours**”). AMTRAK shall have the right to request to LICENSOR to keep the Premises open outside of the Regular Hours by providing prior written notice to LICENSOR, and in such event, AMTRAK shall pay the actual costs incurred by LICENSOR in connection therewith.

6. UTILITIES

LICENSOR shall make all arrangements and installations for the provision of and pay for all utilities necessary for AMTRAK's access to and use of the Premises.

7. COMPLIANCE

LICENSOR represents that the Depot and all improvements thereon were constructed more than one hundred (100) years ago, and the Depot is listed on the *National Register of Historic Places*. LICENSOR shall maintain and operate the Depot in accordance with all applicable statutes, laws, rules, regulations, ordinances and codes, including without limitation, the *Americans with Disabilities Act of 1990*, as amended (42 USC 12101 et seq.) (“**ADA**”), the *Rehabilitation Act of 1973*, as amended (29 USC 794 et seq.) (“**Rehabilitation Act**”) and the implementing regulations, including but not limited to those set forth at 49 CFR parts 27, 37 and 38 (“**Regulations**”).

8. SIGNS

AMTRAK's existing business signs and signs needed for either passenger information display system, including audio and visual components, ADA compliance or other signs required for AMTRAK to be in compliance with any applicable laws, statutes, regulations or government requirements are deemed approved by LICENSOR (“**Business Signs**”). AMTRAK may keep and maintain said Business Signs at the Depot throughout the Term of this Agreement. All other signs shall not be erected without the prior approval of LICENSOR, which approval shall not be unreasonably denied, delayed, or conditioned.

9. MAINTENANCE, REPAIR AND SERVICES

a. Except as otherwise specifically provided herein, LICENSOR, at its sole cost and expense, shall be responsible for the reasonable maintenance, repair and upkeep of the Depot, including the maintenance, repair, replacement and alteration of the interior and exterior of the Depot and all fixtures, equipment, components and systems that are a part of the Depot or necessary to and for the operation of the Depot and AMTRAK's access to and use of the Premises, including structural and roof repairs and maintenance and exterior landscaping, paving and maintenance.

b. LICENSOR shall pay all reasonable costs, expenses, fees, taxes, and sums related to its ownership, operation and maintenance of the Depot.

c. LICENSOR shall provide at its expense:

- i. heating, ventilation, and air conditioning (“**HVAC**”) for the Depot, including the Premises, during the Depot Hours to maintain temperatures in the interior portions of the Depot at commercially reasonable levels.
- ii. janitorial services to the Depot;
- iii. water sufficient for drinking, lavatory, toilet and routine janitorial and cleaning services, which shall be drawn from LICENSOR's fixtures in the Premises;

- iv. electricity to the Premises sufficient to provide lighting of uniform illumination;
- v. replacement of lighting tubes, lamp ballasts, starters and bulbs, as needed;
- vi. extermination and pest control as often as may be deemed necessary in the exercise of prudent management practices, and in no event less than semi-annually. To the greatest extent possible, such work shall be performed at times other than when passenger train and bus operations are scheduled;
- vii. reasonable maintenance, cleaning, and upkeep of Premises in a commercially reasonable manner appropriate for a train Depot. Such maintenance shall include, without limitation, cleaning, HVAC, illumination, repairs, replacements, and landscaping;
- viii. security at the level and standard currently maintained in the Depot.

d. LICENSOR shall cause utilities (e.g., electricity, water, sewer, etc.) to be supplied to the Depot sufficiently for the operation of a transit facility, including provision of such utilities to the Premises at levels and in amounts sufficient for AMTRAK's access to and use of the Premises, as provided in Section 4 (*Use*) and Section 6 (*Utilities*) of this Agreement.

e. AMTRAK shall be responsible for the maintenance and repair of any equipment (specifically the ticket machine and signage) or any other personal property of AMTRAK located on or within the Premises and charges for any services for AMTRAK's sole use and benefit arranged for by AMTRAK separately from the services provided by or to be provided by LICENSOR under this Agreement. Amtrak shall have the right to access the Depot and the Premises at all times to repair, replace or remove the ticket machine and Business Signs.

10. INSURANCE AND INDEMNIFICATION

a. LICENSOR and AMTRAK shall indemnify defend and hold harmless the other Party, their officers, officials, employees, and agents from and against any and all liability, loss, damage, expense, costs (including without limitation, costs and fees of litigation) due to bodily injury, including death, to any person, or loss or damage (including loss of use) to any property, caused by the sole and direct negligence or willful misconduct of the indemnifying Party, its officers, officials, directors, its employees or agents in connection with this Agreement.

b. AMTRAK and LICENSOR shall, at their own expense, either maintain and carry in full force and effect commercial insurance coverages or the appropriate levels of self-insurance in lines with and in amounts sufficient to cover their respective potential liabilities during the Term of this Agreement.

11. DAMAGE OR DESTRUCTION

a. LICENSOR shall notify AMTRAK, within a reasonable time after such damages or destruction, of LICENSOR's decision to either rebuild the Depot or not. If LICENSOR does not provide an alternative area for AMTRAK's use, AMTRAK shall have no obligation to pay the Fee or any costs or expenses associated with the Depot.

12. EMINENT DOMAIN

If eminent domain proceedings result in the condemnation of any part of the Premises or Depot that leaves the remaining portion usable by AMTRAK for its purposes of business for which this license permits and as provided in this Agreement, as reasonably determined by AMTRAK, AMTRAK will not terminate this Agreement. If AMTRAK reasonably determines that the remaining portion of the Premises or the Depot is not usable by AMTRAK, AMTRAK may terminate this Agreement by giving written notice of termination to LICENSOR no more than ninety (90) days after the notice of condemnation or taking. The effect of such condemnation, should AMTRAK not terminate this Agreement, will be to terminate this Agreement as to the portion of the Premises condemned and leave it in effect as to the remainder of the Premises, and the Fee and all other expenses provided for herein shall be adjusted accordingly. Compensation awarded as a result of such condemnation shall be that of LICENSOR, except to the extent that part of the award is allocated as damages to the ticket machine located in the Premises, which were furnished by AMTRAK, which compensation shall be the property of AMTRAK.

13. DEFAULT

In the event a Party fails to perform any covenant or obligation required to be performed under this Agreement, and such failure continues for more than thirty (30) days after notice from the other Party identifying such failure, such failure shall constitute an event of default (“**Event of Default**”). If an Event of Default occurs, the non-defaulting Party, at its sole option and discretion, may: (1) perform such covenant or obligation on behalf of the defaulting Party, in which event the defaulting Party shall reimburse the non-defaulting Party all costs and expenses associated with non-defaulting Party’s performance (including reasonable attorneys’ fees) within one hundred twenty (120) days after non-defaulting Party presents an invoice to the defaulting Party for such performance; or (2) pursue any and all rights and remedies available at law or in equity.

14. TAXES

Pursuant to 49 U.S.C. §24301(l), AMTRAK is exempt from all state and local taxes, surcharges, or fees.

15. COMPLIANCE WITH LAWS, ORDINANCES, AND RULES

a. AMTRAK agrees to comply with all applicable laws, ordinances, rules, regulations, and requirements of Federal, State or local authorities now existing or hereinafter created in its use of the Premises, including the ADA with respect to any equipment or other personal property of AMTRAK, specifically the ticketing machine and signage, located on or within the Premises, and which AMTRAK deems are applicable and which are not the responsibility of LICENSOR.

b. LICENSOR agrees to comply with all applicable laws, ordinances, rules, regulations, and requirements of Federal, state, county, or other governmental authorities (including, without limitation, the ADA, the Rehabilitation Act and Regulations) now existing or hereinafter created in connection with LICENSOR’s ownership, maintenance, and use of the Depot.

c. LICENSOR represents and warrants that the Depot and improvements thereon, including but not limited to parking areas and paths of travel, comply with the ADA, the Rehabilitation Act, and Regulations. If any noncompliance therewith is found to exist, LICENSOR shall, at its sole cost, immediately make repairs, replacements, or alterations necessary to comply with such.

d. Upon request from any governmental authority, including, but not limited to, the Federal Railroad Administration (“FRA”), LICENSOR shall provide an accessibility plan(s), including proposed ADA-related scope(s) of work, schedule(s), and source(s) or proposed source(s) of funding for bringing the Depot into compliance.

e. Nothing in this Agreement shall be interpreted as making AMTRAK a “responsible person” under the ADA and responsible for any ADA compliance of the Premises or Depot, except as otherwise specifically provided herein.

16. NON-WAIVER

Any waiver of any breach of covenants or conditions herein contained to be kept and performed by either Party shall be effective only if in writing and shall not be deemed or considered as a continuing waiver. Any waiver shall not operate to bar or prevent the waiving Party from declaring a forfeiture or exercising its rights for any succeeding breach of either the same or other condition or covenant.

17. PARTNERSHIP DISCLAIMER

It is mutually understood and agreed that nothing in this Agreement is intended or shall be construed in any way as creating or establishing the relationship of partners or joint venturers between the Parties hereto, or as constituting AMTRAK as an agent or representative of LICENSOR for any purpose or in any manner whatsoever.

18. PARTIES BOUND

Except as otherwise specifically provided in this Agreement, this Agreement shall bind and inure to the benefit of the Parties hereto and their respective administrators, legal representatives, successors, and assigns.

19. NOTICES

Notices given under the terms of this Agreement must be in writing and shall be deemed properly served if such notice is hand delivered or mailed by certified mail, return receipt requested, or sent by an established overnight commercial courier for delivery on the next business day with delivery charges prepaid, addressed to the other Party at the following address, or such other address as either Party may, from time to time, designate in writing:

If to LICENSOR: San Bernardino County Transportation Authority
 Attn: Management Services
 1170 W. 3rd Street, 2nd Floor
 San Bernardino, CA 92410-1715

If to AMTRAK: National Railroad Passenger Corporation
 Real Estate Department
 30th Street Station, 5th Floor South
 2955 Market Street
 Philadelphia, PA 19104
 Attn: Senior Director of Real Estate

With a copy to: National Railroad Passenger Corporation
 1 Massachusetts Avenue, NW
 Washington, DC 20001
 Attn: General Counsel

Notices mailed in accordance with the provisions hereof shall be deemed to have been given as to the date of hand delivery or the third business day following the date of such mailing, whichever is earlier.

20. ADJUDICATION

All adjudication relating to this Agreement shall be in the United States District Court for the Central District of California, Eastern Division.

21. TIME OF ESSENCE, BINDING UPON HEIRS, ETC.

Time is of the essence of each and all the terms and provisions of this Agreement, and the terms and provisions of this Agreement shall extend to and be binding upon and inure to the benefit of the administrators, successors and permitted assigns of the respective Parties.

22. NUMBER AND GENDER

All words used herein in the singular number shall include plural and the present tense shall include the future, and the masculine gender shall include the feminine and neuter.

23. ENTIRE AGREEMENT

This Agreement contains the sole and only agreement of the Parties as to the license, access, and use of the Premises. Any prior agreements, promises, negotiations or representations, relating to the subject matter herein, not expressly set forth in this Agreement are of no force or effect.

24. LANGUAGE CONSTRUCTION

The language of each and all paragraphs, terms, and/or provisions of this Agreement shall, in all cases and for any and all purposes, and any and all circumstances whatsoever, be construed as a whole, according to its fair meaning, and not for or against any Party hereto and with no regard whatsoever to the identify or status of any person or persons who drafted all or any portion of this Agreement.

25. HOLDING OVER

If AMTRAK shall remain in the Premises after expiration of this Agreement, such holding over shall be construed to be only a use and access of the Premises from month to month subject to all of the covenants, conditions and obligations contained in this Agreement; provided, however, that nothing in this paragraph shall be construed to give AMTRAK any rights to remain and to continue to access and use the Premises without the consent of LICENSOR.

26. AMENDMENT

This Agreement, including any exhibits hereto, shall not be amended, except in writing signed by the Parties. Any amendment or addendum to this Agreement shall expressly refer to this Agreement.

27. AUDIT RIGHTS

a. AMTRAK, its Office of Inspector General or the FRA, and their respective agents, designees and accountants, shall have the right, at any time or from time to time for up to five (5) years after this Agreement is terminated and final payments of all sums due hereunder are made, and after advance notice to LICENSOR, to make any examination, inspection or audit of LICENSOR's books and records which relate in any way to the Depot, the Premises, this Agreement, or to any payments of any sums of money due or paid pursuant to this Agreement or the Premises or the Depot. If it is determined that any charges paid by AMTRAK have, in error, been underpaid or overpaid, then: (i) the Party that has been underpaid shall be reimbursed the amount of such underpayment by the other Party; or (ii) the Party that has been overpaid shall refund the amount of such overpayment to the other Party.

b. Nothing in this Agreement shall be construed to limit the rights, obligations, authority, or responsibilities of AMTRAK's Office of the Inspector General, pursuant to the Inspector General Act of 1978, as amended, including the right to seek information by subpoena.

28. STATUTORY RIGHTS

a. Nothing herein shall waive any rights benefiting AMTRAK whether statutorily granted or granted pursuant to other means. Any provision in this Agreement that is inconsistent with any statutory rights of AMTRAK, to which AMTRAK has voluntarily agreed in this Agreement, is not intended to be a waiver of such rights in the future.

b. The termination of this Agreement is not intended to be a termination of, nor will it constitute a termination of, any rights granted to AMTRAK pursuant to any statute or by any other means.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have affixed their signatures on the Effective Date.

San Bernardino County Transportation Authority:

National Railroad Passenger Corporation:

By: _____
Raymond W. Wolfe
Executive Director

By: _____
Louis Wolfowitz
Vice President, Real Estate

Date: _____

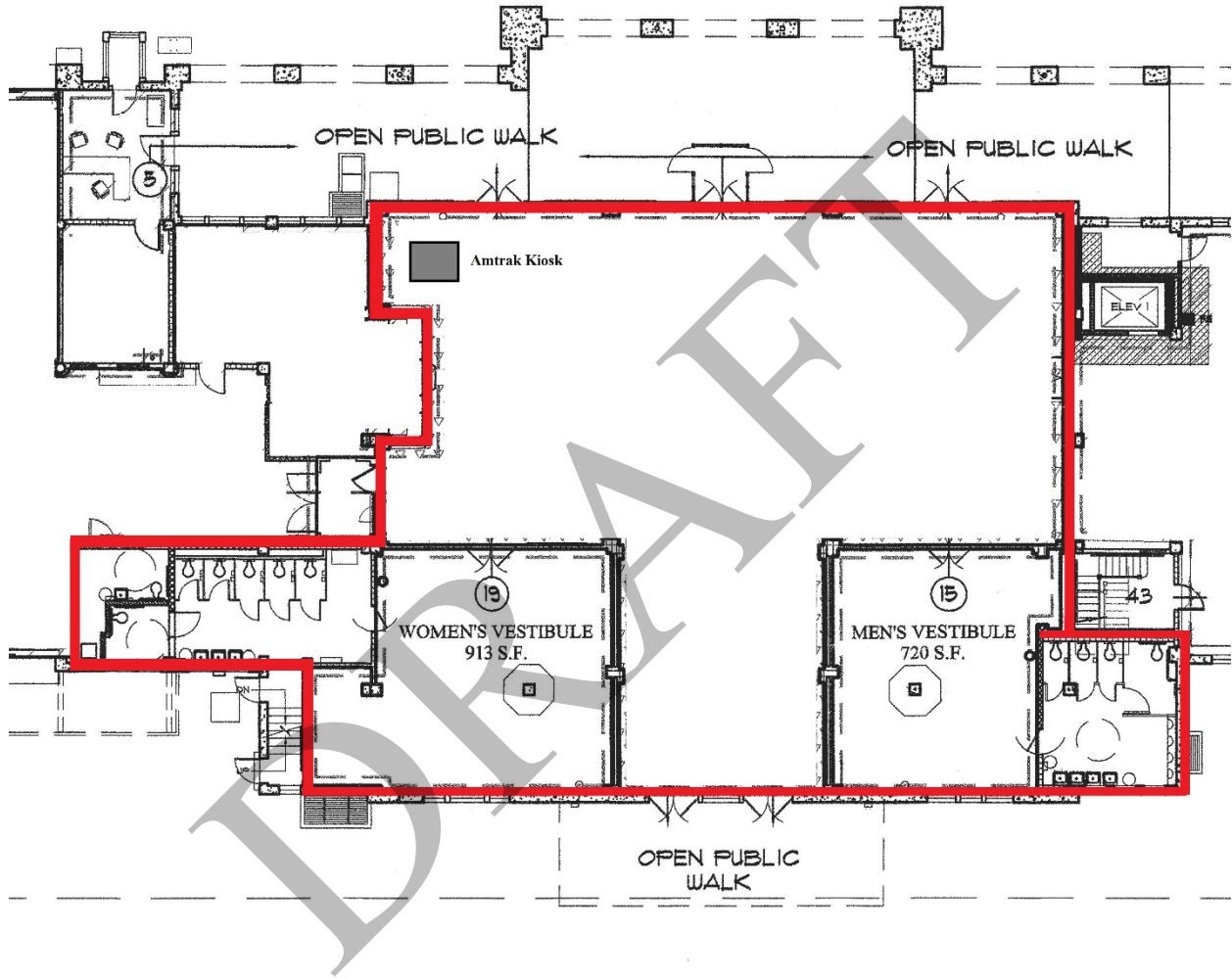
Date: _____

DRAFT

Attachment: San Bernardino - License and Use Agreement (2023-2038)_DRAFT_v16 (Amtrak edits) 3 26 2024 (9811 : Approve Agreement 23-

EXHIBIT A

Premises – Main Lobby Waiting Area and Restrooms/Amtrak Kiosk



Attachment: San Bernardino - License and Use Agreement (2023-2038)_DRAFT_v16 (Amtrak edits) 3 26 2024 (9811 : Approve Agreement 23-

Minute Action

AGENDA ITEM: 10

Date: June 12, 2024

Subject:

Appointment to the Independent Taxpayer Oversight Committee

Recommendation:

That the General Policy Committee recommend the Board, acting as the San Bernardino County Transportation Authority:

Approve the appointment of Chad Logan and Alex Artiaga to the Independent Taxpayer Oversight Committee, with a term ending June 30, 2028.

Background:

The Independent Taxpayer Oversight Committee (ITOC) was authorized as part of the Measure I Ordinance approved by the voters. The ITOC is a five-member body with particular experience and expertise that would aid them in reviewing the implementation of the Measure I expenditure plan.

One of two current vacant positions on the ITOC is for a member who is a current or retired manager of a major *privately* financed development or construction project, who by training and experience would understand the complexity, costs, and implementation issues in building large scale transportation improvements. Staff received one application from Chad Logan who owns construction, construction management, and property management businesses in Blue Jay, California. He wants to be part of the bigger picture in what is happening in his community.

The second of two vacant positions on the ITOC is for a member who is a current or retired manager of a major *publicly* financed development or construction project, who by training and experience would understand the complexity, costs, and implementation issues in building large scale transportation improvements. Staff received one application from Alex Artiaga who is a business manager of LIUNA Local 783 for over 27 years and oversees San Bernardino, Inyo, and Mono Counties. He negotiates, manages, and enforces collective bargaining agreements for the heavy highway and construction industry. He understands the nature of compliance, budgeting, and costs of large-scale public works projects. He is also an Executive Board Member of the Southern California District Council of Laborers, and as a Board Member he oversees all of the business for all of Southern California. He also serves as a trustee for the health and welfare, pension, vacation, and training trust within the region. He is an Executive Board Member of a California Political Action Committee who manages political activities throughout the state, who seeks legislators who understand the importance of building and maintaining our states infrastructure.

Normally the General Policy Committee would appoint an ad hoc committee to select ITOC member(s), but since only one application was received for each vacancy, staff instead conferred with the San Bernardino County Transportation Authority Executive Board and is recommending the appointment of Mr. Logan and Mr. Artiaga to the ITOC.

Information on the ITOC, including the ITOC application and credentials or experience required to be a member, is available on the SBCTA website at [Independent Taxpayer Oversight Committee \(ITOC\) - SBCTA \(gosbcta.com\)](https://www.sbcta.com/independent-taxpayer-oversight-committee-itoc).

Entity: San Bernardino County Transportation Authority

Financial Impact:

This item has no financial impact on the adopted Budget for Fiscal Year 2024/2025.

Reviewed By:

This item is not scheduled for review by any other policy committee or technical advisory committee. The Executive Board reviewed and approved the applicants appointment to the ITOC on May 14, 2024 and May 29, 2024.

Responsible Staff:

Hilda Flores, Chief Financial Officer

Approved
General Policy Committee
Date: June 12, 2024

Witnessed By:

Minute Action

AGENDA ITEM: 11

Date: June 12, 2024

Subject:

Update on the Commuter and Motorist Assistance Call Box Program

Recommendation:

Receive information on the status of the San Bernardino County Transportation Authority Call Box Program.

Background:

In 1987, the San Bernardino County Transportation Authority (SBCTA) established itself as the San Bernardino County Service Authority for Freeway Emergencies (SB SAFE) after the enactment of Senate Bill (SB) 1199 in 1985.

SBCTA operates a call box program that offers motorists travelling on most major highways in San Bernardino County access to a motorist aid call box, that when activated calls the SBCTA's call answering center. Motorist aide calls may be forwarded to the California Highway Patrol (CHP) to assist the motorist with requesting Freeway Service Patrol (FSP), or by calling the motorists' roadside assistance provider (AAA) or a friend/family member. Motorist calls which are deemed an emergency (medical emergency, fire, debris on freeway, pedestrians on freeway, etc.) are forwarded directly to the CHP for assistance. Since the inception of the call box program in 1987, more than 1.5 million motorists have used the San Bernardino call box system.

SBCTA's call box network consists of 776 call boxes. Of those, 749 call boxes operate on the cellular network and 27 call boxes operate on the satellite network. Each cellular and satellite call box is a battery-powered, solar charged roadside terminal, with a microprocessor and a built-in digital cellular or satellite modem that allows for communications to the SBCTA call answering center. In the calendar year 2023, approximately 2,500 calls were made by motorists. Many of these calls for aid were on highways where cellular reception does not exist and a greater than expected number of calls were made from motorists that could not otherwise make a cell phone call due to a drained battery in their cell phone.

Of the 776 call boxes, 32 call boxes are considered in the "urban" areas of San Bernardino County (County) and 744 call boxes are considered in the "rural" areas of the County. Call boxes in the "urban" region are predominately located along freeway transitions. "Rural" call boxes are in areas that may either have no standard mobile phone cellular coverage, or the coverage is poor and inconsistent. Generally, these highway segments have poor and/or inconsistent cellular coverage: Interstate 40 (I-40), State Route (SR) 18, SR 38, SR 127, SR 330, US 95 and US 395, and Fort Irwin Road. In these areas, a standard mobile cell phone may not be able to successfully connect to the cellular network. Because the call boxes are equipped with an external antenna (and some operate on the satellite communication network), the call boxes can provide a connection to the cellular network to complete a call to the call answering center.

With the advancement of technology and the proliferation of cellular phone ownership over the past 15-plus years, there is a continued decline in the number of calls that have been completed by motorists that need assistance. SB SAFE took steps to evaluate and "right size" the call box system in 2015 (resulting in the removal of 216 call boxes in 2016). Another system wide evaluation was completed in 2019 (resulting in the removal of 245 call boxes in 2020). Both the 2016 and 2020 reduction of call boxes led to significant cost savings, in addition to a more efficient operation of the call box program.

Entity: San Bernardino County Transportation Authority

General Policy Committee Agenda Item

June 12, 2024

Page 2

YEAR	# of CALL BOXES	# of CALLS per YEAR	Avg. # of CALLS per YEAR per CALL BOX
2015	1,240	7,030	5.67
2019	1,024	4,365	4.26
2022	777	2,565	3.30
2023	776	2,507	3.23

This current evaluation reviewed system usage (Exhibits B-G) and specific installation site type details (Exhibit H).

System Usage – The overall use of each call box and or segment was reviewed. This study included call volumes during calendar year 2023. In 2023 each call box generated on average 3.23 calls per call box system wide. This is almost a 25% decrease from the previous evaluation period (April 1, 2021 through March 31, 2022). Freeway segments with call boxes that are deemed “low use” are being recommended for removal. Please note “low use” is defined as less than one call per call box along a freeway segment. It is anticipated that the recommended changes to the call box system would increase the overall average call box use by 20%.

Site Type – California Department of Transportation (Caltrans) has requested that all “B” and “C” site types must be removed or relocated (if possible) and installed as another allowed site type. System wide there are approximately 35 call boxes that are either “B” or “C” site types and a cursory review of the photos in the call box database indicate that approximately 30 of these may be able to be modified to an allowable site type, and five may either need to be relocated or removed. A field analysis will need to be conducted to determine which course of action will take place.

Results of Initial Evaluation

The overall evaluation is to remove 84 “low use” call boxes and consider installing six new call boxes. The net change would be the removal of 78 call boxes from the San Bernardino Call Box system.

Mountain Area

Remove six call boxes on SR 330. Two of these call boxes have “low use” with an overall average of 1.25 calls per call box in 2023 along SR 330, and four of these call boxes are “B” or “C” site types, which are no longer allowable per Caltrans due to crash testing concerns. After this reduction, the call boxes will be approximately at a two-mile spacing, which is consistent with all other call box segments in the region.

Victorville & Cajon Pass Area

Remove seven call boxes along SR 138. These have been temporarily removed for five-plus years due to various construction activities, and historically had low use.

Barstow & Nevada Border Area

Remove a total of 39 call boxes in this area. This would include 15 of the 17 call boxes located on SR 127. Call boxes near the Dumont Dunes Off Highway Vehicle area would remain due to their use (off highway vehicle participants needing access to emergency services) and the inability for traditional cell phones carried by motorists to capture a cellular signal. On SR 247

all eight call boxes would be removed. On Fort Irwin Road 16 of the 33 call boxes will be removed due to low use, and to match the two-mile spacing in this area.

Interstate 40 Corridor

On I-40 there are approximately 20 “B” and “C” site types that will need to be modified, relocated, or removed. A cursory evaluation using pictures in the call box database indicates that most all can be modified to meet the Caltrans allowable standards and only a couple may need to be relocated or removed.

Morongo Basin & Arizona Border Area

Remove all 21 call boxes on US 95 due to low use. Along SR 62 attempt to add six call boxes to provide a consistent two-mile spacing if possible. This would depend on a number of factors such as the width/depth of the existing shoulders and if call boxes can be installed, while being compliant with Americans with Disabilities Act guidelines.

Valley Area

Remove seven call boxes along SR 71. These seven call boxes have a lower use than most of the region, and this would provide consistency in having the majority of call boxes in the rural areas and not in the urban region of the County.

Exhibits A through H are presented within this report and incorporated as attachments:

- **Exhibit A: Call Box locations from April 2024 in San Bernardino County.**
 - Exhibit A displays the location of all call boxes within the county of San Bernardino. There are additional tables and maps that display the locations by various regions within the county in Exhibits B through G.
- **Exhibits B through G: Call Box locations in six different areas within San Bernardino County.**
 - The data within Exhibits B through G includes the information about the spacing/segment length, the number of call boxes, the number of aide calls, and emergency calls.
 - The regions have been defined as follows:
 - *Exhibit B: Call Box locations in the Mountain Area.*
 - *Exhibit C: Call Box locations in Victorville and the Cajon Pass Area.*
 - *Exhibit D: Call Box locations in the Barstow and Nevada Border.*
 - *Exhibit E: Call Box locations in the I-40 Corridor Area.*
 - *Exhibit F: Call Box locations in the Morongo Basin to the Arizona Border Area.*
 - *Exhibit G: Call Box locations at the Valley Area.*
- **Exhibit H: SBCTA SAFE – Call Boxes Site Types**
 - Exhibit H displays examples of call box site types.

Financial Impact:

This item has no financial impact on the adopted Budget for Fiscal Year 2024/2025.

Reviewed By:

This item is not scheduled for review by any other policy committee or technical advisory committee.

San Bernardino County Transportation Authority

General Policy Committee Agenda Item
June 12, 2024
Page 4

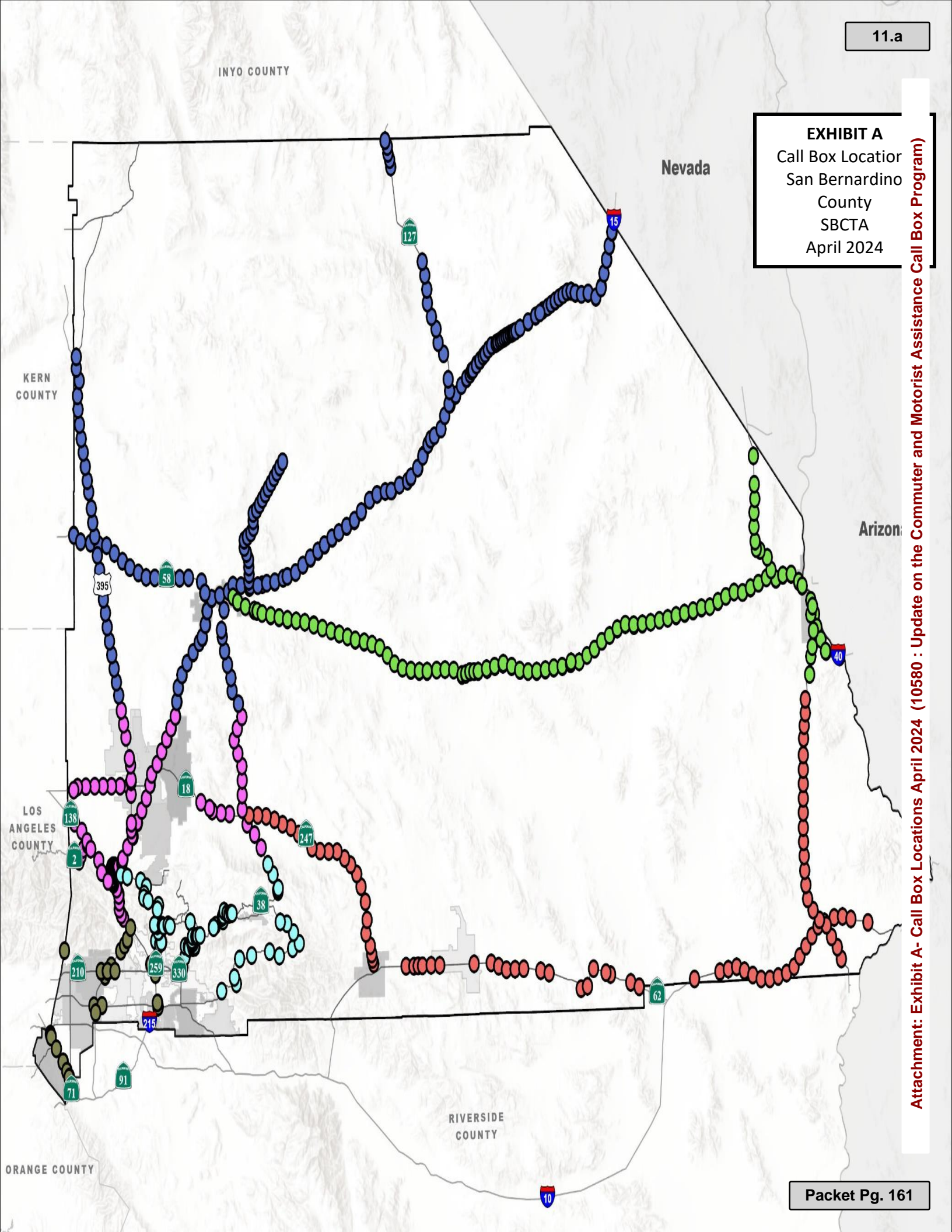
Responsible Staff:
Kelly Lynn, Chief of Air Quality & Mobility Programs

Approved
General Policy Committee
Date: June 12, 2024

Witnessed By:

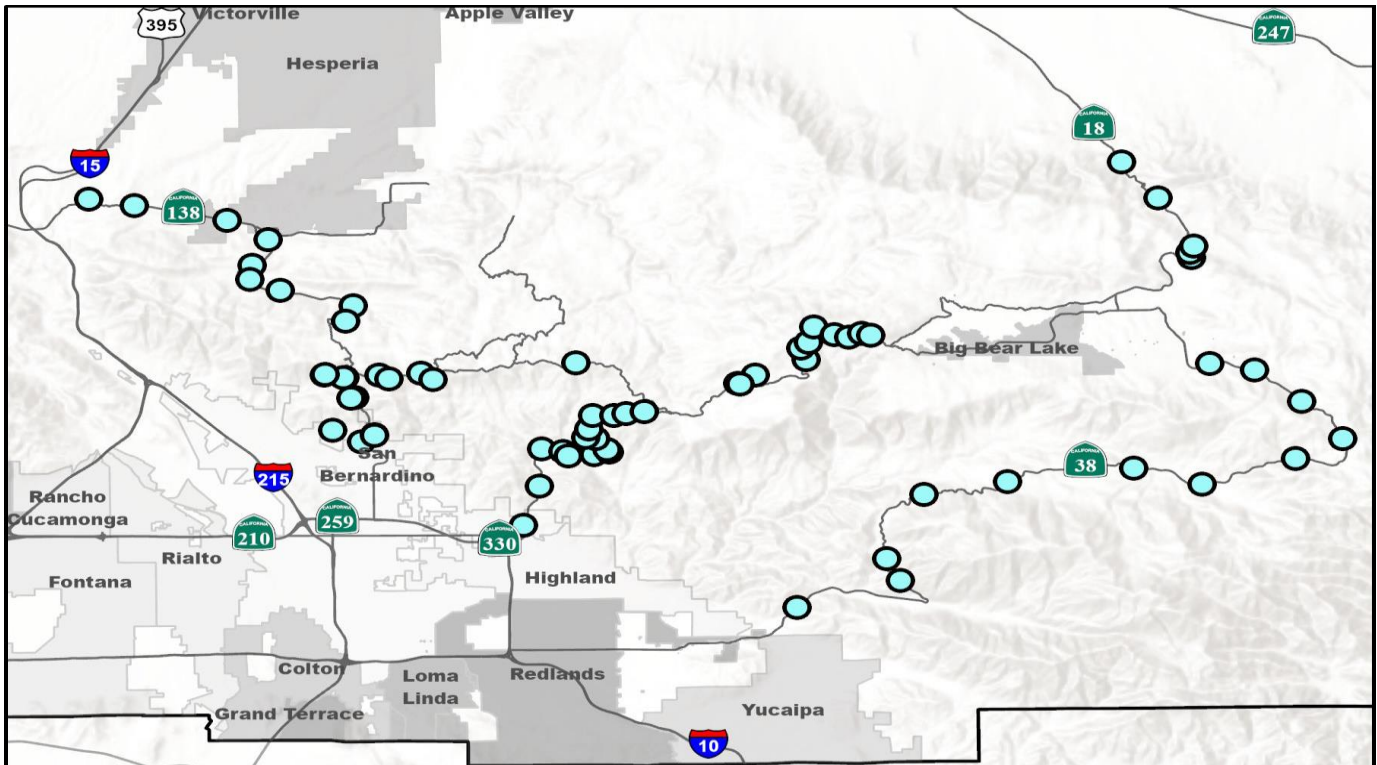
San Bernardino County Transportation Authority

EXHIBIT A
Call Box Location
San Bernardino
County
SBCTA
April 2024



Attachment: Exhibit A- Call Box Locations April 2024 (10580 : Update on the Commuter and Motorist Assistance Call Box Program)

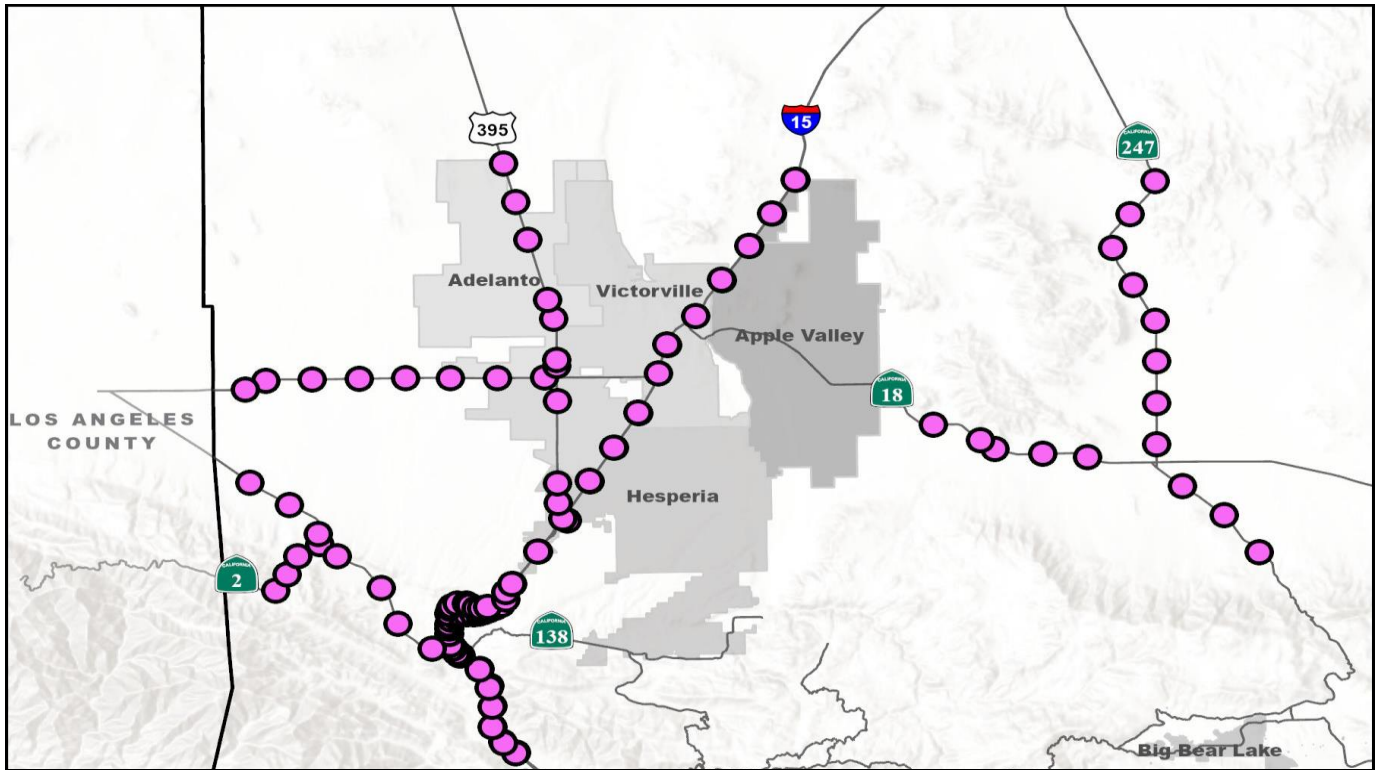
EXHIBIT B: SBCTA LOCATION OF CALL BOXES IN THE MOUNTAIN AREA (FY23-24)



FREEWAY/STATE ROUTE		SPACING/SEGMENT LENGTH	# OF CALL BOXES	# OF AIDE CALLS	# OF EMERGENCY CALLS	AVERAGE USE BY CALL BOX
	Waterman Canyon to SO Camp Rock Rd	2 miles spacing (~32 miles)	31	269	20	9.97
	SO Big Bear to NO Bryant St	~2 miles spacing (~34 miles)	17	211	18	13.47
	NO Crestline to EO I-15	2 mile spacing (14 miles)	9	43	1	5.50
	Highland Ave to Running Springs	1 mile spacing (~13 miles)	16	85	11	8.00

Recommendation: Remove six call boxes on route 330. Two of these call boxes have low use (Ave 1.25 calls), and four of these are B/C sites. In addition, two-mile spacing will be consistent with all other segments in the region.

EXHIBIT C: SBCTA SAFE - LOCATION OF CALL BOXES IN THE VICTORVILLE/PASS AREA (FY23-24)

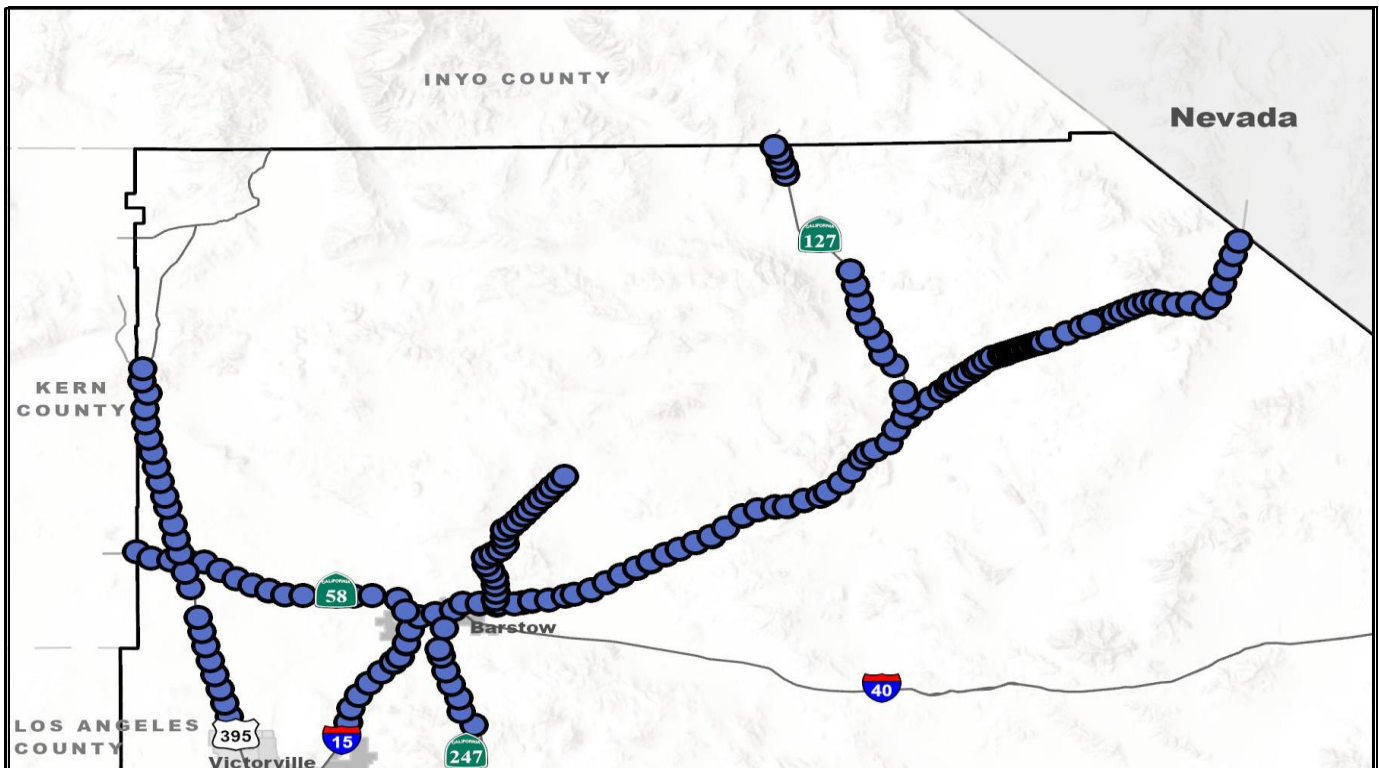







FREEWAY/STATE ROUTE		SPACING/SEGMENT LENGTH	# OF CALL BOXES	# OF AIDE CALLS	# OF EMERGENCY CALLS	AVERAGE USE BY CALL BOX
	Leading to Wrightwood	1-2 miles spacing (~4 miles)	4	10	0	3.33
	JNO I-15/215 Split to JNO Victorville City Limit	1/4, 1/2, 1, or 2 miles, depending on grade (~36 miles)	73	176	11	6.03
	SB/LA County Line to SR395 & Laguna Seca Dr to SR247	2 miles spacing (~30 miles)	16	90	12	6.38
	SB/LA County Line to I-15 *7 TEMP REMOVED	2 miles spacing (~10 miles)	7	NA	NA	NA
	Rabbit Springs to 15 miles north of Rabbit Springs	2 miles spacing (~15 miles)	8	19	4	2.88
	I-15 to JNO Purple Sage St	2 mile spacing (~17 miles)	10	14	2	2.67

Recommendations: Remove seven call boxes on SR 138. These have been temporarily removed for five plus years, and historically had low use.

Attachment: Exhibit C- Call Box Locations Victorville & Cajon Pass Area (10580 : Update on the Commuter and Motorist Assistance Call Box

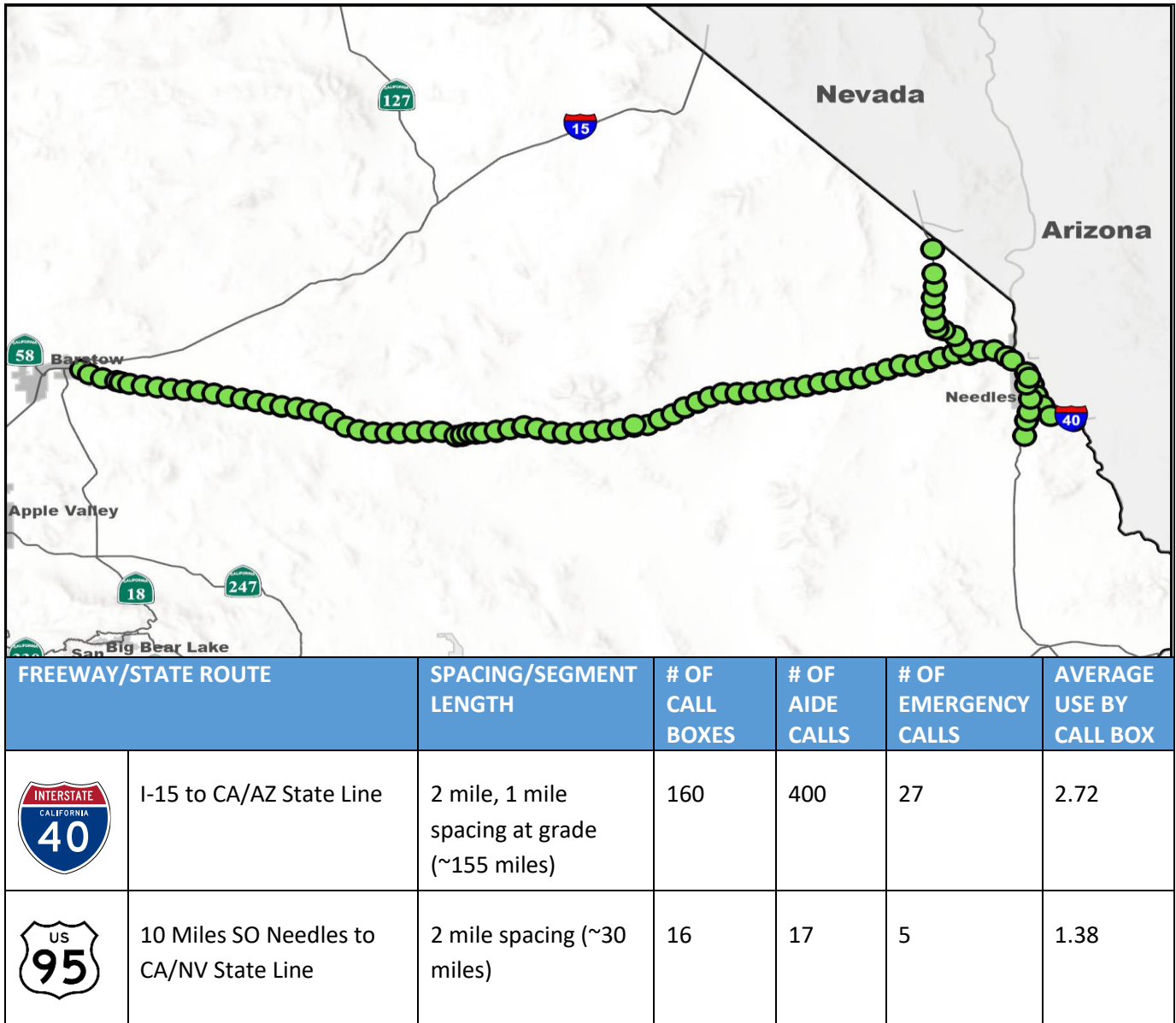
EXHIBIT D: SBCTA SAFE - LOCATION OF CALL BOXES IN THE BARSTOW/NEVADA BORDER (FY23-24)



FREEWAY/STATE ROUTE		SPACING/SEGMENT LENGTH	# OF CALL BOXES	# OF AIDE CALLS	# OF EMERGENCY CALLS	AVERAGE USE BY CALL BOX
	JSO Barstow City Limits to CA/NV State Line	2 mile, 1 mile spacing at grade (~130 miles)	172	658	41	4.11
	WO I-15 to Kern County line	2 mile spacing (~32 miles)	21	37	6	3.07
	NO I-15 to Inyo County line	2 mile spacing (~41 miles)	17	12	3	0.94
	Barstow City Limits to 14 mi SO Barstow	2 mile spacing (~14 miles)	8	5	2	0.88
	Shadow Mountain Rd to SB/Kern County line	2 mile spacing (~47 miles)	25	44	4	2.00
FT IRWIN RD	NO I-15 to Post Mile 22 Fort Irwin Rd	1 mile spacing (~22 miles)	33	11	1	0.36

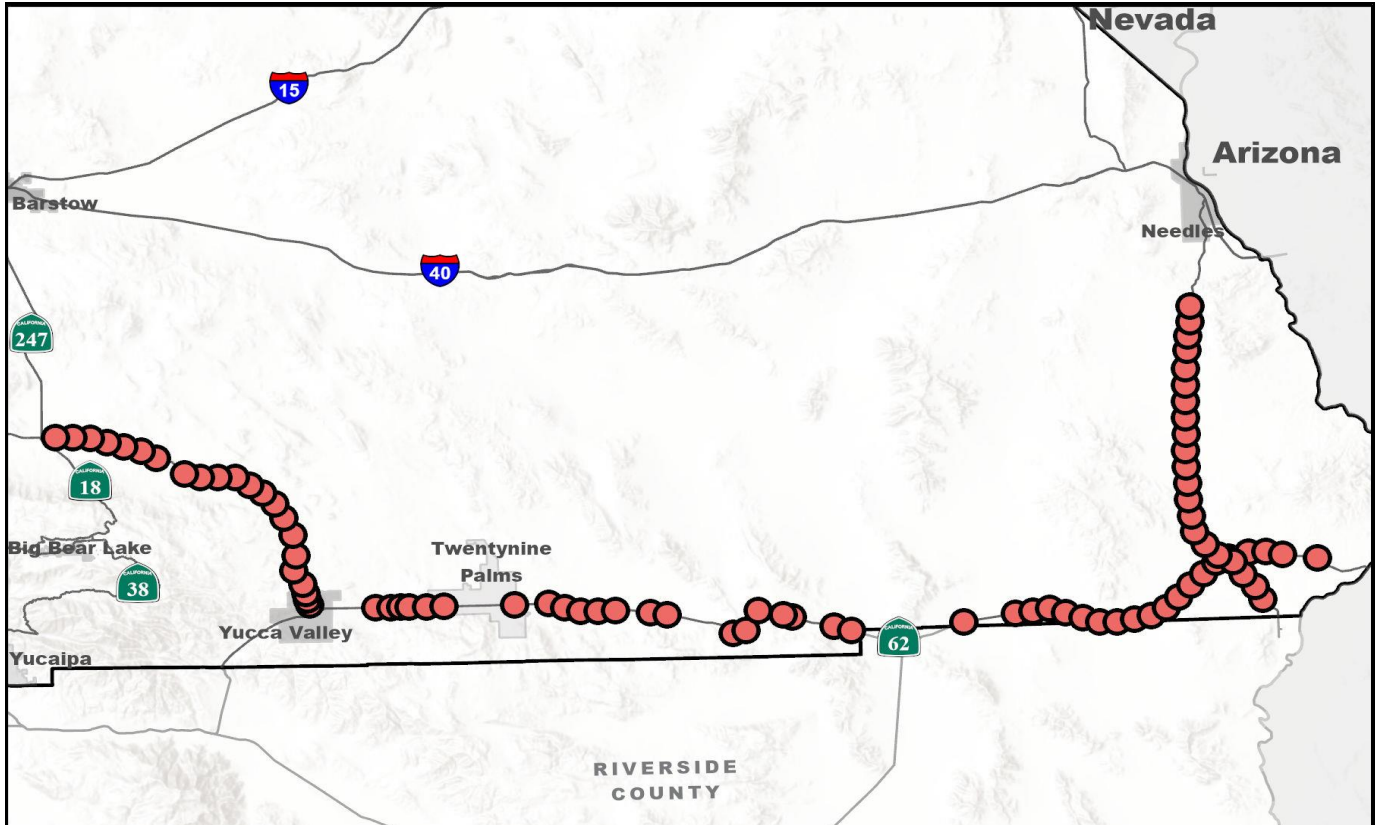
Recommendation: Remove a total of 39 call boxes in this area. This would include 15 of the 17 call boxes located on SR 127. Call boxes near the Dumont Dunes Off would remain due to their use. Along SR 247 all eight call boxes would be removed. On Fort Irwin Road 16 of the 33 call boxes will be removed due to low use, and to match the two-mile spacing in this area.




EXHIBIT E: SBCTA SAFE - LOCATION OF CALL BOXES IN THE INTERSTATE 40 (I-40) CORRIDOR (FY23-24)



Recommendation: Along I-40 there are approximately 20 B/C sites that will need to be modified/relocated/perhaps removed. A cursory evaluation using pictures in the call box database indicate that most all can be modified to meet the Caltrans standards and only a couple may need to be relocated/removed.

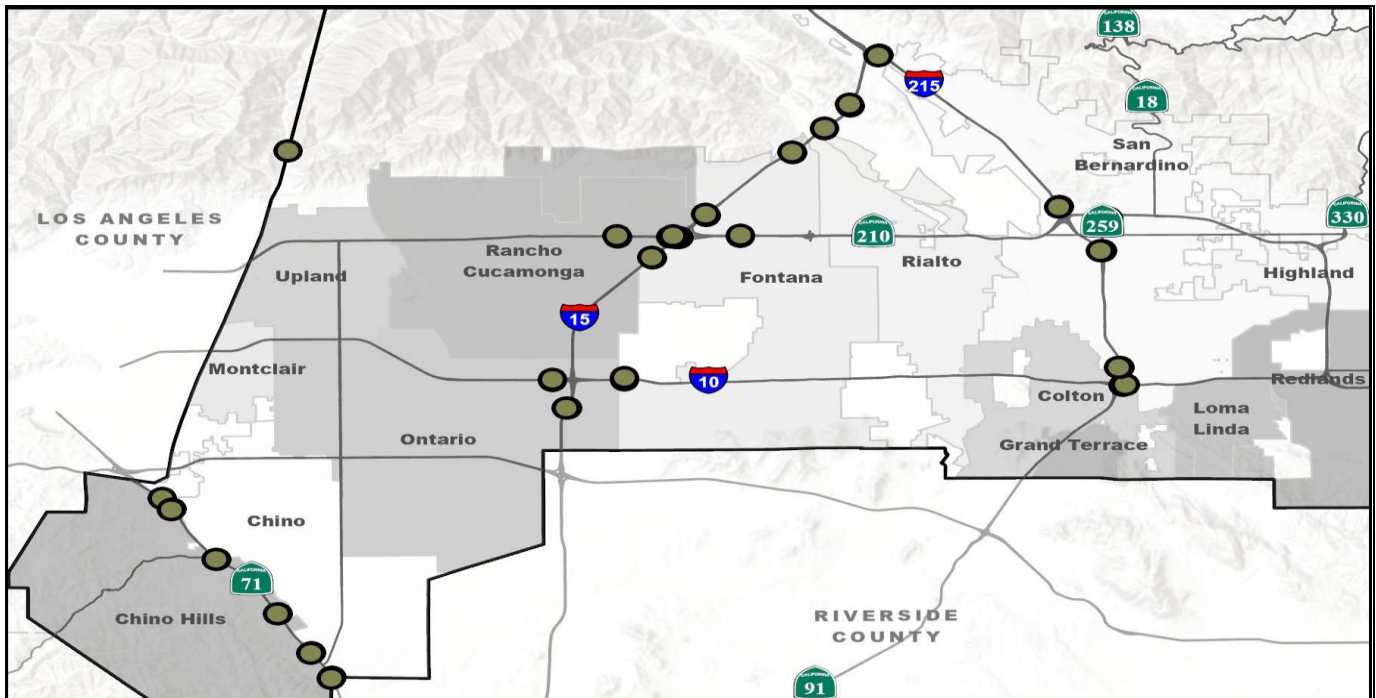
EXHIBIT F: SBCTA SAFE - LOCATION OF CALL BOXES IN THE MORONGO BASIN TO THE ARIZONA BORDER AREA (FY23-24)









FREEWAY/STATE ROUTE	SPACING/SEGMENT LENGTH	# OF CALL BOXES	# OF AIDE CALLS	# OF EMERGENCY CALLS	AVERAGE USE BY CALL BOX
 WO White Feather Rd/Joshua Tree to CA/AZ State line	2 mile spacing (~110 miles)	42	112	21	3.17
 SR62/Vidal Junctions to 10 miles SO Needles City Limits	2 mile spacing, (~40 miles)	21	5	1	0.29
 Bueno Suerte Rd/Yucca Valley to Barstow City Limits	2 mile spacing, (~42 miles)	25	29	4	2.20

Recommendations: Remove all 21 call boxes on US Route 95 due to low use. On SR 62 attempt to add six call boxes to get a consistent two-mile spacing.

EXHIBIT G: SBCTA SAFE - LOCATION OF CALL BOXES IN THE VALLEY AREA (FY23-24)



FREEWAY/STATE ROUTE	SPACING/SEGMENT LENGTH	# OF CALL BOXES	# OF AIDE CALLS	# OF EMERGENCY CALLS	AVERAGE USE BY CALL BOX
 I-15 and I-215 Freeway Transitions	Freeway Transitions	6	13	1	3.50
 I-10 Freeway Transitions (* 10 CB TEMP REMOVED)	Freeway Transitions	14	15	2	5.67
 SB/RV County line to SB/LA Couy line	2 mile spacing, (~8 miles)	11	13	0	1.30
 I-15 Freeway Transitions	Freeway Transitions	6	10	5	3.75
 Orange Show Rd to I-15/I215 Interchange	Freeway Transitions	8	NA	NA	NA
 I-215 TO SR 210	Freeway Transitions	2	7	0	3.50

Recommendation: Remove seven call boxes on SR 71. This will provide consistency in region and these call boxes have a low usage level compared to others in the region.

EXHIBIT H: SBCTA SAFE - CALL BOXES SITE TYPES

Call Box Site Types – Caltrans has requested that all site types B and C be removed or relocated to another site type. The site type is the installation classification, for example, those that have a retaining wall around the call box are considered site type B, and those that have a handrail are considered site type C. Site type L and M are the preferred site types.

Site Type C



Site Type B



Site Type L



Site Type M



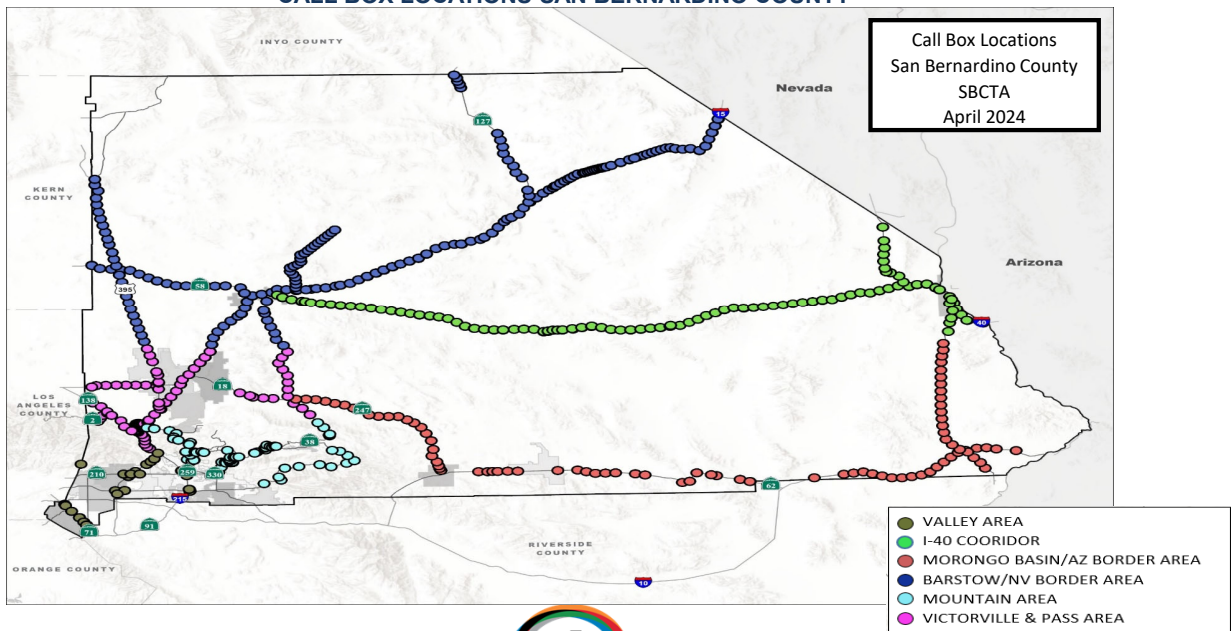
Attachment: Exhibit H- Call Box Site Types (10580 : Update on the Commuter and Motorist Assistance Call Box Program)

SBCTA Air Quality and Mobility Programs Update on the Commuter and Motorist Assistance Call Box Program



1

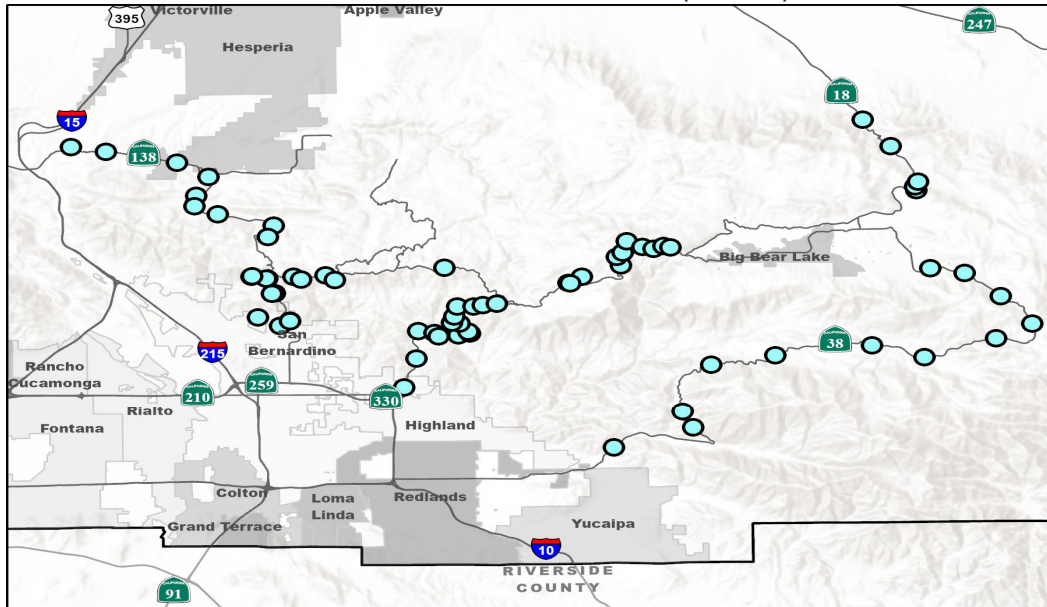
CALL BOX LOCATIONS SAN BERNARDINO COUNTY



2





Attachment: PPT - AQMP Call Box Program (10580 : Update on the Commuter and Motorist Assistance Call Box Program)

CALL BOXES IN THE MOUNTAIN AREA (FY 23-24)



3

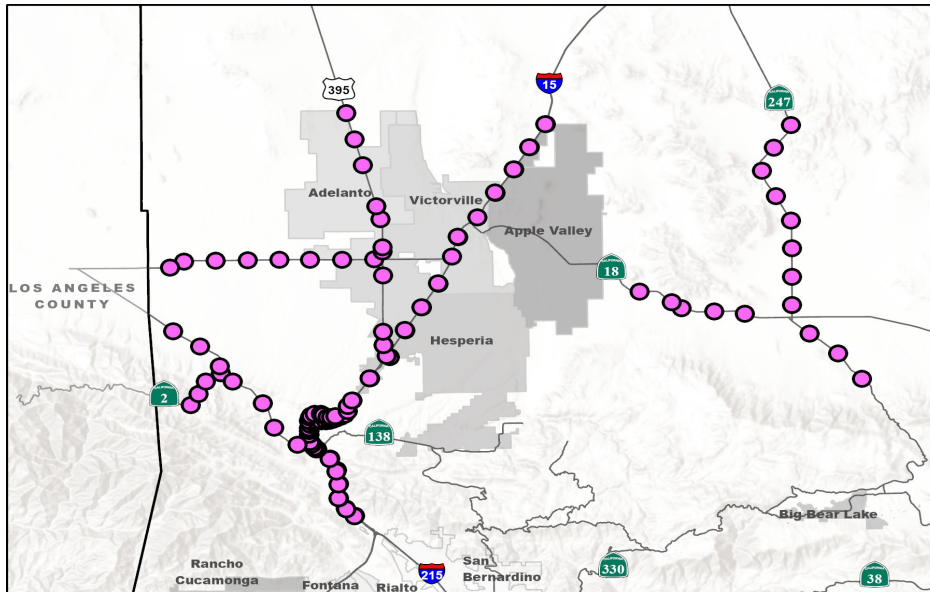
CALL BOXES IN THE MOUNTAIN AREA (FY 23-24)

FREEWAY/STATE ROUTE	SPACING/SEGMENT LENGTH	# OF CALL BOXES	# OF AIDE CALLS	# OF EMERGENCY CALLS	AVERAGE USE BY CALL BOX
 Waterman Canyon to SO Camp Rock Rd	2 miles spacing (~32 miles)	31	269	20	9.97
 SO Big Bear to NO Bryant St	~2 miles spacing (~34 miles)	17	211	18	13.47
 NO Crestline to EO I-15	2 mile spacing (14 miles)	9	43	1	5.50
 Highland Ave to Running Springs	1 mile spacing (~13 miles)	16	85	11	8.00




4

VICTORVILLE / CAJON PASS AREA (FY23-24)



5

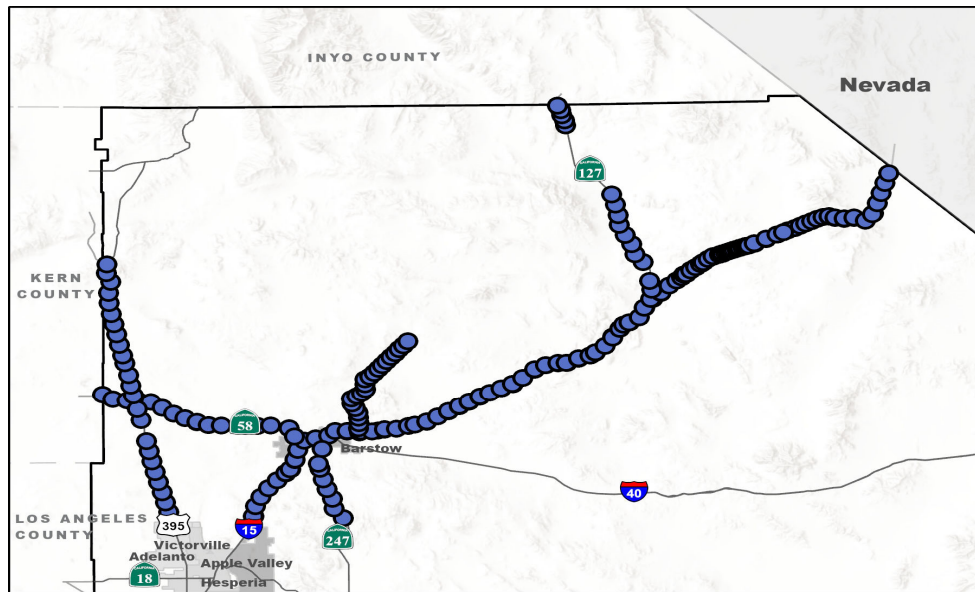
VICTORVILLE / CAJON PASS AREA (FY23-24)

FREEWAY/STATE ROUTE	SPACING/SEGMENT LENGTH	# OF CALL BOXES	# OF AIDE CALLS	# OF EMERGENCY CALLS	AVERAGE USE BY CALL BOX
 Leading to Wrightwood	1-2 miles spacing (~4 miles)	4	10	0	3.33
 JNO I-15/215 Split to JNO Victorville City Limit	1/4, 1/2, 1, or 2 miles, depending on grade (~36 miles)	73	176	11	6.03
 SB/LA County Line to SR395 & Laguna Seca Dr to SR247	2 miles spacing (~30 miles)	16	90	12	6.38
 SB/LA County Line to I-15 *7 TEMP REMOVED	2 miles spacing (~10 miles)	7	NA	NA	NA
 Rabbit Springs to 15 miles north of Rabbit Springs	2 miles spacing (~15 miles)	8	19	4	2.88
 I-15 to JNO Purple Sage St	2 mile spacing (~17 miles)	10	14	2	2.67








6

BARSTOW / NEVADA BORDER (FY 23-24)



7

BARSTOW / NEVADA BORDER (FY 23-24)

FREEWAY/STATE ROUTE	SPACING/SEGMENT LENGTH	# OF CALL BOXES	# OF AIDE CALLS	# OF EMERGENCY CALLS	AVERAGE USE BY CALL BOX
 Interstate 15 JSO Barstow City Limits to CA/NV State Line	2 mile, 1 mile spacing at grade (~130 miles)	172	658	41	4.11
 State Route 58 WO I-15 to Kern County line	2 mile spacing (~32 miles)	21	37	6	3.07
 State Route 127 NO I-15 to Inyo County line	2 mile spacing (~41 miles)	17	12	3	0.94
 State Route 247 Barstow City Limits to 14 mi SO Barstow	2 mile spacing (~14 miles)	8	5	2	0.88
 State Route 395 Shadow Mountain Rd to SB/Kern County line	2 mile spacing (~47 miles)	25	44	4	2.00
FT IRWIN RD NO I-15 to Post Mile 22 Fort Irwin Rd	1 mile spacing (~22 miles)	33	11	1	0.36





8

INTERSTATE 40 (I-40) CORRIDOR (FY 23-24)



9

INTERSTATE 40 CORRIDOR (FY 23-24)

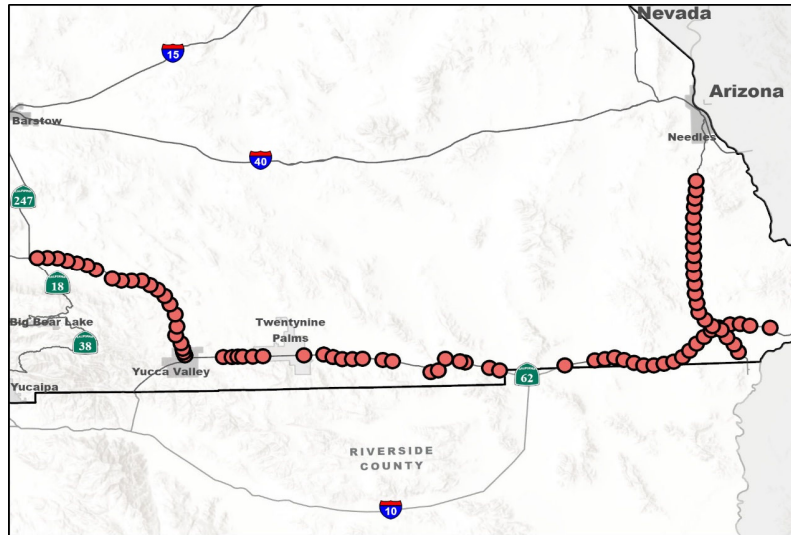
FREEWAY/STATE ROUTE	SPACING/SEGMENT LENGTH	# OF CALL BOXES	# OF AIDE CALLS	# OF EMERGENCY CALLS	AVERAGE USE BY CALL BOX
 I-15 to CA/AZ State Line	2 mile, 1 mile spacing at grade (~155 miles)	160	400	27	2.72
 10 Miles SO Needles to CA/NV State Line	2 mile spacing (~30 miles)	16	17	5	1.38



10




Attachment: PPT - AQMP Call Box Program (10580 : Update on the Commuter and Motorist Assistance Call Box Program)

MORONGO BASIN TO THE ARIZONA BORDER AREA (FY 23-24)



11

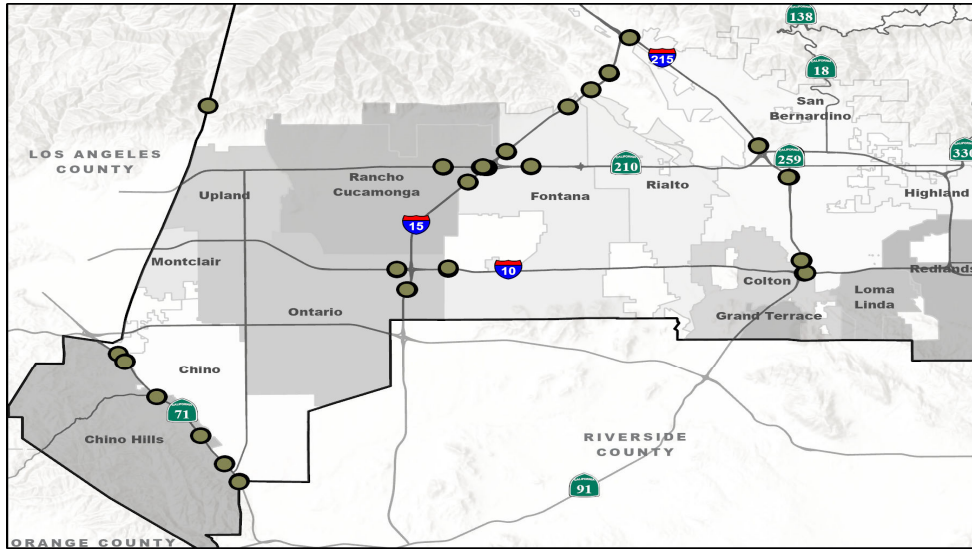
MORONGO BASIN TO THE ARIZONA BORDER AREA (FY 23-24)

FREEWAY/STATE ROUTE	SPACING/SEGMENT LENGTH	# OF CALL BOXES	# OF AIDE CALLS	# OF EMERGENCY CALLS	AVERAGE USE BY CALL BOX
 WO White Feather Rd/Joshua Tree to CA/AZ State line	2 mile spacing (~110 miles)	42	112	21	3.17
 SR62/Vidal Junctions to 10 miles SO Needles City Limits	2 mile spacing, (~40 miles)	21	5	1	0.29
 Bueno Suerte Rd/Yucca Valley to Barstow City Limits	2 mile spacing, (~42 miles)	25	29	4	2.20









12

VALLEY AREA (FY 23-24)



13

VALLEY AREA (FY 23-24)

FREEWAY/STATE ROUTE	SPACING/SEGMENT LENGTH	# OF CALL BOXES	# OF AIDE CALLS	# OF EMERGENCY CALLS	AVERAGE USE BY CALL BOX
 I-15 and I-215 Freeway Transitions	Freeway Transitions	6	13	1	3.50
 I-10 Freeway Transitions (* 10 CB TEMP REMOVED)	Freeway Transitions	14	15	2	5.67
 SB/RV County line to SB/LA Couy line	2 mile spacing, (~8 miles)	11	13	0	1.30
 I-15 Freeway Transitions	Freeway Transitions	6	10	5	3.75
 Orange Show Rd to I-15/I215 Interchange	Freeway Transitions	8	NA	NA	NA
 I-215 TO SR 210	Freeway Transitions	2	7	0	3.50



14

CALL BOXES SITE TYPES

Site Type C



Site Type B



Site Type L



Site Type M



Minute Action

AGENDA ITEM: 12

Date: June 12, 2024

Subject:

Agreement No. 23-1002942 with the California Highway Patrol for Call Box Liaison Services

Recommendation:

That the General Policy Committee recommend the Board, acting as the San Bernardino County Transportation Authority:

A. Approve Agreement No. 23-1002942 between the California Highway Patrol (CHP) and San Bernardino County Transportation Authority for Call Box Liaison Support Services beginning July 1, 2024 through June 30, 2027, in an amount not to exceed \$14,400.

B. Authorize the Executive Director, or his designee, to execute Agreement No. 23-1002942 with CHP for call box liaison support services.

Background:

The San Bernardino County Transportation Authority (SBCTA) acts in the capacity as the San Bernardino County Service Authority for Freeway Emergencies (SAFE) under provisions of California Vehicle Code Sections 2421.5 and 9250.10, and the Streets and Highway Code Section 131.1 and Chapter 14 (commencing with Section 2550) to Division 3. SBCTA contracts with the California Highway Patrol (CHP) for liaison support of the San Bernardino SAFE call box program in accordance with the CHP/California Department of Transportation (Caltrans) Call Box and Motorist Aid Guidelines. Each SAFE throughout the State of California pays for its proportional share of the actual wage rate for one-half of a CHP SAFE Coordinator position.

Therefore, staff recommends the approval of Agreement No. 23-1002942, to ensure that SBCTA continues to collaborate with the CHP for support of the call box system for the next three years.

Financial Impact:

The item is included in the adopted Budget for Fiscal Year 2024/2025 and is funded with SAFE Vehicle Registration Fees Funds in Program 15, Commuter and Motorist Assistance.

Reviewed By:

This item is not scheduled for review by any other policy committee or technical advisory committee. SBCTA General Counsel and Risk Manager have reviewed this item and the draft agreement.

Responsible Staff:

Kelly Lynn, Chief of Air Quality & Mobility Programs

Approved
General Policy Committee
Date: June 12, 2024

Witnessed By:

Entity: San Bernardino County Transportation Authority

General Contract Information

Contract No: 23-1002942 Amendment No.: _____
 Contract Class: Payable Department: Air Quality and Mobility
 Vendor No.: 00493 Vendor Name: California Highway Patrol (CHP)
 Description: CHP Call Box Liaison Services
 List Any Related Contract Nos.: _____

Dollar Amount					
Original Contract	\$	14,400.00	Original Contingency	\$	-
Prior Amendments	\$	-	Prior Amendments	\$	-
Prior Contingency Released	\$	-	Prior Contingency Released (-)	\$	-
Current Amendment	\$	-	Current Amendment	\$	-
Total/Revised Contract Value	\$	14,400.00	Total Contingency Value	\$	-
Total Dollar Authority (Contract Value and Contingency)					\$ 14,400.00

Contract Authorization

Board of Directors _____ Date: 7/3/2024 _____ Committee _____ Item # _____

Contract Management (Internal Purposes Only)

Other Contracts _____ Sole Source? N/A _____ N/A _____
 State/Local _____ Professional Services (Non-A&E) _____ N/A _____

Accounts Payable

Estimated Start Date: 7/1/2024 Expiration Date: 6/30/2027 Revised Expiration Date: _____
 NHS: N/A OMP/QAP: N/A Prevailing Wage: N/A

							Total Contract Funding:	Total Contingency:		
							\$	\$		
	Fund	Prog	Task	Sub-Task	Object	Revenue	PA Level	Revenue Code Name		
GL	2810	15	0702	0000	52001	42212001		SAFE Veh Reg Fee	14,400.00	-
GL									-	-
GL									-	-
GL									-	-
GL									-	-
GL									-	-
GL									-	-
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 Rana Semaan
 Project Manager (Print Name)

 Steven Smith
 Task Manager (Print Name)

Additional Notes:

Attachment: CSS_23-1002942 [Revision 1] (10235 : Agreement No. 23-1002942 with the California Highway Patrol (CHP) for Call Box Liaison

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

Business Services Section
Contract Services Unit
601 N. 7th Street
Sacramento, CA 95811
(916) 843-3610
(800) 735-2929 (TT/TDD)
(800) 735-2922 (Voice)



April 16, 2024

San Bernadino County Transportation Authority for Freeway Service Patrol
1170 West 3rd Street, 2nd Floor
San Bernadino, CA 92410

Subject: Agreement Number 24R048011-0

Congratulations, you have been awarded the agreement. Please complete the following marked item(s) and return to the above address within ten (10) business days:

- STD. 213, Standard Agreement with attached exhibits. Sign the first page of the STD. 213, and return back to Contract Analyst via email.
- STD. 213A, Standard Agreement Amendment. Sign the first page of the STD. 213A, sign the additional single STD. 213A, and return both copies.
- STD. 210, Short Form Contract. Sign and return both copies.
- STD. 204, Payee Data Record. Complete and return.
- CCC, Contractor Certification Clauses. Complete and return.
- Obtain and forward the liability insurance certificate required by the terms of the Agreement.
- Resolution, motion, order, or ordinance from the local governing body authorizing this Agreement. STD. 807, Payment Bond. Complete and return one copy.
- CHP 28, Voluntary Statistical Data. Complete and return.
- CHP 78V, Conflict of Interest & CHP 116, Darfur Certification
- Letter of Agreement. Sign and return both copies.

Contract status.

- The enclosed agreement is signed on behalf of the Department of California Highway Patrol. Process and when approved, return an original to this office.
- The enclosed approved agreement is for your records. You are now authorized to provide services.

KELLIE AU
Contract Analyst

Enclosures

Safety, Service, and Security



An Internationally Accredited Agency

Attachment: CHP Agreement No. 23-1002942 (10235 : Agreement No. 23-1002942 with the California Highway Patrol (CHP) for Call Box Liaison

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER 24R048011	PURCHASING AUTHORITY NUMBER (If Applicable)
--------------------------------------	---

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME
Department of California Highway Patrol

CONTRACTOR NAME
San Bernardino County Transportation Authority Acting in its Capacity as the San Bernardino County Service Authority for Freeway Emergencies (SAFE)

2. The term of this Agreement is:

START DATE
07/01/2024 or Upon Approval, whichever is later

THROUGH END DATE
06/30/2027

3. The maximum amount of this Agreement is:
\$14,400.00 (Fourteen Thousand Four Hundred Dollars and Zero Cents)

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

Exhibits	Title	Page
Exhibit A	Scope of Work	1
Exhibit A-1	Agreement between Department of California Highway Patrol and San Bernardino County Transportation Authority Acting in its Capacity as the San Bernardino County Service Authority for Freeway Emergencies (SAFE)	5
Exhibit B	Budget Detail and Payment Provisions	2
+ -	Exhibit C* General Terms and Conditions - GTC 04/2017	4
+ -	Exhibit D Special Terms and Conditions	1

Items shown with an asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.

These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)
San Bernardino County Transportation Authority Acting in its Capacity as the San Bernardino County Service Authority for Freeway Emergencies (SAFE)

CONTRACTOR BUSINESS ADDRESS 1170 W. Third Street, 2nd Floor	CITY San Bernardino	STATE CA	ZIP 9241
--	------------------------	-------------	-------------

PRINTED NAME OF PERSON SIGNING Raymond W. Wolfe, Ph.D.	TITLE Executive Director
---	-----------------------------

CONTRACTOR AUTHORIZED SIGNATURE	DATE SIGNED
---------------------------------	-------------

Attachment: CHP Agreement No. 23-1002942 (10235 : Agreement No. 23-1002942 with the California Highway Patrol (CHP) for Call Box Liaison

**EXHIBIT A
(Standard Agreement)**

SCOPE OF WORK

1. Department of California Highway Patrol (CHP) will provide services and assistance in accordance and outlined in Exhibit A-1 for the San Bernardino County Transportation Authority (SBCTA) acting in the capacity as the San Bernardino County Service Authority for Freeway Emergencies (San Bernardino County SAFE).
2. The services and hours of duty performed by CHP under this Agreement are on an as-needed basis, twenty-four (24) hours per day, seven (7) days per week.
3. The Project Representatives during the term of this Agreement will be:

STATE AGENCY		CONTRACTOR	
Department of California Highway Patrol		San Bernardino County SAFE	
NAME		NAME	
Brenda Sweeney, CHP SAFE Coordinator		Kelly Lynn, Chief of Air Quality and Mobility Programs	
TELEPHONE NUMBER	EMAIL	TELEPHONE	EMAIL
(916) 843-4280	bsweeney@chp.ca.gov	(909) 884-8276	klynn@gosbcta.com
Direct all inquiries to:			
STATE AGENCY		CONTRACTOR	
Department of California Highway Patrol		San Bernardino County SAFE	
SECTION/UNIT		SECTION/UNIT	
Business Services Section Contract Services Unit		Air Quality and Mobility Programs	
ATTENTION		ATTENTION	
Kellie Au, Contract Analyst		Kelly Lynn, Chief of Air Quality and Mobility Programs	
ADDRESS		ADDRESS	
P.O. Box 942898, Sacramento, CA 94298-0001		1170 W. Third Street 2 nd Floor San Bernardino, CA 92410-1715	
TELEPHONE NUMBER	EMAIL	TELEPHONE NUMBER	EMAIL
(916) 843-4344	Kellie.Au@chp.ca.gov	(909) 884-8276	klynn@gosbcta.com

4. Detailed description of work to be performed as outlined in Exhibit A-1.

Department of California Highway Patrol
and San Bernardino County SAFE
CHP Agreement #24R048011
SBCTA CONTRACT NO. 23-1002942
Exhibit A-1, Page 1 of 5

EXHIBIT A-1
(Standard Agreement)
AGREEMENT BETWEEN
THE STATE OF CALIFORNIA
DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
AND
SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY
ACTING IN ITS CAPACITY AS THE SAN BERNARDINO COUNTY
SERVICE AUTHORITY FOR FREEWAY EMERGENCIES (SAFE)

THIS AGREEMENT is made and entered into by and between the State of California acting by and through Department of California Highway hereinafter Patrol, hereinafter called CHP, and San Bernardino County Transportation Authority acting in its capacity as the San Bernardino County Service Authority for Freeway Emergencies, called San Bernardino County SAFE, under provisions of California Vehicle Code Sections 2421.5 and 9250.10, and the Streets and Highway Code Section 131.1 and Chapter 14 (commencing with Section 2550) to Division 3.

TERMS AND CONDITIONS:

By and in consideration of the covenants and conditions herein contained, CHP and San Bernardino County SAFE do hereby agree as follows:

1. The term of this agreement is July 1, 2024, through June 30, 2027.
2. The Agreement is for services and assistance provided by CHP in accordance with the "CHP/Caltrans Call Box and Motorist Aid Guidelines," which is hereby incorporated by reference hereinafter called "GUIDELINES." As these GUIDELINES may be revised from time to time, it is understood that San Bernardino County SAFE shall have a current copy on file for the duration of this Agreement.
3. The Agreement shall remain in force subject to the following:
 - A. That it shall not become effective until (1) San Bernardino County SAFE has submitted to CHP a copy of the minutes, order, motion, resolution, or ordinance from San Bernardino County SAFE approving execution of this Agreement, and (2) this Agreement is duly signed by both parties and approved by the Department of General Services, Office of Legal Services, if applicable.
 - B. That it may be modified in writing and signed by both parties and shall be modified by the parties to conform to any future changes to federal or state law that affects the terms of this Agreement.
 - C. Either party may terminate this agreement before the expiration of its term, or any extension, upon thirty (30) days' prior written notice to the other party.
 - D. It is understood that San Bernardino County SAFE funds for the program under this Agreement are being funded from Department of Motor Vehicles (DMV) Registration Fees pursuant to California Vehicle Code Section 9250.10. It is agreed that at any time sufficient funds from DMV Registration Fees are not available to San Bernardino County SAFE for the full amount of the Agreement, San Bernardino County SAFE may terminate this Agreement.

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 and San Bernardino County SAFE
 CHP Agreement #24R048011
 SBCTA CONTRACT NO. 23-1002942
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4. For services and assistance herein, San Bernardino County SAFE agrees to reimburse CHP quarterly, in arrears and upon receipt of an itemized invoice, for charges identified in Sections 6 and 9. Upon receipt, payment shall be made to CHP as invoiced within sixty (60) days. If payment is not submitted because of a dispute, San Bernardino County SAFE agrees to submit the reasons for the dispute to CHP within sixty (60) days of receiving the invoice charges.

A. Payment shall be made to:

Department of California Highway Patrol
 Fiscal Management Section
 P.O. Box 942900
 Sacramento, CA 94298-2900

B. Invoices shall be sent to:

San Bernardino County SAFE
 Attn: SAFE Program Manager
 1170 West Third Street, 2nd Floor
 San Bernardino, CA 92410-1715

Each quarterly invoice shall include a thorough explanation and justification for any additional charges or changes of the amounts of past charges.

5. The maintenance of the call box system (outside of CHP communications center), including telephone service and line costs, shall be the sole responsibility of San Bernardino County SAFE. Upgrades or modifications to San Bernardino County SAFE's system shall be in accordance with the GUIDELINES.
6. The San Bernardino County SAFE shall pay for its proportional share of the actual wage rate for one half (1/2) CHP SAFE Coordinator position. The CHP SAFE Coordinator position shall be used for SAFE-related business.

Each SAFE's proportional share billing "factor" shall be determined at the beginning of each fiscal year by comparing the number of motor vehicles registered within each SAFE's boundaries to the total number of motor vehicles registered in all counties which have entered into SAFE agreements with CHP. This proportional share shall be billed over four (4) fiscal quarters.

7. As long as San Bernardino County SAFE contracts with a PCAC that initially answers motorist aid call box calls, CHP and San Bernardino County SAFE agree that no CHP operator positions will be charged to San Bernardino County SAFE during the term of this Agreement. However, should the requests from the PCAC to CHP increase, and CHP substantiates in writing to San Bernardino County SAFE an increase to CHP workload, then this section may be changed in accordance with GUIDELINES and upon a written amendment to this Agreement signed by CHP and San Bernardino County SAFE.
8. Currently, the San Bernardino County SAFE contracts with a private call answering center (PCAC) to receive the initial call box call first. Calls that are emergencies by nature are forwarded to CHP. Call box calls shall be handled by CHP communications centers as third level priority - after 9-1-1 (first priority) and allied agency (second priority) calls. The CHP statewide standard level of service for the handling of call box calls is as follows:

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- A. Call box calls shall be handled as rapidly as possible; however, they should be handled ideally no longer than 60 seconds after the first ring at the communications center. Experience has shown that when emergency communications traffic becomes unusually heavy, call box traffic also increases. At these times, motorists may be required to wait extended lengths of time for service.
 - B. Call box calls should be handled ideally within 3.5 minutes' (210 seconds) total call handling time. It is understood that the use of such services as the translation service contractor will increase total call handling time to levels above this standard.
9. The CHP agrees to submit an itemized invoice quarterly to San Bernardino County SAFE which may include and shall not exceed the following charges:
- A. The CHP SAFE Coordinator personnel costs shall be based on the actual step of the wage scale for CHP SAFE Coordinator position at the time of invoicing. These costs are subject to change according to increases and/or decreases in State of California salary and benefit rates, which are beyond CHP control.
 - B. Indirect costs shall be applied to monthly personnel costs in accordance with California State Administrative Manual Section 8752 and 8752.1. The indirect cost rate is determined by CHP and approved by California Department of Finance and is subject to change each state fiscal year. The re-evaluation of staffing requirements shall include an explanation of the projected upcoming fiscal year indirect cost rate.
 - C. Telephone system costs (if applicable). The state shall provide a standard communication center telephone system, which shall also be used to handle incoming call box calls. Any agreed upon changes above and beyond the standard phone system design specifically requested by San Bernardino County SAFE Program shall be funded by San Bernardino County SAFE.
10. Call box/motorist aid system enhancements due to changing technology may require changes and/or upgrades to CHP communication center equipment. In such cases, San Bernardino County SAFE shall be responsible for the procurement, installation, and maintenance of communication center equipment, unless otherwise agreed to. All equipment procured for CHP dispatch operation shall be designed jointly by CHP and San Bernardino County SAFE. No equipment shall be installed in a CHP facility, which does not meet all CHP operational and technical specifications.
11. Communication center equipment purchased by San Bernardino County SAFE and installed at CHP for CHP's use during the term of this contract shall be the property of and maintained by San Bernardino County SAFE.
12. The CHP shall limit its review to San Bernardino County SAFE's specifications for upgrading or modifying San Bernardino County SAFE's call box system, which include any potential operational affect to CHP communications centers, in accordance with the GUIDELINES. San Bernardino County SAFE shall maintain and comply with its obligation to provide teletypewriter/telecommunication devices for the deaf, as specified in the GUIDELINES.
13. The total amount of this Agreement shall not exceed Fourteen Thousand Four Hundred Dollars and Zero Cents (\$14,400.00).

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- FY 2024/2025 (7/1/24 through 6/30/25), not to exceed \$4,800.00
 - FY 2025/2026 (7/1/25 through 6/30/26), not to exceed \$4,800.00
 - FY 2026/2027 (7/1/26 through 6/30/27), not to exceed \$4,800.00
- TOTAL \$14,400.00

14. All services under this Agreement shall be coordinated by

Department of the California Highway Patrol
Communications Centers Support Section
601 North 7th Street, Building C
Sacramento, CA 95811
(916) 843-4280

The contact person shall be CHP SAFE Coordinator.

15. This Agreement, and any attachments or documents incorporated herein by inclusion or reference, constitutes the complete and entire Agreement between CHP and San Bernardino County SAFE and supersedes any prior representations, understandings, communications, commitments, Agreements, or proposals, oral or written.

16. Under no circumstances shall San Bernardino County SAFE or its subcontractor(s) use the name Department of California Highway Patrol or CHP to promote a product which is part of the call box system without the written consent of CHP.

17. Notices. Any and all notices permitted or required to be given hereunder shall be deemed duly given:

- A. Upon actual delivery, if delivery is personally made; including delivery by private courier and/or overnight delivery services or by Fax:
- B. Upon delivery into the United States Mail, if delivery is by postage paid certified mail (return receipt requested).

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 the section. A change in address may be made by notifying the other Party in writing.

To: Department of California Highway Patrol	To: San Bernardino County SAFE
Attn: Kellie Au	Attn: Kelly Lynn
Contract Services Unit	Chief of Air Quality and Mobility Programs
601 North 7 th Street, Building B Sacramento, Ca 95811	1170 W. Third Street, 2 nd Floor San Bernardino, CA 92410-1715

18. This Agreement is entered into by the parties listed below and shall be effective upon approval by the Department of General Services Office of Legal Services, if applicable. By executing this Agr

Department of California Highway Patrol
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the representatives of CHP and San Bernardino County SAFE warrant that they have viewed and fully understand all provisions of this Agreement and are authorized to bind their respective agencies to all terms of the Agreement's provisions.

STATE OF CALIFORNIA
Department of California Highway Patrol (CHP)

SAN BERNARDINO COUNTY TRANSPORTATION
AUTHORITY
Service Authority for Freeway Emergencies (SAFE)

Cristina Romero, Procurement Manager
Business Services Section

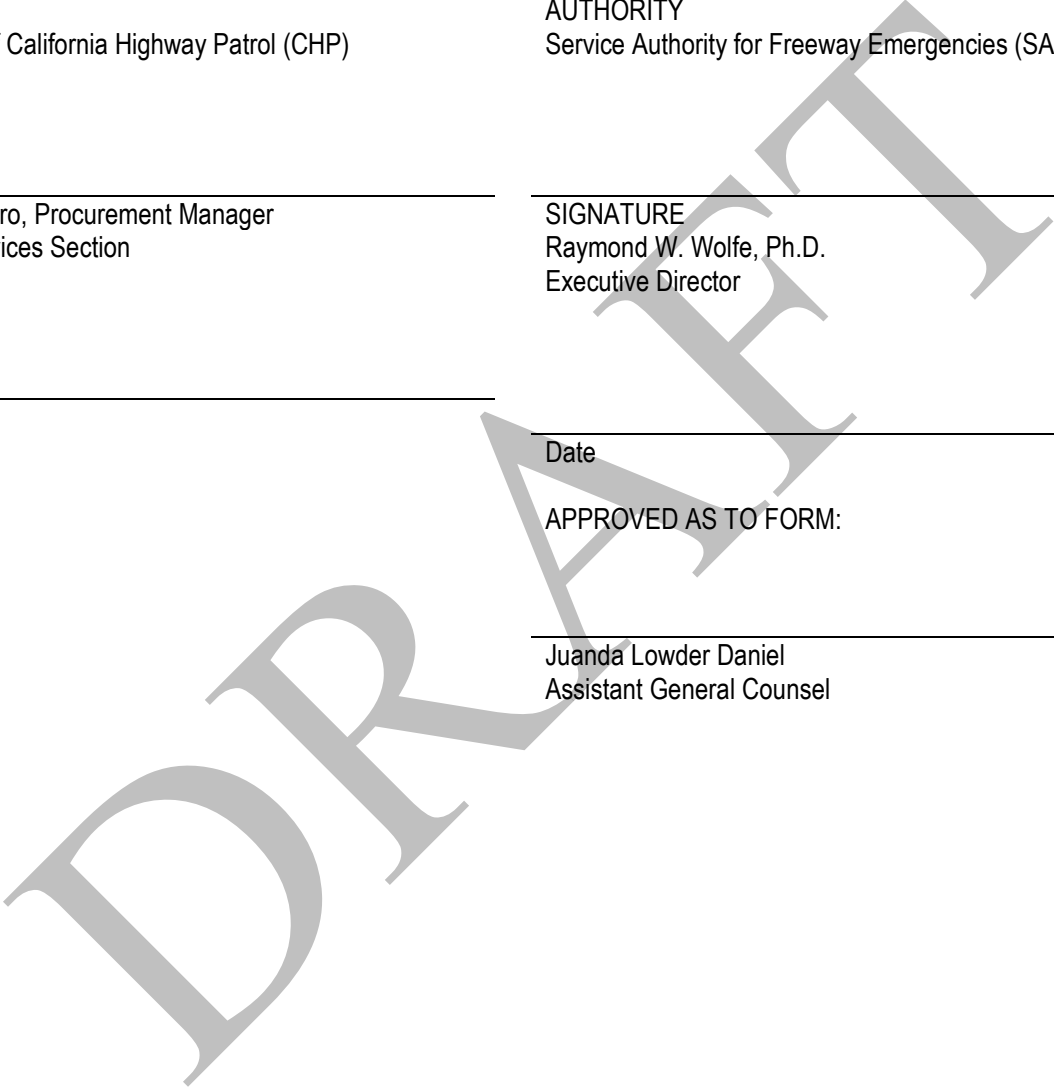
SIGNATURE
Raymond W. Wolfe, Ph.D.
Executive Director

Date

Date

APPROVED AS TO FORM:

Juanda Lowder Daniel
Assistant General Counsel



Attachment: CHP Agreement No. 23-1002942 (10235 : Agreement No. 23-1002942 with the California Highway Patrol (CHP) for Call Box Liaison

EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS

INVOICING AND PAYMENT

1. For services and assistance herein, satisfactorily rendered and upon receipt and approval of invoices SAN BERNARDINO COUNTY SAFE agrees to compensate California Highway Patrol (CHP) quarterly, in arrears for the rates specified herein. Upon receipt, payment shall be made to CHP as invoiced within thirty (30) days. If payment is not submitted because of a dispute, SAFE agrees to submit the reasons for the dispute to CHP within thirty (30) days or receiving the invoice charges.

The SAFE's proportional share billing "factor" shall be determined at the beginning of each fiscal year by comparing the number of motor vehicles registered within SAN BERNARDINO COUNTY SAFE's boundaries to the total number of motor vehicles registered in all counties who have entered into SAFE agreements with CHP. This proportional share shall be billed over four (4) fiscal quarters annually.

- A. The CHP agrees to submit an itemized invoice quarterly to SAN BERNARDINO COUNTY SAFE which may include and shall not exceed the following charges:
- 1) The CHP SAFE Coordinator personnel costs shall be based on the actual step of the wage scale or CHP SAFE Coordinator position at the time of invoicing. These costs are subject to change according to increases and/or decreases in State of California salary and benefit rates, which are beyond CHP control.
 - 2) Indirect costs shall be applied to the monthly personnel costs in accordance with California State Administrative Manual Section 8752 and 8752.1. The indirect cost rate is determined by CHP and approved by the California Department of Finance and is subject to change each state fiscal year. The re-evaluation of staffing requirements shall include an explanation of the projected upcoming fiscal year indirect cost rate.
 - 3) Telephone system costs (if applicable). The State shall provide a standard communication center telephone system, which shall also be used to handle incoming call box calls. Any agreed upon changes above and beyond the standard phone system design specifically requested by SAN BERNARDINO COUNTY SAFE Program shall be funded by SAN BERNARDINO COUNTY SAFE.

- B. The fiscal year funding for this Agreement shall be as follows:

FY	Time Period	Amount	Quarters
23/24	7/01/2024 – 6/30/2025	\$4,800.00	4
24/25	7/01/2025 – 6/30/2026	\$4,800.00	4
26/27	7/01/2026 – 6/30/2027	\$4,800.00	4
TOTAL		\$14,400.00	12

- C. The total amount of this Agreement shall not exceed **\$14,400.00 (Fourteen Thousand Four Hundred Dollars and Zero Cents)**.

EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS

2. Each quarterly invoice shall include a thorough explanation and justification for any new additional charges or changes of the amounts of past charges (if applicable). Invoices shall include the Agreement Number and shall be submitted in triplicate not more frequently than semi-annually in arrears to:

SAN BERNARDINO COUNTY SAFE
Attn: SAFE Program Manager
1170 West Third Street, 2nd Floor
San Bernardino, CA 92410-1715

A. Payment

Payment shall be made to:

Department of California Highway Patrol
P.O. Box 942900
Sacramento, Ca 94298-2900
Telephone: (916) 843-3583

Payment for these services may be made by corporate check, cashier's check, or money order in the invoiced amount. If a cashier's check, corporate check or money order is submitted, it must be made payable to: "CHP Accounting Section." Please note the contract number in the "memo" section of the check, and submit the check with a copy of the invoice so that it can be credited to your contract.

3. BUDGET CONTINGENCY CLAUSE

- A. It is mutually agreed that if the California State Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an Agreement amendment to Contractor to reflect the reduced amount.

4. PROMPT PAYMENT CLAUSE

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

**EXHIBIT C
GTC 04/2017**

GENERAL TERMS AND CONDITIONS

1. **APPROVAL**: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. **AMENDMENT**: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. **ASSIGNMENT**: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. **AUDIT**: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code Section 8546.7, Pub. Contract Code Section 10115 et seq., CCR Title 2, Section 1896).
5. **INDEMNIFICATION**: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. **DISPUTES**: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. **TERMINATION FOR CAUSE**: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

8. **INDEPENDENT CONTRACTOR**: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.
9. **RECYCLING CERTIFICATION**: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code Section 12205).
10. **NON-DISCRIMINATION CLAUSE**: During the performance of this Agreement, Contractor and its subcontractors shall not deny the contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code Section 12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, Sections 11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code Sections 11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article. Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or Agency shall require to ascertain compliance with this clause. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, Section 11105.)

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.
11. **CERTIFICATION CLAUSES**: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 04/2017 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.
12. **TIMELINESS**: Time is of the essence in this Agreement.
13. **COMPENSATION**: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.
15. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.
- a. The Government Code Chapter on Antitrust claims contains the following definitions:
 - 1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
 - 2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.
 - b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.
 - c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.
 - d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.
16. CHILD SUPPORT COMPLIANCE ACT: For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code Section 7110, that:
- a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and

b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.
18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code Section 10353.
19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:
- a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code Section 14841.)
 - b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code Section 999.5(d); Govt. Code Section 14841.)
20. LOSS LEADER: If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC Section 10344 (e).)

**EXHIBIT D
(Standard Agreement)**

SPECIAL TERMS AND CONDITIONS

1. The CHP and Contractee agree this Agreement may be canceled by either party with thirty (30) days advance written notice.
2. In the event of an emergency, this Agreement may be canceled by either party without prior notice.
3. The CHP and Contractee agree that this Agreement may be amended by written mutual consent of the parties hereto.
4. Unforeseen events may require CHP officer(s) to expend hours in excess of the original estimate. Any costs in excess of the original estimated amount will be processed by appropriate amendment to the Agreement, to reflect the actual costs incurred.
5. Additional charges may be assessed for CHP supplies, additional equipment utilized, damage to property repaired or replaced at state expense, which are directly related to the services provided herein, but only to the extent such supplies or additional equipment are specifically requested in writing by Contractee or such need for repair or replacement of property arises directly from Contractee's gross misconduct or willful negligence with respect to the property.
6. Gifts, donations, or gratuities may not be accepted by CHP employees in their own behalf or in behalf of the Department, informal squad club, or other local funds.
7. Any dispute concerning a question of fact arising under the terms of this agreement which is not disposed within a reasonable period of time (ten days) by the parties normally responsible for the administration of this contract shall be brought to the attention of the Administrative Services Officer (or designated representative) of each organization for joint resolution.

CCC 04/2017

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Bidder Firm Name (Printed)</i> San Bernardino Transportation Authority (SBCTA)		<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i> Raymond W. Wolfe, Ph.D. Executive Director		
<i>Date Executed</i>	<i>Executed in the County of</i> San Bernardino	

CONTRACTOR CERTIFICATION CLAUSES

1. **STATEMENT OF COMPLIANCE:** Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 11102) (Not applicable to public entities.)

2. **DRUG-FREE WORKPLACE REQUIREMENTS:** Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the

certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that Contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lesser of 30 multiplied by the number of full-time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations,

or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.3.

8. GENDER IDENTITY: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.35.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

- 1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

- 1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

Minute Action

AGENDA ITEM: 13

Date: *June 12, 2024*

Subject:

Measure I 2024 Population Estimates

Recommendation:

That the General Policy Committee recommend the Board, acting as the San Bernardino County Transportation Authority:

Adopt the 2024 Population Estimates in Attachment B for use in the allocation of Measure I Local Street Projects Program and Transportation Development Act funds and in the apportionment of shares of certain State and Federal funds.

Background:

Allocation of Measure I revenue is estimated within the Transportation Expenditure Plan authorized by Ordinance No. 04-01, but funds are allocated by percentage of the actual revenue received. Population estimates for the cities and unincorporated territory within each Measure I Subarea are used in the allocation of Measure I Local Street Projects Program funds, commonly referred to as local pass-through funds. The Valley distribution formula for local pass-through funds is based strictly upon population, while the Mountain/Desert formula contains both population and point of generation components as detailed below:

San Bernardino Valley Subarea Expenditure Plan, Section F “Local Street Projects” states:

“Allocations to local jurisdictions shall be on a per capita basis using the most recent State Department of Finance (DOF) population estimates for January 1, with the County’s portion based upon unincorporated population in the Valley Subarea. Estimates of unincorporated population within the Valley Subarea shall be determined by the County Planning Department, reconciled with the State Department of Finance population estimate for January 1 of each year.”

Mountain/Desert Expenditure Plan, Section C “Local Street Projects” Paragraph 2 states:

“...funds in the general Local Street Projects category shall be allocated to local jurisdictions based upon population (50 percent) and tax generation (50 percent). Population calculations shall be based upon the most current State Department of Finance estimates for January 1 of each year. Estimates of unincorporated population within each subarea shall be determined by the County Planning Department, reconciled with the State Department of Finance population estimates. Tax generation calculations shall be based upon State Board of Equalization data.”

Additionally, San Bernardino County Transportation Authority (SBCTA) uses population as a factor in the allocation and/or apportionment of Transportation Development Act (TDA) funds (Local Transportation Fund and State Transit Assistance Fund) and for tracking the equitable distribution of certain State and Federal funds (Surface Transportation Program, Congestion Mitigation and Air Quality Improvement Program, State Transportation Improvement Program, Local Partnership Program, Federal Transit Administration Section 5311 Rural Grants, Senate Bill 1 State of Good Repair, Low Carbon Transit Operations Program, and most recently Senate Bill 125 funds).

The formulas are updated annually using the State DOF population estimates as of January 1 of each year. The DOF estimating process begins with a county estimate that is produced by using customary demographic data inputs (births, deaths, school enrollment, administrative data, etc.)

Entity: San Bernardino County Transportation Authority

General Policy Committee Agenda Item

June 12, 2024

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and applying standard demographic methodology. Growth or decline at the local level (city/unincorporated area) is estimated using data collected from local jurisdictions, mainly housing unit change and annexations, and group quarters changes (college dorms, prisons, military barracks, etc.) collected from a variety of government agencies and educational segments. That local estimate is then aligned to the county-level figure which is based on changes in annual counts for births, deaths, school enrollment, migration, medical care enrollment data, and group quarters population. Once DOF has the data necessary to produce the annual sub-county report, the DOF timeframe for actually calculating and producing the estimates is very limited due to the timing of the data collection (as it becomes available) and the statutory deadline that they are under. Additional information from the DOF website is included as Attachment A to this agenda item.

According to DOF, local agencies that have comments or feedback pertaining to a population estimate are encouraged to first contact their planning department, building department or community development department locally to express their concerns. The housing unit changes that drive population estimates locally come directly from a survey completed by local planning, building, and community development departments. In the event that a number of housing units were not reported by the local jurisdiction, DOF can revise a previous year to include those units given the proper documentation. This may result in a higher population for a previous year but does not directly impact current year transportation funds to the jurisdiction for the current year.

The San Bernardino County Demographic Research Unit takes the DOF estimates and disaggregates the unincorporated population by Measure I Subarea based on building permit activity. Urban areas are defined by the California Department of Transportation (Caltrans) using Urban Area Boundaries within the unincorporated areas. Both unincorporated and urban populations are adjusted to match the total population estimate provided by DOF for each unincorporated region.

The January 1, 2024 population estimates are recommended for approval and use in allocation of Measure I Local Street Projects Program funds and the other TDA, State, and Federal funds. Both the 2024 population estimates (Attachment B) and the 2023 population estimates (Attachment C) are attached to this agenda item for comparison purposes. As there are no major changes in the population statistics, there should be no significant shift in Measure I fund allocations related to population. The distribution of Measure I funds will be adjusted retroactively to January 1, 2024, to reflect each jurisdiction's relative proportion of population within the Measure I Subarea.

This item has no direct impact on the SBCTA budget. The adopted population estimates are incorporated into the allocation formula for distribution to local jurisdictions.

Financial Impact:

This item has no financial impact on the adopted Budget for Fiscal Year 2024/2025.

Reviewed By:

This item is not scheduled for review by any other policy committee or technical advisory committee.

Responsible Staff:

Marc Lucius, Management Analyst II

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Approved
General Policy Committee
Date: June 12, 2024
Witnessed By:

Department of Finance Population Estimate Methodology

Source: State of California, Department of Finance, April 30, 2024:
[May 2024 Population Estimates Release \(ca.gov\)](https://www.dof.ca.gov/Forecasting/Demographics/)

Overview

For the first time since 2020, California has once again experienced positive population growth in 2023: driven by decreased mortality and a rebound in legal foreign immigration, California's population in 2023 grew by just over 67,000 (an annual rate of 0.17 percent) to 39,128,162, according to new data released today by the California Department of Finance.

These population estimates are produced annually by Finance for use by local areas to calculate their annual appropriations limit. The State Controller's Office uses Finance's estimates to update their population figures for distribution of state subventions to cities and counties, and to comply with various state codes. Additionally, estimates are used for research and planning purposes by federal, state, and local agencies, the academic community, and the private sector.

Changes to the housing stock are used in the preparation of the annual city population estimates. Estimated occupancy of housing units and the number of persons per household further determine population levels. Changes in city housing stock result from new construction, demolitions, housing unit conversions, and annexations. The sub-county population estimates are then adjusted to be consistent with independently produced county estimates.

Comparing Census Bureau's recently released July 1, 2023 estimates with Finance's January 1, 2024 estimates should generally be avoided since they refer to different points in time. In addition, there are numerous differences between the two series including the effects of natural disasters, changes in migration patterns, and accelerating slowdown in births. All Finance population and housing estimates are benchmarked to a decennial census. The estimates in this report are benchmarked to the 2020 decennial census.

Related population reports are available on the Department's website:
<http://www.dof.ca.gov/Forecasting/Demographics/>

Contents

The report contains preliminary year-over-year January 2024 and revised January 2021 through January 2023 population data for California cities, counties, and the state. These estimates are based on information through January 1, 2024.

Methodology

City and Unincorporated Area Estimates. The Housing Unit Method (HUM) is used to estimate total and occupied housing units, household size, household population, and group quarters population. American Community Survey (ACS) data were used to distribute 2020 Census housing units into our standard housing types (single detached units, single attached units, two to four units, five plus or apartment units, and mobile homes). Housing units are estimated by adding new construction and annexations and subtracting demolitions, and adjusting for units lost or gained by conversions. Annual housing unit change data are supplied by local jurisdictions and the U.S. Census Bureau. Occupied housing units are estimated by applying a derived civilian vacancy rate to the estimated civilian housing units. Vacancy rates are based on 2020 Census benchmark data, adjusted to incorporate the directional changes described by the latest available ACS data. Exact data on foreclosures or other housing market indicators are not reliably available to adjust vacancy rates and are not used.

Military occupied housing units are added to civilian occupied housing units to calculate total occupied housing units. Military surveys are used to track military changes including base realignments and closures. Household population estimates are derived by multiplying the number of occupied housing units by the current persons per household. The persons per household estimates are based on 2020 Census benchmark data and are adjusted by raking the current county population series into these estimates. The group quarters population is based on the Census Bureau's 2020 P.L.94-171 File counts on group quarters and annually adjusted using reported changes for group quarters by state, federal, and local agencies. The household and group quarters populations are summed to produce the initial city population estimates. These estimates are aligned to the county estimates described below.

State Estimate. The state population is estimated using the Driver License Address Change (DLAC) Method. This composite method separately estimates the population under age 18, 18 through 64, and 65 years and older. Administrative records such as births, deaths, driver license address changes, tax return data, Medicare and Medi-Cal enrollment, immigration reports, school enrollments, and group quarters population are among the data used in this method. All data used to develop these estimates are in summary tables and do not reveal the identity of any individual.

County Estimates. Most of county populations estimates result from averaging the first three methods below. We use a Vital Statistics Method in nine counties (Alpine, Calaveras, Inyo, Mariposa, Modoc, Sierra, Siskiyou, Trinity, and Tuolumne) with populations 65,000 or less.

DLAC Method. A modified version of the state Driver License Address Change (DLAC) method is used for counties. County proportions of the state total result from changes in county population values for births, deaths, school enrollment, foreign and domestic migration, medical care and medical aid enrollments, and group quarters population.

Ratio-Correlation Method. This method models changes in household population as a function of changes in the distributions of school enrollments, labor force, and housing units. Estimates of county group quarters are added.

Tax Return Method. County proportions are derived by the U.S. Census Bureau using matched federal income tax returns to estimate inter-county migration along with vital statistics, group quarters, and other information for the population aged 65 and over.

Vital Statistics Method. County population estimates result from changes in county population values for births, deaths, and group quarters population.

Data Considerations

Sources. Data used in estimation models come from administrative records of several state and federal government departments and agencies, and from the local jurisdictions for which Finance produces population estimates. Because timeliness and coverage in these series vary, corrections, smoothing, and other adjustments may be applied. Changes to 2020 P.L. 94-171 data in the classification of student housing on or near campus was necessary to remain consistent with the census group quarters definition. In only a few instances, some student housing (residence hall and apartment units) counted as household population in the census was redefined as group quarters student housing population. College dorm group quarters population is defined as student population living in residence halls and apartment units located on or near college campuses.

Suggested Citation

State of California, Department of Finance, E-1 Population Estimates for Cities, Counties and the State with Annual Percent Change — January 1, 2023 and 2024. Sacramento, California, May 2024.

ATTACHMENT A

Contact Information

For questions on the E-1, contact Doug Kuczynski, John Boyne, or Jordan Bruhn in the Demographic Research Unit at (916) 323-4086 or e-mail at ficalpop@dof.ca.gov.

MEASURE I 2024 POPULATION SUMMARY PREPARED BY SAN BERNARDINO COUNTY PLANNING							
PLANNING REGION	(1) DOF/CO 2024	(2) ADJUSTMENT	2024 TOTAL	PERCENT OF SUBAREA	PERCENT OF COUNTY TOTAL	POP CHANGE FROM 2023	%SUBAREA CHANGE FROM 2023
WEST VALLEY							
CHINO	92,585		92,585	5.87%	4.244%	(552)	-0.04%
CHINO HILLS	76,414		76,414	4.85%	3.503%	(644)	-0.05%
FONTANA	214,223		214,223	13.58%	9.820%	372	0.01%
MONTCLAIR	37,211		37,211	2.36%	1.706%	(283)	-0.02%
ONTARIO	181,224		181,224	11.49%	8.308%	507	0.02%
RANCHO CUCAMONGA	173,316		173,316	10.99%	7.945%	(229)	-0.02%
UPLAND	78,285		78,285	4.96%	3.589%	(91)	-0.01%
UNINCORPORATED URBAN	42,857	(6)	42,857	2.72%	1.965%	(249)	-0.02%
UNINCORPORATED RURAL	1,772	(7)	1,772	0.11%	0.081%	(10)	0.00%
TOTAL WEST VALLEY			897,887	56.93%	41.160%	(1,179)	-0.12%
EAST VALLEY							
COLTON	52,778		52,778	3.35%	2.419%	(376)	-0.03%
GRAND TERRACE	12,771		12,771	0.81%	0.585%	(43)	0.00%
HIGHLAND	55,676		55,676	3.53%	2.552%	(308)	-0.02%
LOMA LINDA	24,965		24,965	1.58%	1.144%	(263)	-0.02%
REDLANDS	72,696		72,696	4.61%	3.332%	724	0.04%
RIALTO	103,097		103,097	6.54%	4.726%	112	0.00%
SAN BERNARDINO	226,541		226,541	14.36%	10.385%	3,311	0.20%
YUCAIPA	53,810		53,810	3.41%	2.467%	(181)	-0.01%
UNINCORPORATED URBAN	75,786	(6)	75,786	4.81%	3.474%	(440)	-0.03%
UNINCORPORATED RURAL	1,127	(7)	1,127	0.07%	0.052%	(7)	0.00%
TOTAL EAST VALLEY			679,247	43.07%	31.138%	2,529	0.12%
TOTAL VALLEY			1,577,134	100.00%	72.298%	1,350	0.08%
MOUNTAINS							
BIG BEAR LAKE	4,958		4,958	9.98%	0.227%	44	0.13%
UNINCORPORATED URBAN	35,902	(6) (3)	35,902	72.28%	1.646%	(209)	-0.11%
UNINCORPORATED RURAL	8,811	(7) (3)	8,811	17.74%	0.404%	(51)	-0.03%
TOTAL MOUNTAINS			49,671	100.00%	2.277%	(216)	-0.01%
NORTH DESERT							
BARSTOW	24,669		24,669	42.63%	1.131%	(249)	-0.10%
UNINCORPORATED URBAN	22,763	(6)	22,763	39.34%	1.043%	(133)	0.07%
UNINCORPORATED RURAL	10,434	(7)	10,434	18.03%	0.478%	(60)	0.03%
TOTAL NORTH DESERT			57,866	100.00%	2.653%	(442)	-0.02%

MEASURE I 2024 POPULATION SUMMARY PREPARED BY SAN BERNARDINO COUNTY PLANNING								
PLANNING REGION	(1) DOF/CO 2024	(2) ADJUSTMENT	2024 TOTAL	PERCENT OF SUBAREA	PERCENT OF COUNTY TOTAL	POP CHANGE FROM 2023	%SUBAREA CHANGE FROM 2023	
COLORADO RIVER								
NEEDLES (RURAL)	4,769		4,769	68.86%	0.219%	13	0.19%	
UNINCORPORATED URBAN	0	(6)	0	0.00%	0.000%	0	0.00%	
UNINCORPORATED RURAL	2,157	(7)	2,157	31.14%	0.099%	(13)	-0.19%	
TOTAL COLORADO RIVER			6,926	100.00%	0.317%	0	0.00%	
MORONGO BASIN								
TWENTYNINE PALMS	25,346	(4)	25,346	35.50%	1.162%	(583)	-0.43%	
YUCCA VALLEY	21,594		21,594	30.24%	0.990%	(41)	0.26%	
UNINCORPORATED URBAN	7,728	(6)	7,728	10.82%	0.354%	(45)	0.05%	
UNINCORPORATED RURAL	16,732	(7)	16,732	23.43%	0.767%	(97)	0.11%	
TOTAL MORONGO BASIN			71,400	100.00%	3.273%	(766)	-0.03%	
VICTOR VALLEY								
ADELANTO	36,131	(5)	36,131	8.63%	1.656%	(525)	-0.11%	
APPLE VALLEY	74,322	(5)	74,322	17.76%	3.407%	(674)	-0.14%	
HESPERIA	100,087	(5)	100,087	23.92%	4.588%	46	0.04%	
VICTORVILLE	138,202	(5)	138,202	33.03%	6.335%	1,009	0.28%	
UNINCORPORATED URBAN	36,821	(6) (5) (3)	36,821	8.80%	1.688%	(214)	-0.04%	
UNINCORPORATED RURAL	32,873	(7) (5) (3)	32,873	7.86%	1.507%	(191)	-0.04%	
TOTAL VICTOR VALLEY			418,436	100.00%	19.182%	(549)	-0.02%	
TOTAL DESERT			554,628			(1,757)		
TOTAL MOUNTAIN/DESERT			604,299		27.702%	(1,973)	-0.08%	
SUMMARY:								
TOTAL INCORPORATED	1,885,670		1,885,670		86.442%	1,096	0.07%	
TOTAL UNINCORPORATED	295,763		295,763		13.558%	(1,719)	-0.07%	
TOTAL COUNTY	2,181,433		2,181,433		100.000%	(623)	0.00%	
(1) - CITY FIGURES FROM DOF JANUARY 1, 2024 ESTIMATES; UNINCORPORATED FIGURES FROM PLANNING DEPARTMENT ESTIMATES CONTROLLED TO DOF UNINCORPORATED TOTAL. (2) - THIS COLUMN CONTAINS ADJUSTMENTS NECESSARY TO MODIFY CITY TOTALS AS SPECIFIED IN MEASURE I. (3) - THE WRIGHTWOOD COMMUNITY AND AREAS NORTH OF LONE PINE CANYON ROAD WERE EXCLUDED FROM THE MOUNTAIN AREA AND INCLUDED IN THE VICTOR VALLEY AS SPECIFIED IN MEASURE I. (4) - THE POPULATED PORTIONS OF THE TWENTYNINE PALMS MARINE BASE HAVE BEEN ANNEXED BY THE CITY OF TWENTYNINE PALMS. (5) - WITH THE CLOSING OF GEORGE AIR FORCE BASE, THERE IS NO LONGER AN ALLOCATION OF POPULATION TO THE CITIES IN THE VICTOR VALLEY. (6) - UNINCORPORATED URBAN FIGURES FROM PLANNING DEPARTMENT ESTIMATES CONTROLLED TO DOF UNINCORPORATED TOTALS AND CALTRANS URBAN AREA BOUNDARIES (7) - UNINCORPORATED RURAL FIGURES FROM PLANNING DEPARTMENT ESTIMATES CONTROLLED TO DOF UNINCORPORATED TOTALS AND BASED ON AREAS OUTSIDE THE CALTRANS URBAN AREA BOUNDARIES								

Attachment: Attachment B - 2024 Population Estimates (10511 : Measure I 2024 Population Estimates)

MEASURE I 2023 POPULATION SUMMARY
 PREPARED BY SAN BERNARDINO COUNTY PLANNING

ATTACHMENT C

PLANNING REGION	(1) DOF/CO 2023	(2) ADJUSTMENT	2023 TOTAL	PERCENT OF SUBAREA	PERCENT OF COUNTY TOTAL	POP CHANGE FROM 2022	%SUBAREA CHANGE FROM 2022
WEST VALLEY							
CHINO	93,137		93,137	5.91%	4.268%	1,139	0.10%
CHINO HILLS	77,058		77,058	4.89%	3.531%	(906)	-0.03%
FONTANA	213,851		213,851	13.57%	9.800%	1,042	0.14%
MONTCLAIR	37,494		37,494	2.38%	1.718%	(352)	-0.01%
ONTARIO	180,717		180,717	11.47%	8.282%	1,201	0.14%
RANCHO CUCAMONGA	173,545		173,545	11.01%	7.953%	(931)	0.00%
UPLAND	78,376		78,376	4.97%	3.592%	(763)	-0.02%
UNINCORPORATED URBAN	43,106	(6)	43,106	2.74%	1.975%	2,766	0.19%
UNINCORPORATED RURAL	1,782	(7)	1,782	0.11%	0.082%	(393)	-0.02%
TOTAL WEST VALLEY			899,066	57.06%	41.203%	2,803	0.49%
EAST VALLEY							
COLTON	53,154		53,154	3.37%	2.436%	(463)	-0.01%
GRAND TERRACE	12,814		12,814	0.81%	0.587%	(228)	-0.01%
HIGHLAND	55,984		55,984	3.55%	2.566%	(562)	-0.02%
LOMA LINDA	25,228		25,228	1.60%	1.156%	(121)	0.00%
REDLANDS	71,972		71,972	4.57%	3.298%	(613)	-0.01%
RIALTO	102,985		102,985	6.54%	4.720%	(969)	-0.03%
SAN BERNARDINO	223,230		223,230	14.17%	10.230%	2,390	0.23%
YUCAIPA	53,991		53,991	3.43%	2.474%	(503)	-0.01%
UNINCORPORATED URBAN	76,226	(6)	76,226	4.84%	3.493%	(4,104)	-0.23%
UNINCORPORATED RURAL	1,134	(7)	1,134	0.07%	0.052%	(6,326)	-0.40%
TOTAL EAST VALLEY			676,718	42.94%	31.013%	(11,499)	-0.49%
TOTAL VALLEY			1,575,784	100.00%	72.216%	(8,696)	-0.21%
MOUNTAINS							
BIG BEAR LAKE	4,914		4,914	9.85%	0.225%	(127)	-0.05%
UNINCORPORATED URBAN	36,111	(6) (3)	36,111	72.39%	1.655%	(411)	0.63%
UNINCORPORATED RURAL	8,862	(7) (3)	8,862	17.76%	0.406%	(472)	-0.57%
TOTAL MOUNTAINS			49,887	100.00%	2.286%	(1,010)	-0.04%
NORTH DESERT							
BARSTOW	24,918		24,918	42.74%	1.142%	(284)	-2.62%
UNINCORPORATED URBAN	22,896	(6)	22,896	39.27%	1.049%	692	-0.69%
UNINCORPORATED RURAL	10,494	(7)	10,494	18.00%	0.481%	2,329	3.30%
TOTAL NORTH DESERT			58,308	100.00%	2.672%	2,737	0.13%

Attachment: Attachment C - 2023 Population Estimates (10511 : Measure I 2024 Population Estimates)

MEASURE I 2023 POPULATION SUMMARY
 PREPARED BY SAN BERNARDINO COUNTY PLANNING

ATTACHMENT C

PLANNING REGION	(1) DOF/CO 2023	(2) ADJUSTMENT	2023 TOTAL	PERCENT OF SUBAREA	PERCENT OF COUNTY TOTAL	POP CHANGE FROM 2022	%SUBAREA CHANGE FROM 2022
COLORADO RIVER							
NEEDLES (RURAL)	4,756		4,756	68.67%	0.218%	(120)	-2.30%
UNINCORPORATED URBAN	0	(6)	0	0.00%	0.000%	0	0.00%
UNINCORPORATED RURAL	2,170	(7)	2,170	31.33%	0.099%	175	2.30%
TOTAL COLORADO RIVER			6,926	100.00%	0.317%	55	0.00%
MORONGO BASIN							
TWENTYNINE PALMS	25,929	(4)	25,929	35.93%	1.188%	(1,756)	-2.62%
YUCCA VALLEY	21,635		21,635	29.98%	0.991%	(178)	-0.39%
UNINCORPORATED URBAN	7,773	(6)	7,773	10.77%	0.356%	538	0.70%
UNINCORPORATED RURAL	16,829	(7)	16,829	23.32%	0.771%	1,740	2.31%
TOTAL MORONGO BASIN			72,166	100.00%	3.307%	344	0.02%
VICTOR VALLEY							
ADELANTO	36,656	(5)	36,656	8.75%	1.680%	299	0.05%
APPLE VALLEY	74,996	(5)	74,996	17.90%	3.437%	(632)	-0.19%
HESPERIA	100,041	(5)	100,041	23.88%	4.585%	(283)	-0.12%
VICTORVILLE	137,193	(5)	137,193	32.74%	6.287%	632	0.08%
UNINCORPORATED URBAN	37,035	(6) (5) (3)	37,035	8.84%	1.697%	(2,060)	-0.51%
UNINCORPORATED RURAL	33,064	(7) (5) (3)	33,064	7.89%	1.515%	3,005	0.70%
TOTAL VICTOR VALLEY			418,985	100.00%	19.201%	961	0.09%
TOTAL DESERT			556,385			4,097	
TOTAL MOUNTAIN/DESERT			606,272		27.784%	3,087	0.21%
SUMMARY:							
TOTAL INCORPORATED	1,884,574		1,884,574		86.367%	(3,088)	0.08%
TOTAL UNINCORPORATED	297,482		297,482		13.633%	(2,521)	-0.08%
TOTAL COUNTY	2,182,056		2,182,056		100.000%	(5,609)	0.00%
(1) - CITY FIGURES FROM DOF JANUARY 1, 2023 ESTIMATES; UNINCORPORATED FIGURES FROM PLANNING DEPARTMENT ESTIMATES CONTROLLED TO DOF UNINCORPORATED TOTAL. (2) - THIS COLUMN CONTAINS ADJUSTMENTS NECESSARY TO MODIFY CITY TOTALS AS SPECIFIED IN MEASURE I. (3) - THE WRIGHTWOOD COMMUNITY AND AREAS NORTH OF LONE PINE CANYON ROAD WERE EXCLUDED FROM THE MOUNTAIN AREA AND INCLUDED IN THE VICTOR VALLEY AS SPECIFIED IN MEASURE I. (4) - THE POPULATED PORTIONS OF THE TWENTYNINE PALMS MARINE BASE HAVE BEEN ANNEXED BY THE CITY OF TWENTYNINE PALMS. (5) - WITH THE CLOSING OF GEORGE AIR FORCE BASE, THERE IS NO LONGER AN ALLOCATION OF POPULATION TO THE CITIES IN THE VICTOR VALLEY. (6) - UNINCORPORATED URBAN FIGURES FROM PLANNING DEPARTMENT ESTIMATES CONTROLLED TO DOF UNINCORPORATED TOTALS AND CALTRANS URBAN AREA BOUNDARIES. (7) - UNINCORPORATED RURAL FIGURES FROM PLANNING DEPARTMENT ESTIMATES CONTROLLED TO DOF UNINCORPORATED TOTALS AND BASED ON AREAS OUTSIDE THE CALTRANS URBAN AREA BOUNDARIES.							

Attachment: Attachment C - 2023 Population Estimates (10511 : Measure I 2024 Population Estimates)

Additional Information

GENERAL POLICY COMMITTEE ATTENDANCE RECORD – 2024

Name	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Dawn Rowe Board of Supervisors				X								
Curt Hagman Board of Supervisors		X	X	X	X							
Joe Baca, Jr. Board of Supervisors			X	X	X							
Paul Cook Board of Supervisors		X	X	X								
Art Bishop Town of Apple Valley		X	X	X	X							
Ray Marquez City of Chino Hills		X	X	X	X							
Frank Navarro City of Colton		X	X	X	X							
Acquanetta Warren City of Fontana			X	X	X							
Larry McCallon City of Highland		X	X	X								
Alan Wapner City of Ontario					X							
Debra Jones City of Victorville			X	X								
Rick Denison Town of Yucca Valley		X	X	X	X							

Communication: Attendance (Additional Information)

X = Member attended meeting.
Shaded box = No meeting.

* = Alternate member attended meeting.

Empty box = Member did not attend meeting.

Crossed out box = Not a Board Member at the time.

This list provides information on acronyms commonly used by transportation planning professionals. This information is provided in an effort to assist Board Members and partners as they participate in deliberations at 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. 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
IIEP	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

Acronym List

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



MISSION STATEMENT

Our mission is to improve the quality of life and mobility in San Bernardino County. Safety is the cornerstone of all we do.

We achieve this by:

- Making all transportation modes as efficient, economical, and environmentally responsible as possible.
- Envisioning the future, embracing emerging technology, and innovating to ensure our transportation options are successful and sustainable.
- Promoting collaboration among all levels of government.
- Optimizing our impact in regional, state, and federal policy and funding decisions.
- Using all revenue sources in the most responsible and transparent way.

Approved December 4, 2019