

SANBAG Contract 07193

**Memorandum of Understanding
Between The Southern California Association of Governments,
San Bernardino Associated Governments, Omnitrans and Victor Valley
Transit Authority**

RECITALS

WHEREAS, the Southern California Association of Governments (SCAG) is a joint powers agency formed pursuant to Title 1, Division 7, Chapter 5 of the California Government Code (section 6500 et seq.) and is the Metropolitan Planning Organization (MPO) recognized under 23 U.S.C. 134; and

WHEREAS, SCAG is required pursuant to federal and state law to prepare, adopt and submit a Regional Transportation Plan (RTP); and

WHEREAS, SCAG pursuant to state and federal law is required to prepare, adopt and submit a multi-year Regional Transportation Improvement Program (RTIP); and

WHEREAS, SCAG is required pursuant to state and federal law and agreements to coordinate its planning activities with stakeholders, including County Transportation Commissions and is specifically required pursuant to 23 Code of Federal Regulation 450.310(b) to enter into agreements with operators of publicly owned transit services to specify cooperative procedures for carrying out transportation planning (including corridor and subarea studies) and programming; and

WHEREAS, San Bernardino Associated Governments (SANBAG) is a County Transportation Commission created pursuant to Public Utilities Code section 130000 and is charged pursuant thereto for approval of all projects utilizing federal and state highway and transit funds and responsible for transportation programming and short range planning for San Bernardino County and is the Congestion Management Agency pursuant to Government Code Section 65088.1 and is responsible for updating the Congestion Management Program for San Bernardino County; and

WHEREAS, Omnitrans is a joint powers agency created pursuant to Section 6503.5 of the Government Code to provide public transit service within the urbanized San Bernardino Valley portion of San Bernardino County and which desires to enter into an agreement with SCAG and SANBAG to specify its role in transportation planning and programming and the congestion management process; and

WHEREAS, Victor Valley Transit Authority (VVTa) is a joint powers agency created pursuant to Section 6503.5 of the Government Code to provide public transit service within the urbanized Victor Valley portion of San Bernardino County and who desires to enter into an agreement with SCAG and SANBAG to specify its role in transportation planning and programming and the congestion management process; and

WHEREAS, SCAG and the State of California, acting through the Department of Transportation entered into a Memorandum of Understanding dated June 22, 2005 to provide for Comprehensive Federal Transportation Planning; and

WHEREAS, SCAG and SANBAG entered into a 1979 Memorandum of Understanding for the purpose of defining the roles and relationships in meeting the transportation planning and programming responsibilities; and

WHEREAS, SCAG, SANBAG, Omnitrans and VVTa desire to integrate and clarify consistently with the above referenced agreements, the roles, responsibilities and coordination of the regional transportation planning requirements and to utilize this agreement to fulfill the requirements of state and federal law and in particular the requirements set forth in 23 CFR 450.310(b).

NOW, THEREFORE IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS PROVIDED FOR HEREIN, SCAG, SANBAG, OMNITRANS AND VICTOR VALLEY TRANSIT AUTHORITY, HEREBY AGREE AS FOLLOWS:

Section I

PLANNING AND COORDINATION PROCESS

1.1 SCAG's Role: The parties recognize SCAG as the agency with the overall responsibility for comprehensive regional transportation planning, in accordance with state and federal law, including but not limited to development and adoption of the RTP and RTIP..

1.2 County Transportation Commission-Role: The parties recognize SANBAG is responsible for preparing the short and long range county transportation plans, programming state and federal transit funds and updating the congestion management program within San Bernardino County.

In developing the county plans, SANBAG is responsible to ensure that the transit capital and operating needs identified in short range transit plans or through other transit plans are considered in developing countywide transportation plans and in funding countywide transit programs. SANBAG is also responsible for ensuring that the transit projects, plans and programs identified in the countywide transportation planning and

congestion management process are recommended to SCAG for inclusion in the regional transportation planning studies, the RTIP ,and in the development of the RTP.

1.3 Transit Operator Role: Omnitrans and the Victor Valley Transit Authority, in coordination with SANBAG, shall prepare biennially a short range transit plan which includes transit studies, transit capital and operating needs for a five-year period. Omnitrans and the Victor Valley Transit Authority shall participate in the SANBAG transportation planning process, including the development of corridor and sub-regional studies, the development of short range and long range county transportation plans and the updating of the congestion management program.

1.4 Coordination Process: SCAG shall engage in a consultative process with SANBAG, Omnitrans and the Victor Valley Transit Authority in the regional planning process, consistent with applicable law and federal regulations pertaining to the roles and responsibilities of the parties in regional transportation planning.

- a. SCAG will provide the opportunity to comment on its Draft RTP and Draft RTIP to the parties and the opportunity to participate in Overall Work Program development .
- b. SCAG will provide SANBAG, in consultation with Omnitrans and the Victor Valley Transit Authority, the opportunity to submit information, including but not limited to project scope, cost, schedule and revenue assumptions that support the proposed priority order for projects, necessary for the development of the RTP and RTIP financial plans.
- c. On an annual basis, and no later than 90 calendar days following the end of the State fiscal year, SCAG, with the cooperation of SANBAG, Omnitrans and the Victor Valley Transit Authority, shall develop a listing of projects for which federal funds were obligated in the preceding program year.
- d. SCAG shall continue to maintain the Regional Transit Task Force or a successor group, to provide a forum for SANBAG, Omnitrans and the Victor Valley Transit Authority to participate to ensure that transit priorities meet the region's mobility and air quality goals.
- e. SANBAG, Omnitrans and the Victor Valley Transit Authority agree to participate in SCAG's Plans and Programs Technical Advisory Committee or any successor group established to serve the same function which shall also serve as a forum to ensure that local transportation projects, plans and programs are effectively integrated into the Regional Transportation Improvement Plan.
- f. The Executive Officers of SCAG and SANBAG shall continue to meet regularly with the Executive Officers of the other county

transportation commissions to ensure executive coordination of regional/county/local transportation issues, including issues regarding transit coordination,

1.5 Certification and Assurances: Each party shall comply with the following requirements in carrying out their respective responsibilities under this MOU:

- (1) Title VI of the Civil Rights Act of 1964, as amended, 49 U.S.C. 5332, 42 U.S.C. 2000d, and the United States Department of Transportation (U.S. DOT) implementing regulations, 49 C.F.R. Part 21, and related federal guidelines including but not limited to FTA Circular 4702.1 regarding Title VI Program Guidelines for Urban Mass Transportation Administration Recipients, and any successors thereto; and
- (2) The Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 et seq., U.S. DOT implementing regulations, 49 C.F.R. parts 27, 37, and 38, and any successors thereto.

Section 2

General Provisions

- 2.1 Drafting:** This MOU has been prepared by all parties and has been reviewed and endorsed by each.
- 2.2 Amendments:** This MOU may be amended only by the execution by all parties of a written amendment.
- 2.3 Termination:** Any party may terminate this Memorandum of Understanding upon ninety (90) days written notice to each party, providing that the notice of termination set forth the effective date of termination and the reason for termination. Additionally, the notice of termination shall provide that the parties during the period prior to the effective date of termination shall meet to try to resolve any dispute. In the event that the termination is for cause, the termination shall not be effective if the party cures the default in its performance within the ninety day period. SCAG shall notify FTA of the withdrawal from this MOU of any party.
- 2.4 Indemnity:** Each of the parties to this MOU is a public entity. Pursuant to Government Code Section 895.4, each party shall indemnify, defend and hold each of the other parties, and their respective officers, agents and employees harmless from and against any liability and expenses, including defense costs, any costs or liability on account of bodily injury, death or personal injury of any person or for damage to or loss of risk of

property, any legal fees and any claims for damages attributable only to performance of the responsibilities as set forth in Section 1 (Planning and Coordination Process) of this MOU by the indemnifying party (Indemnitor) or its officers, agents employees, contractors and subcontractors under this MOU, except to the extent caused by the negligence or willful misconduct of an indemnified party (Indemnitee).

2.5 **Jurisdiction and Venue:** This MOU shall be deemed an Agreement under the laws of the State of California, and for all purposes shall be interpreted in accordance with such laws. All parties hereby agree and consent to the exclusive jurisdiction of the courts of the State of California and that the venue of any action brought hereunder shall be in Los Angeles County, California.

2.6 **Non-assignment.** No party may assign this Memorandum of understanding, or any part thereof, without the written consent of each party to this MOU.

2.7 **Notice.** Any notice or notices required or permitted to be given pursuant to this agreement may be personally served on the other party by the party giving such notice, or may be served by certified mail, return receipt requested, to the following addresses:

Mr. Mark Pisano
Executive Director
Southern California Association of Governments
818 West 7th Street, 12th Floor
Los Angeles, California 90017-3435

Mr. Tony Grasso
Executive Director
San Bernardino Associated Governments
1170 W. 3rd Street, 2nd Floor
San Bernardino, California 92410-1715

Mr. Durand Rall
General Manager/Chief Executive Officer
Omnitrans
1500 West 5th Street
San Bernardino, CA 92411

Mr. Kevin Kane
General Manager
Victor Valley Transit Authority
11741 E. Santa Fe
Hesperia, CA 92345

2.8 Effective Date. This Agreement shall be effective on the date (meaning the last date indicated below) all parties have fully executed this Agreement.

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

The Southern California Association of Governments

By:  Date: 3-20-07
Wayne Moore Chief Financial Officer
Mark Pisano, Executive Director

Approved as to Form:  Date: 3/21/07
Karen Tachiki Joanna Africa
Chief Legal Counsel

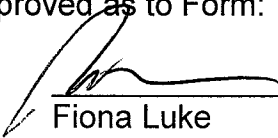
San Bernardino Associated Governments

By:  Date: March 13 2007
Mark A. Grasso
Executive Director

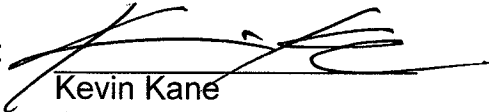
Approved as to Form:  Date: 3/15/07
Jean-Rene Basle
SANBAG Legal Counsel

Omnitrans

By:  Date: March 12, 2007
Durand Rall
General Manager/CEO

Approved as to Form:  Date: March 12, 2007
Fiona Luke
Omnitrans Legal Counsel

Victor Valley Transit Authority

By: 
Kevin Kane
General Manager

Date: 2/26/07

Approved as to Form:


Fiona Luke
VVTA Legal Counsel

Date: 2/26/07