

# STAFF REPORT



# ITEM NO. 13

## CITY OF OCEANSIDE

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DATE: July 1, 2009

TO: Honorable Mayor and City Councilmembers

FROM: Neighborhood Services Department

SUBJECT: **RESOLUTION ACCEPTING \$638,915 IN GRANT FUNDS FROM THE TRANSNET SENIOR TRANSPORTATION MINI GRANT PROGRAM ADMINISTERED BY SANDAG; APPROVAL TO APPROPRIATE FUNDS TO THE NEIGHBORHOOD SERVICES DEPARTMENT; APPROVAL OF THE GRANT AGREEMENT; AND APPROVAL OF AMENDMENT 2 TO THE PROFESSIONAL SERVICES AGREEMENT WITH THE AMERICAN LOGISTICS COMPANY**

### SYNOPSIS

Staff recommends that the City Council adopt a resolution accepting \$638,915 in grant funds from the TransNet Senior Transportation Mini Grant Program, awarded to the City of Oceanside by SANDAG, to continue three senior transportation service programs; approve the appropriation of these funds to the Neighborhood Services Department; approve the related Grant Agreement with SANDAG; approve the related Amendment 2 to the Professional Services Agreement with American Logistics Company, increasing the contract price by \$90,038; and authorize the City Manager to execute the grant agreement and amendment.

### BACKGROUND

TransNet, the ½ percent sales tax for local transportation projects, has provided for the expansion of transportation systems since 1988. In November 2004, 67 percent of voters approved a 40-year extension of TransNet which included a mini-grant program for specialized transportation services for seniors. In March 2008, SANDAG opened a competitive grant opportunity for local agencies that included support for senior transportation services. In April 2008, staff submitted an application for the competitive grant process for a consolidated transportation program including the City of Oceanside's three senior transportation services: taxi scrip, senior shuttle contract, and the volunteer driver program, for three years of funding. The application was recommended for funding

in Fall 2008. In May 2009, SANDAG requested that the City sign a Grant Agreement and accept the funds.

*Taxi Scrip:* The taxi scrip program began as a 6-month pilot program in Spring 2005. After a successful trial period, the City Council decided to fund the program thereafter at \$60,000 annually per the City biennial budget cycle. The program is currently budgeted for FY 09-10 and serves a minimum of 750 seniors annually through the purchase of \$20 scrip booklets. Seniors purchase booklets for \$7, while the City pays the remaining \$13. The program serves the most mobile seniors in need of transportation, 7 days a week at all hours.

*Senior Shuttle Contract:* In December 2006, the Genentech Foundation donated \$115,000 to the City of Oceanside to implement a senior shuttle program. In Summer 2007, staff implemented an RFP process for the selection of a company to provide senior shuttle services. More than sixteen companies received the RFP with two proposals returned for review. Several companies commented that the contract was too small for the company to expand services to Oceanside and other companies did not comment at all. In August 2007, the Senior Commission recommended the selection of American Logistics Company, primarily due to the unique demand-service style provided by the company. On October 3, 2007, the City entered into a Professional Services Agreement with American Logistics Company for senior shuttle services in an amount not to exceed a contract price of \$115,000. The Agreement ended September 30, 2008, and has continued with Amendment 1 with the leverage of New Freedom grant funds from SANDAG, through June 30, 2009. This program costs seniors \$5 per one-way ride.

*Volunteer Driver Program:* In November 2006, the City of Oceanside applied for funds to implement a volunteer driver program. As a measure to strengthen senior transportation services to the senior community, the Council accepted \$16,500 from the New Freedom grant program in February 2008 to provide mileage reimbursements to volunteers for driving seniors to medical appointments, pharmacies, grocery stores, and other outings while also providing personal assistance during the trip. The program is free to seniors.

## **ANALYSIS**

The City of Oceanside has been working on solutions for senior transportation since 1997. Available funding had been the primary deterrent from implementing those solutions, and the senior shuttle program is contingent on the receipt of grant funds. With transportation program funding opportunities on the horizon, staff was directed to apply for transportation funds as they become available.

The senior transportation program is a comprehensive approach in its three pronged method. One single service does not meet every senior's need. The taxi scrip allows for maximum independence for a senior at an affordable cost. While providing door-to-door service, the senior shuttle also provides reassurance to seniors that they will be on time

for important scheduled medical appointments such as dialysis. The volunteer driver program offers social support for seniors during their trip.

The TransNet grant funds are vital to the sustainability of Oceanside senior transportation services. Accepting the funds is necessary to continue the senior shuttle contract beyond June 30, 2009. The taxi scrip is currently budgeted for one more year in the Neighborhood Services Department Budget. The volunteer driver program is funded through December 2009 by New Freedom Grant funds.

A match requirement of 20 percent for each year of the grant is required and can be appropriated on a year-to-year basis. The Grant Agreement contains a "Reduction of Matching Funds" clause that will allow the City to either reduce the match or not appropriate the match, consequently reducing the grant funding or losing the complete grant funds, respectively. If the City chose to not appropriate the grant match and lost the grant funds, all senior transportation services would end.

### **FISCAL IMPACT**

The New Freedom Grant Funds will be appropriated to the Neighborhood Services budget which will be increased by the TransNet Senior Transportation mini-grant funds for senior transportation programs with match requirement in each year as follows:

	Grant Amount	Match Requirement
FY 2009-10	\$105,456	\$74,119.20
FY 2010-11	\$234,131	\$100,553.00
FY 2011-12	\$299,328	\$130,580.00

*FY 2009-10:* For FY 2009-10 it is proposed to repurpose \$47,100 from the senior taxi program account, (101.556030.5241) and \$13,337 from the senior donation account, (108.2510.22104) to a new program budget account for all three transportation services. The three transportation programs will be budgeted as such for the first year:

Shuttle Service:	\$29,601	Grant Allocation
	<u>\$60,437</u>	Match Appropriation
	\$90,038	Total Shuttle Contract Price
Taxi Scrip:	\$40,286.80	Grant Allocation
	<u>\$19,531.20</u>	\$7 taxi scrip booklet revenue
	\$59,818	Total Taxi Scrip Budget
Volunteer Driver:	\$30,568	Grant Allocation
	<u>\$13,682</u>	New Freedom 06 Grant
	\$44,250	Total Volunteer Driver Mileage Budget

For the future fiscal years 2010-2012, a program budget for the combined senior transportation program will be proposed through the biennial budget process. Those budgets would require \$65,853 in FY 2010-11 and \$71,380 in FY 2011-12 to match the grant either through a budget appropriation to the Neighborhood Services Department or additional private grant awards.

The Grant Agreement contains a "Reduction of Match Funds" clause which will allow the City to appropriate its match proportion on an annual basis, rather than all three years at this time, while being able to accept all three years of funding from the grant program. The clause also allows the City to either reduce the match or not appropriate the match. Consequently, a reduction or non-appropriation would respectively reduce the grant funding or withdrawing the grant funds completely. If the City chooses to not appropriate the grant match and loses the grant funds; all senior transportation services would end.

#### **COMMISSION OR COMMITTEE REPORT**

At its meeting on June 9, 2009, the Senior Commission recommended that the City Council accept the funds to continue the senior transportation programs.

#### **CITY ATTORNEY'S ANALYSIS**

The referenced documents have been reviewed by the City Attorney and approved as to form.

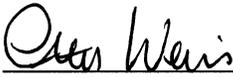
**RECOMMENDATION**

Staff recommends that the City Council adopt a resolution accepting \$638,915 in grant funds from the TransNet Senior Transportation Mini Grant Program, awarded to the City of Oceanside by SANDAG, to continue three senior transportation service programs; approve the appropriation of these funds to the Neighborhood Services Department; approve the related Grant Agreement with SANDAG; approve the related Amendment 2 to the Professional Services Agreement with American Logistics Company, increasing the contract price by \$90,038; and authorize the City Manager to execute the grant agreement and amendment.

PREPARED BY:

SUBMITTED BY:

  
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Megan Cooks  
Management Analyst

  
\_\_\_\_\_  
Peter A. Weiss  
City Manager

REVIEWED BY:

Michelle Skaggs-Lawrence, Deputy City Manager  
Margery Pierce, Neighborhood Services Director  
Teri Ferro, Financial Services Director

  
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Attachments: Grant Agreement  
Resolution  
Professional Services Agreement  
Amendment No. 2

***TransNet SENIOR TRANSPORTATION MINI-GRANT PROGRAM FISCAL YEAR 2009***

**GRANT AGREEMENT 5001100 BETWEEN  
THE SAN DIEGO ASSOCIATION OF GOVERNMENTS  
AND  
CITY OF OCEANSIDE  
REGARDING SOLUTIONS FOR SENIORS ON THE GO**

THIS GRANT AGREEMENT 5001100 is made this 1st day of July, 2009, by and between the San Diego Association of Governments (hereinafter referred to as "SANDAG"), 401 B Street, Suite 800, San Diego, CA, and City of Oceanside, 300 North Coast Highway, Oceanside, CA (hereinafter referred to as "Grantee").

**RECITALS**

The following recitals are a substantive part of this Agreement:

- A. In November 2004, the voters of San Diego County approved SANDAG Ordinance 04-01, which extended the *TransNet* ½ cent sales and use tax through 2048 (Extension Ordinance).
- B. The *TransNet* Extension Ordinance contains provisions for the creation of a Senior Transportation Mini-Grant Program (STMGP), initially funded by the Extension Ordinance on April 1, 2008.
- C. In May 2008, SANDAG issued a request for proposals from entities wishing to apply for a portion of the STMGP funds for use on specialized transportation services for seniors meeting certain criteria.
- D. Grantee successfully applied for STMGP funds for the following project: Solutions for Seniors on the Go (hereinafter referred to as the "Project").
- E. The purpose of this Agreement is to establish the terms and conditions for SANDAG to provide Grantee with funding to implement the Project.
- F. Although SANDAG will be providing financial assistance to Grantee to support a particular Project, SANDAG will not take an active role or retain substantial control of the Project.
- G. On September 26, 2008, the SANDAG Board of Directors approved funding for a list of *TransNet* Senior Mini-Grant Projects, including the one described in this Agreement. At this meeting, the Board also directed staff to conduct a reassessment of the program and evaluation criteria for the *TransNet* Senior Mini-Grant program. SANDAG staff's reassessment of the program and evaluation criteria for the *TransNet* Senior Mini-Grant program, which will be subject to Board approval, may result in funding changes to this Project beyond its first year.

- H. Grantee understands that *TransNet* funds derive from retail transactions and use tax revenues which are subject to fluctuate. SANDAG's funding commitment to Senior Mini-Grant Program Projects, including this Project, is subject to these fluctuations, which may impact funding availability for this Project.

NOW, THEREFORE, it is agreed as follows:

**Section 1. Definitions**

- A. **Application** means the signed and dated grant application, including any amendment thereto, with all explanatory, supporting, and supplementary documents filed with SANDAG by or on behalf of the Grantee and accepted or approved by SANDAG. All of Grantee's application materials, not in conflict with this Agreement, are hereby incorporated into this Agreement as though fully set forth herein.
- B. **Approval, Authorization, Concurrence, Waiver** means a conscious written statement (transmitted in typewritten hard copy or electronically) of a SANDAG official authorized to permit the Grantee to take or omit an action required by Agreement, which action may not be taken or omitted without such permission. Except to the extent that SANDAG determines otherwise in writing, such approval, authorization, concurrence, or waiver permitting the performance or omission of a specific action does not constitute permission to perform or omit other similar actions. An oral permission or interpretation has no legal force or effect.
- C. **Approved Project Budget** means the most recent statement of the costs of the Project, the maximum amount of assistance from SANDAG for which the Grantee is currently eligible, the specific tasks (including specific contingencies) covered, and the estimated cost of each task that has been approved by SANDAG.
- D. **Grantee** means that, even if a single organization within a legal entity has executed this Agreement as the Grantee, the entire legal entity is the Grantee. If the Grantee is a consortium, partnership, or other multi-party entity, each participant in, member of, or party to that consortium, partnership, or multi-party entity is deemed "Grantee" for purposes of compliance with applicable requirements of the Agreement for its Project.
- E. **Subgrantee** means any contractor or consultant, at any tier, paid directly or indirectly with funds flowing from this Agreement for the Project.

**Section 2. Project Implementation**

- A. **General.** The Grantee agrees to carry out the Project as follows:
  - 1. **Project Description.** Grantee agrees to perform the work as described in the Scope of Work attached as Exhibit A.
  - 2. **Effective Date.** The effective date of the Agreement or any Amendment thereto is the date first stated above. The Grantee agrees to undertake Project work promptly

after receiving notice that SANDAG has awarded Extension Ordinance funding for the Project.

3. **Grantee's Capacity.** The Grantee agrees to maintain or acquire sufficient legal, financial, technical, and managerial capacity to: (a) plan, manage, and complete the Project and provide for the use of any Project property; (b) carry out the safety and security aspects of the Project, and (c) comply with the terms of the Agreement and all applicable laws, regulations, and policies pertaining to the Project and the Grantee, including but not limited to the Extension Ordinance.
4. **Project Budget and Schedule.** The Grantee agrees to complete the Project within the Approved Project Budget, attached hereto as Exhibit B, and in a timely manner. SANDAG and the Grantee agree that milestone dates and other Project completion dates set forth in the Project Schedule attached hereto as Exhibit C are to be treated as good faith estimates rather than precise and firm legal requirements. However, Grantee must receive prior written approval from SANDAG's STMGP Project Manager to change, whether by advancing or extending, a milestone date more than thirty (30) calendar days.
5. **Project Management and Subcontracting.** The Grantee agrees to give SANDAG's STMGP Project Manager thirty (30) days' advance written notice of its intent to change its Project Manager, or to subcontract more than 30 percent of the Project.
6. **Application of Laws.** Should a federal or state law preempt a local law, regulation, or the Extension Ordinance, the Grantee must comply with the federal or state law and implementing regulations. No provision of the Agreement requires the Grantee to observe or enforce compliance with any provision, perform any other act, or do any other thing in contravention of federal, state, territorial, or local law, regulation, or ordinance. If compliance with any provision of the Agreement violates or would require the Grantee to violate any law, the Grantee agrees to notify SANDAG immediately in writing. Should this occur, SANDAG and the Grantee agree that they will make appropriate arrangements to proceed with or, if necessary, terminate the Project or portions thereof expeditiously.

**Public Utilities Commission Transportation Reimbursement Account Fees (PUCTRA).** Grantee is responsible for determining whether the Project, or any part of the Project, is subject to PUCTRA fees, and for paying PUCTRA fees if required. Public Utilities Code Section 421(b) requires the Public Utilities Commission (PUC) to establish annual fees that passenger stage corporations, charter-party carriers of passengers, vessel common carriers and for-hire vessel operators must pay. PUC Resolution TL-19095 sets the annual PUC Transportation Reimbursement Account (PUCTRA) fees for these entities for the period July 1, 2008 to June 30, 2009. Please see [www.puc.ca.gov](http://www.puc.ca.gov) for additional information regarding PUCTRA fees.

- B. **Significant Participation by a Subgrantee.** Although the Grantee may delegate any or almost all Project responsibilities to one or more subgrantees, the Grantee agrees that it, rather than any subgrantee, is ultimately responsible for compliance with all applicable laws, regulations, and this Agreement.

**C. Grantee's Responsibility to Extend Agreement Requirements to Other Entities**

1. **Entities Affected.** Grantee agrees to take appropriate measures necessary to ensure that all Project participants comply with all applicable Federal laws, regulations, and policies affecting Project implementation. In addition, if an entity other than the Grantee is expected to fulfill any responsibilities typically performed by the Grantee, the Grantee agrees to assure that the entity carries out the Grantee's responsibilities as set forth in this Agreement.
  2. SANDAG encourages Grantee to use a reasonably competitive bid and/or procurement process if Grantee uses Grant funds to procure goods or services. Grantee understands and agrees that the terms and conditions of this Agreement shall be passed through, and be binding upon, Grantee's third-party contractors.
  3. **Documents Affected.** The applicability provisions of laws, regulations, and policies determine the extent to which those provisions affect an entity (such as a subgrantee) participating in the Project through the Grantee. Thus, the Grantee agrees to use a written document to ensure that each entity participating in the Project complies with applicable laws, regulations, and policies.
    - a. **Required Clauses.** The Grantee agrees to use a written document (such as a subagreement, lease, third-party contract or other) including all appropriate clauses stating the entity's responsibilities under applicable laws, regulations, or policies.
    - b. **Flowdown.** The Grantee agrees to include in each document (subagreement, lease, third-party contract, or other) any necessary provisions requiring the Project participant (third-party contractor, subgrantee, or other) to impose applicable laws, Agreement requirements and directives on its subgrantees, lessees, third-party contractors, and other Project participants at the lowest tier necessary.
- D. **No SANDAG Obligations to Third Parties.** In connection with the Project, the Grantee agrees that SANDAG shall not be subject to any obligations or liabilities to any subgrantee, lessee, third-party contractor, or other person or entity that is not a party to the Agreement for the Project. Notwithstanding that SANDAG may have concurred in or approved any solicitation, subagreement, lease, or third-party contract at any tier, SANDAG has no obligations or liabilities to any entity other than the Grantee, including any subgrantee, lessee, or third-party contractor at any tier.
- E. **Changes in Project Performance** (i.e., Disputes, Breaches, Defaults, or Litigation). The Grantee agrees to notify SANDAG immediately, in writing, of any change in local law, conditions (including its legal, financial, or technical capacity), or any other event that may adversely affect the Grantee's ability to perform the Project in accordance with the terms of the Agreement. The Grantee also agrees to notify SANDAG immediately, in writing, of any current or prospective major dispute, breach, default, or litigation that may adversely affect SANDAG's interests in the Project; and agrees to inform SANDAG, also in writing, before naming SANDAG as a party to litigation for any reason, in any forum. At a minimum, the

Grantee agrees to send each notice to SANDAG required by this subsection to SANDAG's Office of General Counsel.

- F. **Standard of Care.** The Grantee expressly warrants that the work to be performed pursuant to this Agreement shall be performed in accordance with the applicable standard of care. Where approval by SANDAG, the Executive Director, or other representative of SANDAG, is indicated in the Scope of Work, it is understood to be conceptual approval only and does not relieve the Grantee of responsibility for complying with all laws, codes, industry standards, and liability for damages caused by negligent acts, errors, omissions, noncompliance with industry standards, or the willful misconduct of the Grantee or its subgrantees.

### Section 3. Ethics

- A. **Grantee Code of Conduct/Standards of Conduct.** The Grantee agrees to maintain a written code of conduct or standards of conduct that shall govern the actions of its officers, employees, board members, or agents engaged in the award or administration of subagreements, leases, or third-party contracts supported with *TransNet* Ordinance assistance. The Grantee agrees that its code of conduct or standards of conduct shall specify that its officers, Employees, board members, or agents may neither solicit nor accept gratuities, favors, or anything of monetary value from any present or potential subgrantee, lessee, or third-party contractor at any tier or agent thereof. Such a conflict would arise when an Employee, officer, board member, or agent, including any member of his or her immediate family, partner, or organization that employs, or intends to employ, any of the parties listed herein has a financial interest in the entity selected for award. The Grantee may set de minimis rules where the financial interest is not substantial, or the gift is an unsolicited item of nominal intrinsic value. The Grantee agrees that its code of conduct or standards of conduct shall also prohibit its officers, employees, board members, or agents from using their respective positions in a manner that presents a real or apparent personal or organizational conflict of interest or personal gain. As permitted by state or local law or regulations, the Grantee agrees that its code of conduct or standards of conduct shall include penalties, sanctions, or other disciplinary actions for violations by its officers, employees, board members, or their agents, or its third-party contractors or subgrantees or their agents.
1. **Personal Conflicts of Interest.** The Grantee agrees that its code of conduct or standards of conduct shall prohibit the Grantee's employees, officers, board members, or agents from participating in the selection, award, or administration of any third-party contract or subagreement supported by *TransNet* Ordinance Assistance if a real or apparent conflict of interest would be involved. Such a conflict would arise when an employee, officer, board member, or agent, including any member of his or her immediate family, partner, or organization that employs, or intends to employ, any of the parties listed herein has a financial interest in the firm selected for award.
  2. **Organizational Conflicts of Interest.** The Grantee agrees that its code of conduct or standards of conduct shall include procedures for identifying and preventing real and apparent organizational conflicts of interest. An organizational conflict of interest exists when the nature of the work to be performed under a proposed third-party contract or subagreement may, without some restrictions on future activities, result in

an unfair competitive advantage to the third-party contractor or subgrantee or impair its objectivity in performing the contract work.

- B. **SANDAG Code of Conduct.** SANDAG has established policies concerning potential conflicts of interest. These policies apply to Grantee. For all awards by SANDAG, any practices which might result in unlawful activity are prohibited, including but not limited to rebates, kickbacks, or other unlawful considerations. SANDAG staff is specifically prohibited from participating in the selection process when those staff have a close personal relationship, family relationship, or past (within the last 12 months), present, or potential business or STMG employment relationship with a person or business entity seeking a contract. It is unlawful for any contract to be made by SANDAG if any individual board member or staff has a prohibited financial interest in the contract. Staff is also prohibited from soliciting or accepting gratuities from any organization seeking funding from SANDAG. SANDAG's officers, Employees, agents, and board members shall not solicit or accept gifts, gratuities, favors, or anything of monetary value from consultants, potential consultants, or parties to subagreements. By signing this Agreement, Grantee affirms that it has no knowledge of an ethical violation by SANDAG staff or Grantee. If Grantee has any reason to believe a conflict of interest exists with regard to the Agreement or the Project, it should notify the SANDAG Office of General Counsel immediately.
- C. **Bonus or Commission.** The Grantee affirms that it has not paid, and agrees not to pay, any bonus or commission to obtain approval of its *TransNet* Ordinance Assistance application for the Project.
- D. **False or Fraudulent Statements or Claims.** The Grantee acknowledges and agrees that by executing the Agreement for the Project, the Grantee certifies or affirms the truthfulness and accuracy of each statement it has made, it makes, or it may make in connection with the Project.

#### **Section 4. Amount of Funding Assistance**

The Grantee agrees that SANDAG will provide *TransNet* Ordinance Assistance for the Project equal to the smallest of the following amounts: (a) "Maximum SANDAG Amount Approved" of \$638,915 (projected annual disbursements are: FY 09 - \$105,456; FY 10 - \$234,131; and FY 11 - \$299,328), or (b) the amount calculated in accordance with the "Maximum Percentage(s) of SANDAG Participation." SANDAG's responsibility to make payments under this Agreement is limited to the amounts listed in the Approved Project Budget for the Project. Grantee's estimate in its application for funding from SANDAG for the Project is the amount that forms the basis upon which SANDAG determines the "Maximum SANDAG Amount Awarded" and "Maximum Percentage(s) of SANDAG Participation." SANDAG's execution of this Agreement indicates its approval of the first year of funding only.

Notwithstanding the immediately preceding paragraph, Grantee understands that *TransNet* funds derive from retail transactions and use tax revenues which are subject to fluctuation. SANDAG's funding commitment to Senior Mini-Grant Program Projects, including this Project, is subject to these fluctuations, which may impact funding availability for this Project.

The method of payment for this Grant Agreement will be based upon actual allowable costs. SANDAG will reimburse the Grantee for expended actual allowable direct and indirect costs, including but not limited to labor costs, employee benefits, and travel (overhead is reimbursable only if the Grantee has an approved indirect cost allocation plan and prior written approval by SANDAG), and contracted consultant services costs incurred by the Grantee in performance of the Project work, not to exceed the cost reimbursement limitation set forth in this Section 4.

### **Section 5. Matching Funds**

A Grantee that has proposed to provide matching funds for the Project agrees as follows:

- A. **Duty to Obtain Matching Funds.** The Grantee agrees to provide sufficient funds or approved in-kind resources, together with the *TransNet* Ordinance Assistance awarded, that will assure payment of the actual cost of each Project activity covered by the Agreement for the Project. The amount of matching funds and percentage(s) of matching funds Grantee shall provide are set forth in the Approved Project Budget. The Grantee agrees to complete all proceedings necessary to provide its share of the Project costs at or before the time the matching funds are needed for Project costs.
- B. **Prompt Payment of Matching Funds.** The Grantee agrees to provide the proportionate amount of the matching funds promptly as it incurs Project costs or Project costs become due.
- C. **Reduction of Matching Funds.** The Grantee agrees that no refund or reduction of the amount of matching funds may be made unless, at the same time, a reduction of the proportional amount of the *TransNet* Ordinance Assistance provided is made to SANDAG in order to maintain the Maximum Percentage(s) of SANDAG Participation.

### **Section 6. Approved Project Budget**

Except to the extent that SANDAG determines otherwise in writing, the Grantee agrees as follows: The Grantee and SANDAG have agreed to a Project budget that is designated the "Approved Project Budget." The Grantee will incur obligations and make disbursements of Project funds only as authorized by the Approved Project Budget. An amendment to the Approved Project Budget requires the issuance of a formal amendment to the Agreement, except that re-allocation of funds among budget items or fiscal years that does not increase the total amount of the *TransNet* Ordinance Assistance awarded for the Project may be made consistent with applicable laws, regulations, and policies. Prior SANDAG approval is required for transfers of funds from non-construction to construction categories or vice versa or when, in non-construction grants, cumulative transfers of funds between total direct cost categories exceed ten (10) percent of the total budget.

### **Section 7. Payments**

- A. **Grantee's Request for Payment When Matching Funds Are Required.** The Grantee will demonstrate or certify that it will provide adequate matching funds that, when combined with payments from SANDAG, will cover all costs to be incurred for the Project. Except to the extent that SANDAG determines, in writing, that the Grantee may defer its provision of its

matching funds for the Project, a Grantee required under the terms of this Agreement to provide matching funds for the Project agrees that it will not:

1. Request or obtain matching funds exceeding the amount justified by the matching share previously provided, or
2. Take any action that would cause the proportion of *TransNet* Ordinance Assistance made available to the Project at any time to exceed the percentage authorized by the Grant Agreement or Cooperative Agreement for the Project.

B. **Payment by SANDAG.** Upon receiving a request for payment and adequate supporting information, SANDAG will make payment for eligible amounts to Grantee within 30 days if Grantee has complied with the requirements of the Agreement, has satisfied SANDAG that the *TransNet* Ordinance Assistance requested is needed for Project purposes in that requisition period, and is making adequate progress toward Project completion. After the Grantee has demonstrated satisfactory compliance with the preceding requirements, SANDAG may reimburse the Grantee's apparent allowable costs incurred (or to be incurred in the requisition period), as set forth in the Approved Project Budget for the Project.

C. **1.** "Adequate Supporting Information," as required above, before SANDAG will make payments for eligible amounts to Grantee include:

- a. A Progress Report detailing the tasks completed to date on the Project;
- b. Operating Data detailing the number of one-way trips provided, the number of passengers served, the number of vehicle trips provided, and any additional data requested by SANDAG; and
- c. An invoice summarizing the items in Paragraphs B(1)(a) and (b), including the total dollar value of the allowable costs incurred (or to be incurred in the requisition period).

D. **Costs Reimbursed.** The Grantee agrees that Project costs eligible for *TransNet* Ordinance Assistance must comply with all the following requirements. Except to the extent that SANDAG determines otherwise, in writing, to be eligible for reimbursement, Project costs must be:

1. Consistent with the Project Description, the Approved Project Budget, and other provisions of the Agreement;
2. Necessary in order to accomplish the Project;
3. Reasonable for the goods or services purchased;
4. Actual net costs to the Grantee (i.e., the price paid minus any refunds, rebates, or other items of value received by the Grantee that have the effect of reducing the cost actually incurred, excluding program income);
5. Incurred for work performed after the Effective Date of the Agreement;

6. Satisfactorily documented;
7. Treated consistently in accordance with accounting principles and procedures approved by SANDAG for the Grantee, (See Section 8, Accounting Records, below), and with accounting principles and procedures approved by the Grantee for its third-party contractors and subgrantees; and
8. Eligible for *TransNet* Ordinance Assistance as part of the STMGP.

**E. Excluded Costs**

1. In determining the amount of *TransNet* Ordinance Assistance SANDAG will provide for the Project, SANDAG will exclude:
  - a. Any Project cost incurred by the Grantee before the Effective Date of the Agreement or Amendment thereto;
  - b. Any cost that is not included in the latest Approved Project Budget;
  - c. Any cost for Project property or services received in connection with a subagreement, lease, third-party contract, or other arrangement that is required to be, but has not been, concurred in or approved in writing by SANDAG; and
  - d. Any cost ineligible for SANDAG participation as provided by applicable laws, regulations, or policies.
2. The Grantee understands and agrees that payment to the Grantee for any Project cost does not constitute SANDAG's final decision about whether that cost is allowable and eligible for payment under the Project and does not constitute a waiver of any violation by the Grantee of the terms of the Agreement for the Project. The Grantee acknowledges that SANDAG will not make a final determination about the allowability and eligibility of any cost until the final payment has been made on the Project or the results of an audit of the Project requested by SANDAG has been completed, whichever occurs latest. If SANDAG determines that the Grantee is not entitled to receive any portion of the *TransNet* Ordinance Assistance requested or paid, SANDAG will notify the Grantee in writing, stating its reasons. The Grantee agrees that Project closeout will not alter the Grantee's responsibility to return any funds due SANDAG as a result of later refunds, corrections, or other similar transactions; nor will Project closeout alter SANDAG's right to disallow costs and recover funds provided for the Project on the basis of a later audit or other review. Once SANDAG has made a final determination about the allowability and eligibility of project costs, after exhausting the terms of this Section 7, GRANTEE shall have no obligation to refund or return any funds to SANDAG approved for the project.
- 3.

**F. Excess Payments, Disallowed Costs, including Interest**

1. **Grantee's Responsibility to Pay.** Upon notification to the Grantee that specific amounts are owed to SANDAG, whether for excess payments of *TransNet* Ordinance Assistance, disallowed costs, or funds recovered from third parties or elsewhere, the Grantee agrees to remit to SANDAG promptly the amounts owed, including applicable interest, penalties, and administrative charges.

## **Section 8. Accounting Records**

In compliance with applicable laws, regulations, and policies, the Grantee agrees as follows:

- A. **Project Accounts.** The Grantee agrees to establish and maintain for the Project either a separate set of accounts or separate accounts within the framework of an established accounting system that can be identified with the Project. The Grantee also agrees to maintain all checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents related in whole or in part to the Project so that they may be clearly identified, readily accessible, and available to SANDAG upon request and, to the extent feasible, kept separate from documents not related to the Project.
- B. **Documentation of Project Costs and Program Income.** Except to the extent that SANDAG determines otherwise, in writing, the Grantee agrees to support all costs charged to the Project, including any approved services or property contributed by the Grantee or others, with properly executed payrolls, time records, invoices, contracts, or vouchers describing in detail the nature and propriety of the charges, including adequate records to support the costs the Grantee has incurred underlying any payment SANDAG has agreed to participate in based upon a "payable" milestone.

## **Section 9. Reporting, Record Retention, and Access**

- A. **Types of Reports.** The Grantee agrees to submit to SANDAG all reports required by laws and regulations, policies, the Agreement, and any other reports SANDAG may specify.
- B. **Report Formats.** The Grantee agrees that all reports and other documents or information intended for public availability developed in the course of the Project and required to be submitted to SANDAG must be prepared and submitted in electronic and or typewritten hard copy formats as SANDAG may specify. SANDAG reserves the right to specify that records be submitted in particular formats.
- C. **Record Retention.** During the course of the Project and for three years thereafter from the date of transmission of the final expenditure report, the Grantee agrees to maintain, intact and readily accessible, all data, documents, reports, records, contracts, and supporting materials relating to the Project as SANDAG may require.
- D. **Access to Records of Grantees and Subgrantees.** The Grantee agrees to permit, and require its subgrantees to permit, SANDAG or its authorized representatives, upon request, to inspect all Project work, materials, payrolls, and other data, and to audit the books, records, and accounts of the Grantee and its subgrantees pertaining to the Project; provided,

however, that Grantee shall not be required to disclose confidential information regarding program participants, consistent with applicable state and/or federal law.

- E.
- F. **Project Closeout.** The Grantee agrees that Project closeout does not alter the reporting and record retention requirements of this Agreement.
- G. **Progress Reports.** It shall be the responsibility of Grantee to advise SANDAG of the progress of its work, expenditures incurred, and information regarding whether the Project is projected to comply with the fee payment schedule and Project budget limits. The progress report shall be submitted in writing to SANDAG with each request for payment. Grantee shall document the progress and results of work performed under this Agreement to the satisfaction of SANDAG and, if applicable, to the satisfaction of any government agency as directed by SANDAG. This may include progress and final reports, plans, specifications, estimates, or other evidence of attainment of the Agreement objectives, which are requested by SANDAG or the Independent Taxpayers' Oversight Committee (ITOC). Grantee may be required to attend meetings of SANDAG staff and committees, including ITOC, to report on its progress and respond to questions.

#### **Section 10. Project Completion, Audit, Settlement, and Closeout**

- A. **Project Completion.** Within ninety (90) calendar days following Project completion or termination by SANDAG, the Grantee agrees to submit a final certification of Project expenses and audit reports, as applicable.
- B. **Audit of Grantees.** The Grantee agrees to have performed financial and compliance audits SANDAG may require. If performed, these financial and compliance audits must comply with the provisions of OMB Circular A-133, Revised, "Audits of States, Local Governments, and Non-Profit Organizations," the latest OMB A-133 Compliance Supplement for U.S. DOT, and any further revision or supplement thereto. The Grantee also agrees to obtain any other audits required by SANDAG. The Grantee agrees that these audits will be conducted in accordance with U.S. Government Accountability Office, (U.S. GAO) "Government Auditing Standards." The Grantee agrees that Project closeout will not alter the Grantee's audit responsibilities. Audit costs are allowable Project costs.
- C. **Project Closeout.** Project closeout occurs when SANDAG notifies the Grantee that SANDAG has closed the Project, and either forwards the final *TransNet* Ordinance Assistance payment or acknowledges that the Grantee has remitted the proper refund. The Grantee agrees that Project closeout by SANDAG does not invalidate any continuing requirements imposed by the Agreement or any unmet requirements set forth in a written notification from SANDAG.

#### **Section 11. Timely Progress and Right of SANDAG to Terminate**

- A. Grantee shall make diligent and timely progress toward completion of the Project within the timelines set forth in the Project Schedule (Exhibit C). If timely progress is not achieved, SANDAG may review the status of the Project to determine if the funds should be reallocated

to another eligible project. Grantee understands and agrees that any failure to make reasonable progress on the Project or violation of the Agreement that endangers substantial performance of the Project shall provide sufficient grounds for SANDAG to terminate the Agreement for the Project.

- B. Upon written notice, the Grantee agrees that SANDAG may suspend or terminate all or any part of the *TransNet* Ordinance Assistance to be provided for the Project if the Grantee has violated the terms of the Agreement, or if SANDAG determines that the purposes of the laws or policies authorizing the Project would not be adequately served by the continuation of *TransNet* Ordinance Assistance for the Project.
- C. In general, termination of *TransNet* Ordinance Assistance for the Project will not invalidate obligations properly incurred by the Grantee before the termination date to the extent those obligations cannot be canceled. If, however, SANDAG determines that the Grantee has willfully misused *TransNet* Ordinance Assistance by failing to make adequate progress, failing to make reasonable and appropriate use of Project property, or failing to comply with the terms of the Agreement, SANDAG reserves the right to require the Grantee to refund the entire amount of *TransNet* Ordinance Assistance provided for the Project or any lesser amount as SANDAG may determine.
- D. Expiration of any Project time period established in the Project Schedule will not, by itself, automatically constitute an expiration or termination of the Agreement for the Project, however, Grantee must request and SANDAG must agree to amend the contract if the Project Schedule will not be met. An amendment to the Project Schedule may be made at SANDAG's discretion if Grantee provides documentation that the Project is delayed due to factors external to the control of Grantee.

## **Section 12. Civil Rights**

The Grantee agrees to comply with all applicable civil rights laws, regulations and policies. These include but are not limited to the following:

- A. **Nondiscrimination** – Title VI of the Civil Rights Act. The Grantee agrees to comply, and assures the compliance of each subgrantee, lessee, or third-party contractor at any tier of the Project, with all provisions prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d et seq.
- B. **Equal Employment Opportunity.** Grantee agrees to take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, disability, age, or national origin. Such action shall include but not be limited to employment, upgrading, demotions or transfers, recruitment or recruitment advertising, layoffs or terminations, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

### **Section 13. Ownership of Work Product**

SANDAG shall own any deliverables created in whole or in part for SANDAG's benefit pursuant to the Scope of Work for the Project. The term "deliverables" includes but is not limited to all original drawings, reports, and other documents, including detailed calculations and other work product developed for the Project or services performed on the Project.

### **Section 14. Disputes and Venue**

- A. **Choice of Law.** This Agreement shall be interpreted in accordance with the laws of the State of California.
- B. **Dispute Resolution Process.** In the event Grantee has a dispute with SANDAG during the performance of this Agreement, Grantee shall continue to perform unless SANDAG informs Grantee in writing to cease performance. The dispute resolution process for disputes arising under this Agreement shall be as follows:
1. Grantee shall submit a statement of the grounds for the dispute, including all pertinent dates, names of persons involved, and supporting documentation, to SANDAG's Project Manager. The Project Manager and other appropriate SANDAG staff will review the documentation in a timely manner and reply to Grantee within 20 days. Upon receipt of an adverse decision by SANDAG, Grantee may submit a request for reconsideration to SANDAG's Executive Director. The request for reconsideration must be received within 10 days from the postmark date of SANDAG's reply. The Executive Director will respond to the request for reconsideration within 10 working days. The decision of the Executive Director will be final and in writing.
  2. If Grantee is dissatisfied with the results following exhaustion of the above dispute resolution procedures, Grantee shall make a written request to SANDAG for mediation. SANDAG shall respond to a request for mediation within thirty (30) calendar days. If SANDAG agrees mediation is appropriate, a mutually-acceptable mediator shall be selected by the parties, and the parties will proceed to mediation of the dispute.
- C. **Venue.** If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of San Diego, State of California. In the event of any such litigation between the parties, the prevailing party shall be entitled to recover all reasonable costs incurred, including reasonable attorney's fees, litigation and collection expenses, witness fees, and court costs as determined by the court.

### **Section 15. Assignment**

The Grantee agrees that Grantee shall not assign, sublet, or transfer (whether by assignment or novation) this Agreement or any rights under or interest in this Agreement without the written consent of SANDAG, which may be withheld for any reason, provided however, that claims for money due to Grantee from SANDAG under this Agreement may be assigned to a bank, trust company or other financial institution without such approval. Notice of such assignment or transfer shall be promptly furnished to SANDAG in writing.

## Section 16. Insurance

Grantee shall procure and maintain during the period of performance of this Agreement, and for 12 months following completion, policies of insurance from insurance companies authorized to do business in the State of California or the equivalent types and amounts of self-insurance, as follows:

- A. **General Liability.** Combined single limit of \$1,000,000 per occurrence and \$2,000,000 general aggregate for personal and bodily injury, including death, and broad form property damage. The policy must include an acceptable "Waiver of Transfer Rights of Recovery Against Others Endorsement." The policy must name SANDAG as an additional insured in the endorsement. A deductible or retention may be utilized, subject to approval by SANDAG.
- B. **Automobile Liability.** For personal and bodily injury, including death, and property damage in an amount not less than \$1,000,000.
- C. **Workers' Compensation and Employer's Liability.** Policy must comply with the laws of the State of California. The policy must include an acceptable "Waiver of Right to Recover From Others Endorsement" naming SANDAG as an additional insured.
- D. **Other Requirements.** Grantee shall furnish satisfactory proof by one or more certificates (original copies) that it has the foregoing insurance. The insurance shall be provided by an acceptable insurance provider, as determined by SANDAG, which satisfies the following minimum requirements:
  - 1. An insurance carrier qualified to do business in California and maintaining an agent for service of process within the state. Such insurance carrier shall maintain a current A.M. Best rating classification of "A-" or better, and a financial size of "\$10 million to \$24 million (Class V) or better," or
  - 2. A Lloyds of London program provided by syndicates of Lloyds of London and other London insurance carriers, providing all participants are qualified to do business in California and the policy provides for an agent for service of process in California.
  - 3. Certificates of insurance shall be filed with SANDAG. These policies shall be primary insurance as to SANDAG so that any other coverage held by SANDAG shall not contribute to any loss under Grantee's insurance. Each insurance policy shall contain a clause which provides that the policy may not be canceled without first giving thirty (30) days advance written notice to SANDAG. For purposes of this notice requirement, any material change in the policy prior to its expiration shall be considered a cancellation.

## Section 17. Indemnification and Hold Harmless

- A. **Generally.** With regard to the Grantee's performance in connection with or incidental to the Project, the Grantee agrees to defend, indemnify, protect, and hold SANDAG and its agents, officers and Employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to the

Grantee's or its subgrantees' Employees, agents, or officers, which arise from or are connected with or are caused or claimed to be caused by the negligent, reckless, or willful acts or omissions of the Grantee and its subgrantees and their agents, officers, or Employees, in performing the work or services herein, and all expenses of investigating and defending against same, including attorney fees and costs; provided, however, that the Grantee's duty to indemnify and hold harmless shall not include any claims or liability arising from the established sole negligence or willful misconduct of SANDAG, its agents, officers, or Employees.

- B. **Intellectual Property.** Upon request by SANDAG, the Grantee agrees to indemnify, save, and hold harmless SANDAG and its officers, agents, and Employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Grantee of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under the Project. The Grantee shall not be required to indemnify SANDAG for any such liability caused solely by the wrongful acts of SANDAG Employees or agents.

#### **Section 18. Independent Contractor**

- A. **Status of Grantee.** Grantee shall perform the services provided for within this Agreement as an independent contractor, and not as an Employee of SANDAG. Grantee shall be under the control of SANDAG as to the result to be accomplished and not the means, and shall consult with SANDAG as provided for in the Scope of Work. The payment made to Grantee pursuant to this Agreement shall be the full and complete compensation to which Grantee is entitled. SANDAG shall not make any federal or state tax withholdings on behalf of Grantee. SANDAG shall not be required to pay any workers' compensation insurance on behalf of Grantee. Grantee agrees to indemnify SANDAG for any tax, retirement contribution, Social Security, overtime payment, or workers' compensation payment which SANDAG may be required to make on behalf of Grantee or any Employee of Grantee for work done under this Agreement.
- B. **Actions on behalf of SANDAG.** Except as SANDAG may specify in writing, Grantee shall have no authority, express or implied, to act on behalf of SANDAG in any capacity whatsoever, as an agent or otherwise. Grantee shall have no authority, express or implied, to bind SANDAG or its members, agents, or Employees, to any obligation whatsoever, unless expressly provided in this Agreement.

#### **Section 19. Integration**

This Agreement represents the entire understanding of SANDAG and Grantee as to those matters contained in it. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing, signed by SANDAG and the Grantee.

**Section 20. Severability**

If any provision of the Agreement is determined invalid, the remainder of that Agreement shall not be affected if that remainder would continue to conform to the requirements of applicable laws or regulations.

**Section 21. Notice**

Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, registered or certified, postage prepaid, addressed to:

San Diego Association of Governments  
401 B Street, Suite 800  
San Diego, CA 92101  
Attn: Danielle Kochman

Grantee:  
City of Oceanside  
300 North Coast Highway  
Oceanside, CA 92054  
Attn: Megan Crooks

and shall be effective upon receipt thereof.

**Section 22. Signatures**

The individuals executing this Agreement represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

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

SAN DIEGO ASSOCIATION  
OF GOVERNMENTS

CITY OF OCEANSIDE

\_\_\_\_\_  
**ROBERT A. LEITER**  
Director of Land Use & Transportation  
Planning

\_\_\_\_\_  
**PETER A. WEISS**  
City Manager

APPROVED AS TO SUFFICIENCY OF FORM  
AND LEGALITY:

  
\_\_\_\_\_  
**Office of General Counsel**

**EXHIBIT A  
SCOPE OF WORK**

***TransNet Senior Mini-Grant Program***

**Solutions for Seniors on the Go**

The following is a brief summary of the services that SANDAG expects the organization will implement:

**Task #1: Expand *Seniors on the Go***

Description: Provide flexible options to mitigate senior transportation needs by expanding the *Seniors on the Go* program.

- Offer three flexible options: curb-to-curb taxi script subsidies, door-to-door shuttle transportation, and door-through-door volunteer driver/destination assistance transportation.
- Expand the service area boundaries, number of seniors served, and the number of annual trips.
- Expand delivery of service by fifty (50) miles per volunteer each year, with an additional ten (10) volunteers each year.

**Task #2: Publish brochure**

Description: Publish a brochure providing information on local transportation options and cross-promote all transportation services in the Tri-City area (Oceanside, Carlsbad, and Vista) and all volunteer programs in the region.

**Task #3: Coordination**

Description: Coordinate rides and resources with other agencies.

- Conduct one joint volunteer driver training session with the San Diego Volunteer Driver Coalition every year.
- Research potentially using financial resources to contract services of another social service agency.

**Task #4: Contract Out to a Central Management System**

Description: Contract services of another local, non-profit transportation service provider to transition services under one central management system.

**Task #5: Hire Transportation Specialist**

Description: Hire a new integrative position that encompasses the duties of the Management Analyst and Project Manager.

**Task #6: Marketing**

Description: Promote public awareness of the program.

- Market in the City of Oceanside Magazine and Senior Center newsletters.
- Publish several press releases.
- Produce Public Service Announcement to be broadcast on the local government station, KOCT.

**Task #7: Collaborate with FACT**

Description: Collaborate with Full Access & Coordinated Transportation (FACT) as a community partner to provide a larger focus on coordinating and working towards more efficient transportation methods.

- Participate in FACT's one-call access and centrally-dispatched coordinated transportation system.
- Support the vision and mission of FACT.
- Promote FACT activities in agency/organization newsletters and other materials.
- Attend FACT events upon invitation as the schedule allows.

**Task #8: Support Volunteer Driver Coalition**

Description: Continue to support the San Diego County Volunteer Driver Coalition's goals and members.

- Share its current and future resources and knowledge with other coalition members.
- Participate in developing tools, materials, and grant applications created by the coalition.
- Implement standardized procedures according to the coalition.

**Task #9: Monitor the Program**

- Conduct formal assessments and report results to the Senior Citizens Commission quarterly.
- Report data collected to the SANDAG Project Manager with invoices.

**EXHIBIT B**  
**APPROVED PROJECT BUDGET AND PAYMENT SCHEDULE**

Invoices will be provided to SANDAG on either a monthly or quarterly basis, at Grantee's option, covering the costs of the work done by Task during that time period.

**Project Budget:****Total Budget**

<b>Expense Items 09-11</b>	<b>Senior Mini Grant</b>	<b>Matching Funds</b>	<b>Fares</b>	<b>Combined</b>
Shuttle Service	\$363,802.00	\$87,664.20	\$70,156.80	\$521,623.00
Taxi Scrip	\$115,377.80	\$18,773.00	\$76,003.20	\$210,154.00
Volunteer Driver Service	\$86,235.00	\$141,315.00	\$0.00	\$227,550.00
Combined "solutions" print materials	\$16,000.00	\$0.00	\$0.00	\$16,000.00
Combined "solutions" Specialist position (FY 10-11)	\$57,500.00	\$57,500.00	\$0.00	\$115,000.00
<b>Total</b>	<b>\$638,915</b>	<b>\$305,252.20</b>	<b>\$146,160.00</b>	<b>\$1,090,327.00</b>

**FY 2009 Budget**

<b>Expense Items FY 09</b>	<b>Senior Mini Grant</b>	<b>Matching Funds</b>	<b>Fares</b>	<b>Total Combined</b>
Shuttle Service	\$29,601.00	\$60,437.20	\$18,028.80	\$108,067.00
Taxi Scrip	\$40,286.80	\$0.00	\$19,531.20	\$59,818.00
Volunteer Driver Service	\$30,568.00	\$13,682.00	\$0.00	\$44,250.00
Combined "solutions" print materials	\$5,000.00	\$0.00	\$0.00	\$5,000.00
<b>Total</b>	<b>\$105,455.80</b>	<b>\$74,119.20</b>	<b>\$37,560.00</b>	<b>\$217,135.00</b>

**FY 2010 Budget**

<b>Expense Items FY 10</b>	<b>Senior Mini Grant</b>	<b>Matching Funds</b>	<b>Fares</b>	<b>Total Combined</b>
Shuttle Service	\$145,901.00	\$12,379.00	\$23,616.00	\$181,896.00
Taxi Scrip	\$34,483.00	\$8,621.00	\$25,584.00	\$68,688.00
Volunteer Driver Service	\$21,747.00	\$52,553.00	\$0.00	\$74,300.00
Combined "solutions" print materials	\$5,000.00	\$0.00	\$0.00	\$5,000.00
Combined "solutions" Specialist position (FY 10-11)	\$27,000.00	\$27,000.00	\$0.00	\$54,000.00
<b>Total</b>	<b>\$234,131</b>	<b>\$100,553.00</b>	<b>\$49,200.00</b>	<b>\$383,884.00</b>

**FY 2011 Budget**

<b>Expense Items FY 11</b>	<b>Senior Mini Grant (70%)</b>	<b>Matching Funds (30%)</b>	<b>Fares</b>	<b>Total Combined</b>
Shuttle Service	\$188,300.00	\$14,848.00	\$28,512.00	\$231,660.00
Taxi Scrip	\$40,608.00	\$10,152.00	\$30,888.00	\$81,648.00
Volunteer Driver Service	\$33,920.00	\$75,080.00	\$0.00	\$109,000.00
Combined "solutions" print materials	\$6,000.00	\$0.00	\$0.00	\$6,000.00
Combined "solutions" Specialist position (FY 10-11)	\$30,500.00	\$30,500.00	\$0.00	\$61,000.00
<b>Total</b>	<b>\$299,328</b>	<b>\$130,580.00</b>	<b>\$59,400.00</b>	<b>\$489,308.00</b>



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RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE ACCEPTING SENIOR TRANSPORTATION MINI GRANT PROGRAM FUNDS FROM THE TRANSNET ½ CENT SALES TAX EXTENSION ORDINANCE IN THE AMOUNT OF \$638,915 AND CERTIFYING THE SOLUTIONS FOR SENIORS ON THE GO PROGRAM TO BE CARRIED OUT UNDER THE TERMS IN GRANT AGREEMENT 5001100 ENTERED INTO WITH THE SAN DIEGO ASSOCIATION OF GOVERNMENTS (SANDAG)

WHEREAS, the TransNet ½ cent sales and use tax was extended through 2048 by voters of San Diego County in November 2004;

WHEREAS, the TransNet Extension Ordinance contains provisions for the creation of a senior Transportation Mini-grant Program (STMGP);

WHEREAS, the City of Oceanside has been awarded \$638,915 from STMGP for the continuance of the Solutions for Seniors on the Go Program for senior transportation services, with a match requirement of \$305,252;

WHEREAS, the City of Oceanside and the San Diego Association of Governments will enter into a Grant Agreement (Contract No. 5001100) outlining the terms and conditions pursuant to which the Solutions for Seniors on the Go Program shall be implemented;

WHEREAS, the senior residents over the age of 65 years will benefit from the continuance of the Solutions for Seniors on the Go Program as a source of senior transportation;

NOW, THEREFORE, the City Council of the City of Oceanside does resolve as follows:

SECTION 1. The Senior Transportation Mini-grant Funds from the TransNet Extension Ordinance in the amount of \$638,915 are accepted and will be budgeted to the Neighborhood Services Department.

SECTION 2. The City of Oceanside has reviewed, understands and approves the terms and conditions contained in the Grant Agreement, Contract No. 5001100.

SECTION 3. The City of Oceanside has or will have available the required matching funds or approved in-kind resources of \$305,252 to carry out the terms and conditions

1 contained in the Grant Agreement, Contract No. 5001100.

2 SECTION 4. The City of Oceanside will provide certification by resolution to  
3 SANDAG, should matching funds be reduced or become unavailable.

4 SECTION 5. The City Manager or his designee is appointed as agent of the City to  
5 conduct all negotiations, execute and submit all documents including, but not limited to,  
6 applications, agreements, and payment requests, which may be necessary for the completion of  
7 the Solutions for Seniors on the Go funded under the Senior Transportation Mini-grant from  
8 TransNet.

9  
10 PASSED AND ADOPTED by the City Council of the City of Oceanside, California,  
11 this \_\_\_\_\_ day of \_\_\_\_\_, 2009 by the following vote:

- 12 AYES:
- 13 NAYS:
- 14 ABSENT:
- 15 ABSTAIN:
- 16
- 17

18 \_\_\_\_\_  
19 Mayor Of The City Of Oceanside

20  
21 ATTEST:

22 APPROVED AS TO FORM:

23  
24 \_\_\_\_\_  
25 City Clerk

26  
27   
28 \_\_\_\_\_  
City Attorney

## CITY OF OCEANSIDE

### **AMENDMENT NO. 2 TO THE PROFESSIONAL SERVICES AGREEMENT** **BY AND BETWEEN THE CITY OF OCEANSIDE AND** **AMERICAN LOGISTICS COMPANY**

THIS AMENDMENT NUMBER TWO (2) TO PROFESSIONAL SERVICES AGREEMENT (hereinafter "AMENDMENT") dated July 1, 2009 for identification purposes is made and entered into by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter called "CITY", and the AMERICAN LOGISTICS COMPANY, hereinafter designated as "CONTRACTOR".

#### RECITALS

WHEREAS, CITY and CONTRACTOR are parties to that certain AGREEMENT dated October 3, 2007, as amended by Amendment No. 1 dated January 27, 2009, hereinafter referred to as the "AGREEMENT", for the provision of shuttle services to Oceanside seniors, age 65 years and older.

WHEREAS, CITY and CONTRACTOR agree that senior transportation is an essential service provided under the terms of the AGREEMENT and is needed to promote the independence of Oceanside senior residents.

WHEREAS, CITY has received grant funds to continue the services rendered under the AGREEMENT.

WHEREAS, the parties wish to expand the scope of services and extend the time for CONTRACTOR to provide the senior shuttle services described in the AGREEMENT.

#### AMENDMENT

NOW, THEREFORE, in consideration of which, and for other valuable consideration set forth herein, the parties hereto do mutually agree that the AGREEMENT be amended as follows:

1. Section 1, SCOPE OF WORK, is hereby amended by adding subsection 1.1.A., Term, as follows:

1.1.A. Term. CONTRACTOR agrees to continue scope of work for the term of July 1, 2009 through June 30, 2010 or until all funds are expended, whichever occurs first.

2. Section 6, COMPENSATION, is hereby amended by adding subsection 6.1., Additional Compensation, as follows:

6.1. Additional Compensation. CONTRACTOR'S compensation for all work performed in accordance with the AGREEMENT is increased by \$90,038, for a total contract price of \$228,338.

3. Section 4.4 is hereby amended by adding the San Diego Association of Governments

("SANDAG") as an additional insured in said section, so that it reads as follows:

All insurance companies affording coverage to the CONTRACTOR for the purposes of this Section shall add the City of Oceanside and the San Diego Association of Governments ("SANDAG") as "additional insured" under the designated insurance policy for all work performed under this agreement. Insurance coverage provided to the City and SANDAG as additional insured shall be primary insurance, and other insurance maintained by the City of Oceanside and SANDAG, their officers, agents, and employees shall be excess only and not contributing with insurance provided pursuant to this Section.

4. Except as expressly set forth in this AMENDMENT, the AGREEMENT shall remain in full force and effect and is hereby ratified and reaffirmed.

**SIGNATURES.** The individuals executing this Amendment represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Amendment on behalf of the respective legal entities of the CONTRACTOR and the CITY.

IN WITNESS WHEREOF the parties hereto being duly authorized on behalf of their respective entities to execute this Amendment, do hereby agree to the covenants contained in the AGREEMENT, including this Amendment, and have caused this Amendment to be executed by setting hereunto their signatures this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

AMERICAN LOGISTICS COMPANY

By:   
Craig Puckett, President

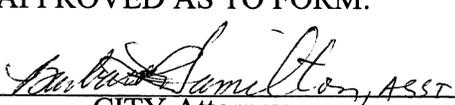
By:   
Shawna Casey, Assistant Treasurer

204583766  
Employer ID No.

CITY OF OCEANSIDE

By: \_\_\_\_\_  
Peter A. Weiss  
City Manager

APPROVED AS TO FORM:

  
CITY Attorney

**NOTARY ACKNOWLEDGMENTS OF CONTRACTOR MUST BE ATTACHED.**

# CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of ORANGE

On JUNE 18, 2009 before me, CATHLEEN L. PEREZ, NOTARY PUBLIC,  
(Here insert name and title of the officer)

personally appeared CRAIG PUCKETT

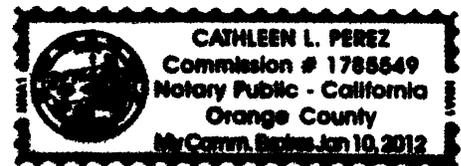
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s),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

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

WITNESS my hand and official seal.

Cathleen L. Perez  
Signature of Notary Public

(Notary Seal)



## ADDITIONAL OPTIONAL INFORMATION

### INSTRUCTIONS FOR COMPLETING THIS FORM

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  - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

### DESCRIPTION OF THE ATTACHED DOCUMENT

\_\_\_\_\_  
(Title or description of attached document)

\_\_\_\_\_  
(Title or description of attached document continued)

Number of Pages \_\_\_\_\_ Document Date \_\_\_\_\_

\_\_\_\_\_  
(Additional information)

### CAPACITY CLAIMED BY THE SIGNER

- Individual (s)  
 Corporate Officer

\_\_\_\_\_  
(Title)

- Partner(s)  
 Attorney-in-Fact  
 Trustee(s)  
 Other \_\_\_\_\_

# CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Orange

On June 19, 2009 before me, Juan Perez  
(Here insert name and title of the officer)

personally appeared Shawna Casey

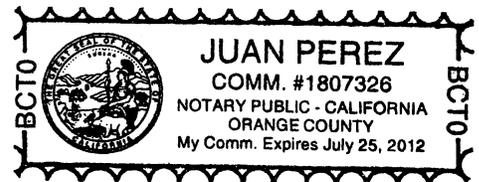
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s),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

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

WITNESS my hand and official seal.

[Signature]  
Signature of Notary Public

(Notary Seal)



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\_\_\_\_\_  
(Title)

- Partner(s)  
 Attorney-in-Fact  
 Trustee(s)  
 Other \_\_\_\_\_

**CITY OF OCEANSIDE**

**AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT  
BY AND BETWEEN THE CITY OF OCEANSIDE AND  
AMERICAN LOGISTICS COMPANY**

THIS AMENDMENT NUMBER ONE (1) TO PROFESSIONAL SERVICES AGREEMENT (hereinafter "AMENDMENT") dated January 27, 2009 for identification purposes is made and entered into by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter called "CITY", and the AMERICAN LOGISTICS COMPANY, hereinafter designated as "CONTRACTOR".

**RECITALS**

WHEREAS, CITY and CONTRACTOR are parties to that certain AGREEMENT dated October 3, 2007, hereinafter referred to as the "AGREEMENT", for the provision of shuttle services to Oceanside seniors, age 65 years and older.

WHEREAS, CITY and CONTRACTOR agree that senior transportation is an essential service provided under the terms of the AGREEMENT and is needed to promote the independence of Oceanside senior residents.

WHEREAS, CITY has received grant funds to continue the services rendered under the AGREEMENT.

WHEREAS, the parties wish to expand the scope of services and extend the time for CONTRACTOR to provide the senior shuttle services described in the AGREEMENT.

**AMENDMENT**

NOW, THEREFORE, in consideration of which, and for other valuable consideration set forth herein, the parties hereto do mutually agree that the AGREEMENT be amended as follows:

1. Section 1, SCOPE OF WORK, is hereby amended by adding subsection 1.1.A., Term, and 1.6.A., Boundaries, as follows:

1.1.A. Term. CONTRACTOR agrees to continue scope of work on a month-to-month basis through June 30, 2009 or until all funds are expended, whichever occurs first.

1.6.A. Boundaries. Trips to medical facilities outside of the City limits shall include the following location:

a. Naval Hospital Camp Pendleton

2. Section 6, COMPENSATION, is hereby amended by adding subsection 6.1., Additional Compensation, as follows:

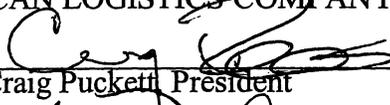
6.1. Additional Compensation. CONTRACTOR'S compensation for all work performed in accordance with the AGREEMENT is increased by \$23,300, for a total contract price of \$138,300.

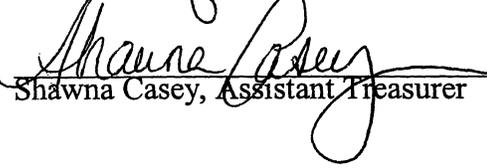
3. Except as expressly set forth in this AMENDMENT, the AGREEMENT shall remain in full force and effect and is hereby ratified and reaffirmed.

**SIGNATURES.** The individuals executing this Amendment represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Amendment on behalf of the respective legal entities of the CONTRACTOR and the CITY.

IN WITNESS WHEREOF the parties hereto being duly authorized on behalf of their respective entities to execute this Amendment, do hereby agree to the covenants contained in the AGREEMENT, including this Amendment, and have caused this Amendment to be executed by setting hereunto their signatures this 18th day of January 2009.

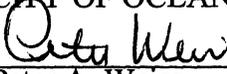
AMERICAN LOGISTICS COMPANY

By:   
Craig Puckett, President

By:   
Shawna Casey, Assistant Treasurer

\_\_\_\_\_  
Employer ID No.

CITY OF OCEANSIDE

By:   
Peter A. Weiss  
City Manager

APPROVED AS TO FORM:

, AGST.  
CITY Attorney

**NOTARY ACKNOWLEDGMENTS OF CONTRACTOR MUST BE ATTACHED.**

# CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Orange

On January 22, 2009 before me, Juan Perez  
(Here insert name and title of the officer)

personally appeared Craig Pockett and Shawna Casey

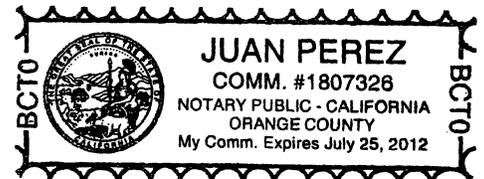
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s),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

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

WITNESS my hand and official seal.

[Signature]  
Signature of Notary Public

(Notary Seal)



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- Securely attach this document to the signed document

**CITY OF OCEANSIDE**

**PROFESSIONAL SERVICES AGREEMENT**

**PROJECT: SENIOR SHUTTLE PROGRAM**

THIS AGREEMENT is made and entered into this 3<sup>rd</sup> day of October, 2007, by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and AMERICAN LOGISTICS COMPANY, hereinafter designated as "CONTRACTOR."

**NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:**

1. **SCOPE OF WORK.** The project is more particularly described as follows:  
CONTRACTOR shall provide on-demand, senior transportation services for the Senior Shuttle Program Monday through Friday for seniors and disabled clients age 65 years and over that live in Oceanside inclusive of reservation call in-take, call-outs, dispatch service, coordination of vehicle drivers, coding of transportation destinations, and statistical and clientele reports. The scope of work may be changed in writing, upon agreement by both parties after a two-month evaluation of service.
  - 1.1 Term. Services shall be provided under this Agreement from October 1, 2007 through September 30, 2008. In the event that all funds are not used within the one-year term and funds are still available, the agreement may continue on a month-to-month basis until all funds are expended.
  - 1.2 Shuttle Services. CONTRACTOR shall ensure that a minimum of two vehicles are dedicated to the Senior Shuttle Program each day of service through sub-contracted drivers. Shuttle service shall be available Monday through Friday from 7:00 a.m. to 6:00 p.m. Drivers shall provide excellent customer service. CONTRACTOR shall ensure that all drivers will allow any service animal to ride in vehicles with client. Drivers shall provide a door-to-door service both at pick-up and drop-off; clients shall not be expected to wait at the curb. CONTRACTOR shall discourage drivers from accepting tips.
  - 1.3 Dispatch Services. CONTRACTOR will provide dispatchers that will provide reservation call in-take as well as call-outs to clients and dispatch calls to drivers. Dispatch service shall be available Monday through Friday from 7:00 a.m. to 6:00 p.m. CITY shall notify CONTRACTOR on a monthly basis, on or before the 20<sup>th</sup> of each month, of how many reservations shall be made available each day for the following month. CONTRACTOR shall begin services not exceeding a total of 276 one-way trips per month with half of the available trips being made available to non-ambulatory

## **Senior Shuttle Program**

clients. CONTRACTOR shall ensure that dispatchers will seek necessary accommodations of clients at time of reservation so that appropriate vehicles may be dispatched. CONTRACTOR will accept reservations from one-week in advance up to twenty-four (24) hours prior to reservation date. Same day reservations will be accepted on an as-available basis and are not guaranteed. Clients may cancel a reservation up to twenty-four (24) hours in advance with no charge to the City.

**1.4 Pricing.** CONTRACTOR shall invoice CITY on a monthly basis to the following address:

City of Oceanside Neighborhood Services Department  
Attn: Senior Shuttle Program  
300 N. Coast Highway  
Oceanside, CA 92054

All pricing shall be based on one-way transportation trips as well as a mileage rate based on a Mapquest-fastest route rounded up to the nearest whole mile. If a client does not cancel a reservation and declines service at the reservation time, the reservation will be considered a “no show” and the City will be billed the service charge. There is no co-pay to be made to CONTRACTOR in the event of a “no-show”. CONTRACTOR shall charge clients a co-pay to be paid to the driver in cash at time of pick-up for each one-way service and shall deduct that co-pay from the invoice to CITY. Prices for services are as follows:

Ambulatory Service Charge	\$14.50
Non-ambulatory Service Charge	\$27.00
Ambulatory No Show Fee	\$14.50
Non-ambulatory No Show Fee	\$27.00
Per mile rate	\$2.50
Client Co-Pay	\$5.00

**1.5 Eligibility.** CITY shall be responsible for determining the eligibility of a client, registering the client and providing CONTRACTOR with a spreadsheet of registered clients at contract commencement as well as on a weekly basis. CITY shall note dialysis clients on spreadsheet to ensure timed-call return trips.

**1.6 Boundaries.** All shuttle services shall remain in the City of Oceanside City limits with the exception of medical facilities. Trips to medical facilities may be outside of City limits to the following locations:

- a. Tri-City Medical Center and nearby facilities along Thunder Drive and Vista Way up to Emerald Drive,
- b. Scripps Memorial Hospital and Clinic Campus in Encinitas (310 Santa Fe Drive) and nearby facilities within the 300 block of Santa Fe Drive, and
- c. Kaiser Permanente Medical offices located in Carlsbad at 6860 Avenida Encinas.

## Senior Shuttle Program

1.7 Reporting. CONTRACTOR shall provide to CITY on a monthly basis a report consisting of no-show client data and destination statistics. CONTRACTOR shall provide to CITY any and all documentation that may be required for CITY's grant funding compliance. At the request of CITY, CONTRACTOR shall attend any advisor meetings necessary on a quarterly basis.

2. **INDEPENDENT CONTRACTOR.** CONTRACTOR'S relationship to the CITY shall be that of an independent contractor. CONTRACTOR shall have no authority, express or implied, to act on behalf of the CITY as an agent, or to bind the CITY to any obligation whatsoever, unless specifically authorized in writing by the City Manager. CONTRACTOR shall be solely responsible for the performance of any of its employees, agents, or subcontractors under this Agreement. CONTRACTOR shall report to the CITY any and all employees, agents, and contractors performing work in connection with this project, and all shall be subject to the approval of the CITY.

3. **WORKERS' COMPENSATION.** Pursuant to Labor Code section 1861, the CONTRACTOR hereby certifies that the CONTRACTOR is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and the CONTRACTOR will comply with such provisions, and provide certification of such compliance as a part of this Agreement.

4. **LIABILITY INSURANCE.**

4.1. CONTRACTOR shall, throughout the duration of this Agreement maintain comprehensive general liability and property damage insurance, or commercial general liability insurance, covering all operations of CONTRACTOR, its agents and employees, performed in connection with this Agreement including but not limited to premises and automobile.

4.2 CONTRACTOR shall maintain liability insurance in the following minimum limits:

Comprehensive General Liability Insurance  
(bodily injury and property damage)

Combined Single Limit Per Occurrence	\$ 1,000,000
General Aggregate	\$ 2,000,000*

Commercial General Liability Insurance  
(bodily injury and property damage)

## **Senior Shuttle Program**

General limit per occurrence	\$ 1,000,000
General limit project specific aggregate	\$ 2,000,000
<u>Automobile Liability Insurance</u>	\$ 1,000,000

\*General aggregate per year, or part thereof, with respect to losses or other acts or omissions of CONTRACTOR under this Agreement.

- 4.3** If coverage is provided through a Commercial General Liability Insurance policy, a minimum of 50% of each of the aggregate limits shall remain available at all times. If over 50% of any aggregate limit has been paid or reserved, the CITY may require additional coverage to be purchased by the CONTRACTOR to restore the required limits. The CONTRACTOR shall also notify the CITY'S Project Manager promptly of all losses or claims over \$25,000 resulting from work performed under this contract, or any loss or claim against the CONTRACTOR resulting from any of the CONTRACTOR'S work.
- 4.4** All insurance companies affording coverage to the CONTRACTOR for the purposes of this Section shall add the City of Oceanside as "additional insured" under the designated insurance policy for all work performed under this agreement. Insurance coverage provided to the City as additional insured shall be primary insurance and other insurance maintained by the City of Oceanside, its officers, agents, and employees shall be excess only and not contributing with insurance provided pursuant to this Section.
- 4.5** All insurance companies affording coverage to the CONTRACTOR pursuant to this agreement shall be insurance organizations admitted by the Insurance Commissioner of the State of California to transact business of insurance in the state or be rated as A-X or higher by A.M. Best.
- 4.6** All insurance companies affording coverage shall provide thirty (30) days written notice to the CITY should the policy be cancelled before the expiration date. For the purposes of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.
- 4.7** CONTRACTOR shall provide evidence of compliance with the insurance requirements listed above by providing a Certificate of Insurance, in a form satisfactory to the City Attorney, concurrently with the submittal of this Agreement.
- 4.8** CONTRACTOR shall provide a substitute Certificate of Insurance no later than thirty (30) days prior to the policy expiration date. Failure by the CONTRACTOR to provide such a substitution and extend the policy expiration date shall be

## Senior Shuttle Program

considered a default by CONTRACTOR and may subject the CONTRACTOR to a suspension or termination of work under the Agreement.

4.9 Maintenance of insurance by the CONTRACTOR as specified in this Agreement shall in no way be interpreted as relieving the CONTRACTOR of any responsibility whatsoever and the CONTRACTOR may carry, at its own expense, such additional insurance as it deems necessary.

5. **CONTRACTOR'S INDEMNIFICATION OF CITY.** CONTRACTOR shall indemnify and hold harmless the CITY and its officers, agents and employees against all claims for damages to persons or property arising out of the conduct, negligent acts, errors or omissions or wrongful acts of conduct of the CONTRACTOR, or its employees, agents, subcontractors, or others in connection with the execution of the work covered by this Agreement, except for those claims arising from the willful misconduct, sole negligence or active negligence of the CITY, its officers, agents, or employees. CONTRACTOR'S indemnification shall include any and all costs, expenses, attorneys' fees, expert fees and liability assessed against or incurred by the CITY, its officers, agents, or employees in defending against such claims or lawsuits, whether the same proceed to judgment or not. Further, CONTRACTOR at its own expense shall, upon written request by the CITY, defend any such suit or action brought against the CITY, its officers, agents, or employees resulting or arising from the conduct, tortious acts or omissions of the CONTRACTOR.

CONTRACTOR'S indemnification of CITY shall not be limited by any prior or subsequent declaration by the CONTRACTOR.

6. **COMPENSATION.** CONTRACTOR'S compensation for all work performed in accordance with this Agreement, shall not exceed the total contract price of \$115,000.

All work performed by CONTRACTOR shall comply with all requirements of CITY's, grant and CONTRACTOR agrees to all provisions stated on the Assurances Form, Exhibit A to this Agreement.

No work shall be performed by CONTRACTOR in excess of the total contract price without prior written approval of the City Manager. CONTRACTOR shall obtain approval by the Manager prior to performing any work, which results in incidental expenses to CITY.

7. **TERMINATION.** CITY may terminate this Agreement with a thirty-day (30) written notice to CONTRACTOR due to any unforeseen loss of funding. Either party may terminate the Agreement at any time with a thirty-day (30) written notice.

**Senior Shuttle Program**

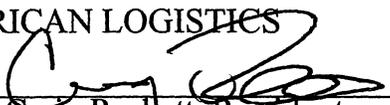
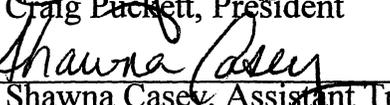
- 8. **ENTIRE AGREEMENT.** This Agreement comprises the entire integrated understanding between CITY and CONTRACTOR concerning the work to be performed for this project and supersedes all prior negotiations, representations, or agreements.
  
- 9. **INTERPRETATION OF THE AGREEMENT.** The interpretation, validity and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. The Agreement does not limit any other rights or remedies available to CITY.

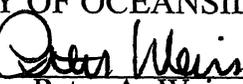
The CONTRACTOR shall be responsible for complying with all local, state, and federal laws whether or not said laws are expressly stated or referred to herein.

Should any provision herein be found or deemed to be invalid, the Agreement shall be construed as not containing such provision, and all other provisions, which are otherwise lawful, shall remain in full force and effect, and to this end the provisions of this Agreement are severable.

- 10. **AGREEMENT MODIFICATION.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by the parties hereto.
  
- 11. **SIGNATURES.** The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the CONTRACTOR and the CITY.

IN WITNESS WHEREOF the parties hereto for themselves, their heirs, executors, administrators, successors, and assigns do hereby agree to the full performance of the covenants herein contained and have caused this Professional Services Agreement to be executed by setting hereunto their signatures this 3<sup>rd</sup> day of October, 2007.

AMERICAN LOGISTICS  
By:   
Craig Puckett, President  
By:   
Shawna Casey, Assistant Treasurer  
20-4583786  
Employer ID No.

CITY OF OCEANSIDE  
By:   
Peter A. Weiss, City Manager  
APPROVED AS TO FORM:  
  
City Attorney

**NOTARY ACKNOWLEDGMENTS OF CONTRACTOR MUST BE ATTACHED.**

# CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of CA )

County of Orange )

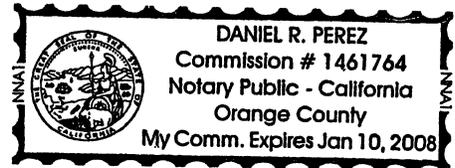
On September 11, 2007 before me, Daniel R. Perez, Notary Public  
(here insert name and title of the officer)

personally appeared Craig Puckett & Shawna Casey

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

WITNESS my hand and official seal.

Daniel R. Perez  
Signature of Notary Public



(Seal)

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\_\_\_\_\_

(Additional information)

**CAPACITY CLAIMED BY THE SIGNER**

Individual (s)

Corporate Officer

\_\_\_\_\_

(Title)

Partner(s)

Attorney-in-Fact

Trustee(s)

Other \_\_\_\_\_

### **ASSURANCES FORM**

CONTRACTOR assures CITY that it will comply with all of the requirements in the below paragraphs with regard to The Genentech Foundation grant.

- 1. Use of Funds.** Grantee shall use the grant funds only for the purposes of the specific project described above. Grantee shall repay to the Foundation any portion of the grant funds that is not spent or committed for these purposes. Any significant changes in the purposes for which grant funds are spent must be approved in writing by the Foundation before the funds are spent.
- 2. Reporting.** To enable the Foundation to evaluate the effectiveness of this grant, Grantee shall submit to the Foundation a written report for any annual accounting period during which Grantee receives, hold, or spends any of the grant funds. The report shall contain: (1) a description of the progress that Grantee has made toward achieving the purposes for which this grant was made; (2) a financial accounting of the expenditure of grant funds prepared in accordance with generally accepted accounting principals ("GAAP"); (3) copies of any publications resulting from the grant; and (4) a report on Grantee's compliance with the terms of this Agreement. If more than one report is required, the final report shall outline Grantee's use of all grant funds and charitable activities from the date of the disbursement of this grant until Grantee expended the last of the grant funds. Reports are due to the Foundation 90 days after the close of the Grantee's applicable accounting period.
- 3. Recordkeeping.** Grantee shall maintain books to show the grant funds separately. All expenditures made in furtherance of the purposes of the grant shall be charged off against the grant and shall appear on Grantee's books. Grantee shall keep adequate records to substantiate its expenditures of grant funds. Grantee shall make these books and records available to the foundation at reasonable times for review and audit, and shall comply with all reasonable requests of the Foundation for information and interviews regarding use of grant funds. Grantee shall keep copies of all relevant books and records and all reports to the Foundation for at least four years after completion of the use of the grant funds.
- 4. not applicable.**
- 5. Prohibited uses.** Grantee shall not use any portion of the funds granted:
  - a.** To attempt to influence legislation, within the meaning of Section 4945(d)(1) of the Internal Revenue Code ("IRC"), as interpreted by its accompanying regulation;
  - b.** To influence the outcome of any specific election for candidates to public office, or to carry on, directly or indirectly, a voter

registration drive within the meaning of IRC Section 4945(d)(2), as interpreted by its accompanying regulation;

- c. To make a grant to an individual which does not comply with IRC Section 4945(d)(3), or to an organization which does not comply with Section 4945(d)(4);
- d. To undertake an activity for any purpose other than a religious, charitable, scientific, literary, educational, or other purpose specified in IRC Section 170©(2)(B); or
- e. To induce or encourage violations of law or public policy, to cause any private inurement or improper private benefit to occur, or to take any other action inconsistent with IRC Section 501(c)(3).

**6. not applicable.**

**7. not applicable.**

**8. not applicable.**

**9. Publications; License.** Any information contained in publications, studies, or research funded by this grant shall be made available to the public following such reasonable requirements or procedures as the Foundation may establish from time to time. Grantee grants to the Foundation a perpetual, irrevocable, nonexclusive and royalty free license to publish, disseminate and use in any manner any publications, studies, or research funded by this grant, at its sole discretion.

**10.No Agency.** Grantee is solely responsible for all activities supported by the grant funds, the content of any product created with the grant funds, and the manner in which any such product may be disseminated. This Agreement shall not create any agency relationship, partnership, or joint venture between the parties, and Grantee shall make no such representation to anyone.

Print: Craig Puckett for American Logistics  
Transportation Provider Authorized Representative

Sign: [Signature] Date: 9-11-07

# ACORD CERTIFICATE OF LIABILITY INSURANCE

OP ID WY  
AMER116

DATE (MM/DD/YYYY)  
11/01/07

PRODUCER  
SU Insurance Serv. of Irvine  
BA of Norton Ins. Srvc., Inc.  
Corporate Park, Suite #170  
Irvine CA 92606-5164  
Phone: 949-419-2100 Fax: 949-419-0491

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

**INSURERS AFFORDING COVERAGE**

NAIC #

INSURER A: **Scottsdale Insurance Co**

INSURER B:

INSURER C:

INSURER D:

INSURER E:

American Logistics Company LLC  
520 W. Dyer Road  
Santa Ana CA 92707

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CLASSIFICATION	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	<input checked="" type="checkbox"/> GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LDC	TBD	11/13/07	10/01/08	EACH OCCURRENCE	\$ 2,000,000
					DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 50,000
					MED EXP (Any one person)	\$ 5,000
					PERSONAL & ADV INJURY	\$ 2,000,000
					GENERAL AGGREGATE	\$ 2,000,000
					PRODUCTS - COMP/OP AGG	\$ 2,000,000
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	CAS0084136	08/18/07	08/18/08	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
					BODILY INJURY (Per person)	\$
					BODILY INJURY (Per accident)	\$
					PROPERTY DAMAGE (Per accident)	\$
	<input type="checkbox"/> GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT	\$
					OTHER THAN AUTO ONLY: EA ACC	\$
					AGG	\$
	<input type="checkbox"/> EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				EACH OCCURRENCE	\$
					AGGREGATE	\$
						\$
						\$
	<input type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY <input type="checkbox"/> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below <input type="checkbox"/> OTHER				WC STATUTORY LIMITS	OTHER
					E.L. EACH ACCIDENT	\$
					E.L. DISEASE - EA EMPLOYEE	\$
					E.L. DISEASE - POLICY LIMIT	\$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS  
 THE CITY OF OCEANSIDE, ITS OFFICERS, AGENTS AND EMPLOYEES ARE NAMED  
 ADDITIONAL INSURED UNDER THE AUTO AND GENERAL LIABILITY AS RESPECTS  
 OPERATIONS OF THE NAMED INSURED.

\*10-DAY NOTICE OF CANCELLATION FOR NON-PAYMENT OF PREMIUM.  
 This certificate supercedes previously issued certificate.

**CERTIFICATE HOLDER**

CITOFOC

CITY OF OCEANSIDE  
 ATTN: SENIOR SHUTTLE PROGRAM  
 300 N. COAST HIGHWAY  
 OCEANSIDE CA 92054

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL \*30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

*Michael Scanlon*