ITEM NO. 11

STAFF REPORT

CITY OF OCEANSIDE

DATE: January 16, 2013

TO: Honorable Mayor and City Councilmembers

FROM: Development Services Department

SUBJECT: **RESOLUTION AUTHORIZING AN APPLICATION FOR SMART GROWTH INCENTIVE PROGRAM GRANT PROGRAM FUNDS FOR THE COAST HIGHWAY CORRIDOR STUDY THROUGH THE SAN DIEGO ASSOCIATION OF GOVERNMENTS**

SYNOPSIS

Staff recommends that the City Council adopt a resolution authorizing the City to submit an application for the Smart Growth Incentive Program Grant Program (SGIP) for the Coast Highway Corridor Study; and authorize the City Manager to execute all necessary grant documents.

BACKGROUND

The San Diego Association of Governments (SANDAG) has put out a call seeking competitive bids for SGIP grant program to fund transportation-related infrastructure improvements and planning efforts that support smart growth development. Funding for the approximately $9.6 million SGIP grant program comes from the TransNet half-cent sales tax program.

The funds will be apportioned to capital and non-capital projects as follows:

- $7.68 million, or 80 percent of the funds, for capital projects
- $1.92 million, or 20 percent of the funds, for planning projects

The goal of the SGIP is to fund comprehensive public infrastructure projects and planning activities that will facilitate compact, mixed-use development focused around public transit, and that will increase housing and transportation choices. The projects funded under this program will serve as models for how modest investments in infrastructure and planning can make smart growth an asset to communities around the region.

The SGIP grant program and SANDAG require a resolution from the City Council authorizing the application for grant funds, and naming the City Manager to submit the application and to sign and execute grant documents, agreements and assurances, if a grant award is made by SANDAG. The City is an eligible applicant for the grant program and the project listed below is an eligible activity for funding.

ANALYSIS

The City of Oceanside intends to apply for a total of $400,000 in grant funds through the SGIP grant program for the Coast Highway Corridor Study. The proposed project is for the preparation of a planning document to assess the Coast Highway Corridor as a two-lane arterial as it relates to the land uses recommended in the Coast Highway Vision and Strategic Plan. If approved, Development Services staff would manage this program.

The SGIP grant program does not require matching funds; however, in providing matching and/or in-kind contributions, grant applications will receive "bonus points" when being scored by SANDAG. Since matching funds are not required as part of the grant applications, it would be beneficial for the City to provide these funds. The amount of matching funds and/or in-kind contributions were determined by staff, and are the amounts needed to complete the project, as there is a maximum amount of available grant funds allocated by SANDAG. The City is seeking $400,000 in capital SGIP grant program funds and will provide $100,000 in matching funds.

FISCAL IMPACT

The SGIP grant program through SANDAG does not require matching funds; however, $100,000 in matching funds is available within the $4.2 million in TransNet funds (212.4121.0005) programmed by SANDAG for FY 2013-14. If Oceanside is successful in winning the grant, staff will prepare a resolution for the City Council's approval to move up to $100,000 in programming authorization to the Coast Highway Corridor Study. The project budget and spending authorization will then be included in the City's FY 2013-14 CIP budget.

COMMISSION OR COMMITTEE REPORT

Does not apply.

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 authorizing the City to submit an application for the Smart Growth Incentive Program Grant Program (SGIP) for the Coast Highway Corridor Study; and authorize the City Manager to execute all necessary grant documents.

PREPARED BY:

for David DiPierro
City Traffic Engineer

SUBMITTED BY:

Peter A. Weiss
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager

George Buell, Development Services Director

Scott O. Smith, City Engineer

Teri Ferro, Financial Services Director

Attachments:

Resolution
Smart Growth Incentive Program Grant Program Agreement

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE AUTHORIZING THE FILING OF AN APPLICATION FOR SMART GROWTH INCENTIVE PROGRAM GRANT PROGRAM FUNDS THROUGH THE SAN DIEGO ASSOCIATION OF GOVERNMENTS FOR THE COAST HIGHWAY CORRIDOR STUDY; AND ACCEPTING THE TERMS OF THE GRANT AGREEMENT.

WHEREAS, $9.6 million of TransNet funding for capital and planning smart growth incentive program projects is available to local jurisdictions and the County of San Diego from Fiscal Year 2011-2012; and

WHEREAS, City of Oceanside wishes to receive $400,000 in Smart Growth Incentive Grant funds for the following project: Coast Highway Corridor Study; and

WHEREAS, City of Oceanside understands that the Smart Growth Incentive Grant Program funding is fixed at the programmed amount, and therefore project cost increases that exceed the grant awarded will be the sole responsibility of the grantee; and

WHEREAS, City of Oceanside agrees to complete the proposed grant project within a timely matter and in compliance with Board Policy No. 035.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Oceanside that City staff is authorized to submit an application to SANDAG Smart Growth Incentive Grant Program funding in the amount of $400,000 for Coast Highway Corridor Study; and

BE IT FURTHER RESOLVED that, if a grant award is made by SANDAG to fund the Coast Highway Corridor Study, the City Council of the City of Oceanside commits to providing $100,000 of in-kind contributions and authorizes City of Oceanside staff to accept the grant funds, execute a grant agreement with SANDAG, with no exceptions, and complete the Coast Highway Corridor Study.

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PASSED AND ADOPTED by the City Council of the City of Oceanside, California, this _____day of _____, 2013, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

_____
MAYOR OF THE CITY OF OCEANSIDE

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE AUTHORIZING THE FILING OF AN APPLICATION FOR SMART GROWTH INCENTIVE PROGRAM GRANT PROGRAM FUNDS THROUGH THE SAN DIEGO ASSOCIATION OF GOVERNMENTS FOR THE COAST HIGHWAY CORRIDOR STUDY; AND ACCEPTING THE TERMS OF THE GRANT AGREEMENT.

FOR INFORMATION ONLY – DO NOT FILL OUT

***TRANSNET* SMART GROWTH INCENTIVE GRANT PROGRAM**

FISCAL YEAR 2011 – 2012 - 2013

GRANT AGREEMENT [AGREEMENT NUMBER] BETWEEN THE SAN DIEGO ASSOCIATION OF GOVERNMENTS AND [INSERT AGENCY/JURISDICTION NAME] REGARDING [INSERT FULL PROJECT TITLE]

THIS GRANT AGREEMENT [AGREEMENT NUMBER] ("Agreement") is made this [Day] day of [Month], 2012, by and between the San Diego Association of Governments (hereinafter referred to as "SANDAG"), 401 B Street, Suite 800, San Diego, California, and the [Grant Recipient and Address] (hereinafter referred to as "Grantee"). This agreement expires on [Month] [Day], [Year].

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 Extension Ordinance contains provisions to fund the Smart Growth Incentive Program (SGIP), which funding began on April 1, 2008.

C. The SGIP is commonly referred to, herein, as the "Smart Growth Incentive" grant program (SGIP).

The SANDAG Board of Directors also approved programming of approximately $[insert new updated amount for the call for project which generated THIS grant award/agreement] million in TransNet funds [insert new future date when BOD approved action described in this recital] by Resolution Number [insert Reso number].

D. On [insert updated future date], SANDAG issued a Call for Projects from local jurisdictions in San Diego County wishing to apply for a portion of the SGIP Funding/ TransNet Funds for use on capital improvement and planning projects meeting certain criteria.

E. Both SGIP Funding and TransNet funds were eligible funding sources for the SGIP.

F. Grantee successfully applied for SGIP Funding for the following project: [Insert Project Name/Description] (hereinafter referred to as the "Project"). The scope of work, schedule, and budget for the Project is attached as Attachment A.

G. The purpose of this Agreement is to establish the terms and conditions for SANDAG to provide Grantee with funding to implement the Project.

Contracts Staff: Before finalizing this agreement for internal SharePoint routing please obtain from SANDAG Finance and Planning staff the *TransNet* MPO ID required to complete Recital H, below. Thank you.

H. Grantee's Project is funded with [insert dollar values for Extension Ordinance funding, e.g. $268,000) in Extension Ordinance funds]. *TransNet* MPO ID _____.

I. Although SANDAG will be providing financial assistance to Grantee to support the Project, SANDAG will not be responsible for Project implementation or hold any substantial control of the Project.

NOW, THEREFORE, it is agreed as follows:

Section 1. Definitions

A. **Application.** 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. **Agreement.** This Grant Agreement, together with all Attachments hereto, which are hereby incorporated into this Agreement and contain additional terms and conditions that are binding upon the parties.

C. **Approval, Authorization, Concurrence, Waiver**. A 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 this Agreement, which action may not be taken or omitted without such written 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. (See also Notice to Proceed, below at paragraph I in this Section 1.)

D. **Approved Project Budget.** 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. The Approved Project Budget is attached hereto as a section of Attachment A.

E. **SGIP Funds and Funding**. Funding from the *TransNet* Extension Ordinance for the Smart Growth Incentive Program (SGIP).

F. **Grantee**. The local jurisdiction that is the recipient of SGIP Funding under this Agreement. If the Grantee enters into agreements with other parties to assist with the implementation of the Project, each participant in, member of, or party to that agreement is deemed a "subgrantee" and for purposes of compliance with applicable requirements of the Agreement for its Project will be treated as a Grantee.

Note to SANDAG Contracts Staff: Please complete Section G. "Maximum Percentage of SANDAG Participation" only if grantee committed matching funds in its grant application. If grantee did not commit matching funds in its application, please delete Section G, and adjust the Section letters, below, accordingly. If grantee did commit matching funds, please delete Paragraph G, and complete Paragraph H, below. After selecting either Paragraph G or H, below, please adjust the remaining Paragraph letters accordingly. Thank you.

G. **Maximum Percentage of SANDAG Participation**. Grantee submitted an application and was evaluated based on its representation that it would provide matching funds for the Project. Grantee agrees to provide ___% of the Approved Project Budget as matching funds from resources other than the *TransNet funds*. Therefore, the maximum percentage that SANDAG will pay Grantee for amounts invoiced under this Agreement is ___%, or $___, whichever is the lesser of these two amounts.

H. **Maximum SANDAG Contribution**. Grantee submitted an application and was evaluated based on its representation that it would abide by a budget for the Project, which has been finalized and attached to this Agreement as the Approved Project Budget (included in Attachment A). Based on the Approved Project Budget, the maximum amount of SGIP funding SANDAG will pay to Grantee for amounts invoiced under this Agreement is $___, or ___% of the Approved Project Budget, whichever is the lesser of these two amounts.

I. **Notice to Proceed** means a written notice from SANDAG issued to the Grantee authorizing the Grantee to proceed with all or a portion of the work described in the scope of work. Grantee shall not proceed with the work and shall not be eligible to receive payment for work performed prior to SANDAG's issuance of a Notice to Proceed.

J. **Subgrantee.** Any contractor or consultant, at any tier, paid directly or indirectly with funds flowing from this Agreement for the Project.

K. **Term.** The Term of this Agreement begins on the date SANDAG issues the Notice to Proceed and ends on the last date indicated in the Project Schedule, (Attachment A), unless amended consistent with the terms of this Agreement and SANDAG's Board Policy No. 035, as amended.

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 Project Description/Scope of Work attached as Attachment A.

2. **Effective Date.** The effective date of this Agreement or any amendment hereto is the date on which this Agreement or an amendment is fully executed. The Grantee agrees to undertake Project only after receiving a written Notice to Proceed from SANDAG.

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 Schedule.** The Grantee agrees to complete the Project according to the Project Schedule attached hereto as a section of Attachment A and in compliance with SANDAG Board Policy No. 035 ("Competitive Grant Program Procedures")), as amended, attached hereto as Attachment B.

5. **Project Implementation and Oversight**. Grantee agrees to comply with the Project Implementation and Oversight Requirements attached hereto as Attachment C and SANDAG Board Policy No. 035 as amended. Additionally, if Grantee hires a consultant to carry out professional services, funded under this Agreement, Grantee shall: prepare an Independent Cost Estimate (ICE) prior to soliciting proposals; publicly advertise for competing proposals for the work; use cost as an evaluation factor in selecting the consultant; document a Record of Negotiation (RON) establishing that the amount paid by Grantee for the consultant services is fair and reasonable; and pass through the relevant obligations in this Agreement to the consultant. if Grantee hires a contractor to carry out construction services funded under this Agreement, Grantee shall: prepare an ICE, (e.g., a construction cost estimate), prior to soliciting bids; publicly advertise for competing bids for the work; award the work to the lowest responsive and responsible bidder; document a RON establishing that the amount paid by Grantee for the construction services is fair and reasonable; and pass through the relevant obligations in this Agreement to the contractor.

6. **Changes to Project's Scope of Work.** This Agreement was awarded to Grantee based on the application submitted by Grantee, which contained representations by Grantee regarding project parameters, project proximity to transit, and other criteria relevant to evaluating and ranking the Project based on SANDAG SGIP scoring criteria. Any substantive deviation from Grantee's representations in the Project Justification during project implementation may require reevaluation or result in loss of funding. If Grantee knows or should know that substantive changes in the Project Justification have occurred or will occur, Grantee will immediately notify SANDAG in writing. SANDAG will then determine whether the Project is

still consistent with the overall objectives of the SGIP Program and that the changes would not have negatively affected the Project ranking during the competitive grant evaluation process. SANDAG reserves the right to have SGIP Funding withheld from, or refunded to SANDAG from Grantee due to Grantee's failure to satisfactorily complete the Project or due to substantive changes to the Project Justification. See Section 9, paragraph F of this Agreement regarding amendments to the Scope of Work.

B. **Application of Laws** Should a federal or state law pre-empt a local law, regulation, or the *TransNet* Ordinance, the Grantee must comply with the federal or state law and implementing regulations. No provision of this Agreement requires the Grantee to observe or enforce compliance with any provision, perform any other act, or do any other task in contravention of federal, state, territorial, or local law, regulation, or ordinance. If compliance with any provision of this 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.

C. **Notice Regarding Prevailing Wages** SANDAG's SGIP Grants are funded with *TransNet* revenues consistent with the *TransNet* Extension Ordinance adopted by the voters in November 2004 (SANDAG Ordinance 04-01). Although SANDAG Ordinance 04-01 does not require payment of prevailing wages, a recent appellate court case (Asuza Land Partners v. Department of Industrial Relations 191 Cal. App. 4th 1 [2010]), may require that *TransNet*-funded public works projects pay prevailing wages for workers. Before entering into a grant agreement with SANDAG, grantees are strongly encouraged to seek legal counsel regarding whether the Asuza case will subject the grant project to prevailing wage laws consistent with Labor Code Section 1720 *et seq.* This Grant Agreement requires Grantee's compliance with all federal, state, and local laws and ordinances as applicable.

D. **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.

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

1. **Entities Affected.** 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. **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.

3. **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.

4. **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.

F. **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.

G. **Changes in Project Performance**. 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 and as required by SANDAG Board Policy No. 035 (Competitive Grant Program Procedures). 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. Grantee further agrees to comply with the procedures set forth in SANDAG Board Policy No. 035 attached hereto as Attachment B if it anticipates a delay in performance.

H. **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, its 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.

I. **Anti-Discrimination Laws**. SANDAG implements its programs without regard to income level, disability, race, color, and national origin in compliance with the Americans with Disabilities Act and Title VI of the Civil Rights Act. Grantee shall prohibit discrimination on these grounds, and utilize a process for addressing complaints of discrimination. Furthermore, Grantee shall make the procedures for filing a complaint available to members of the public upon request and will notify SANDAG immediately if a complaint is lodged that relates to the project or program funded by this grant.

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, council or board members, or agents engaged in the award or administration of subagreements, leases, or third-party contracts supported with SGIP Funding. 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, council or 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, council or board members, or agents from participating in the selection, award, or administration of any third-party contract or subagreement supported by SGIP Funding 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 are 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 employment relationship with a person or business entity seeking a contract with SANDAG. 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 are 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 SGIP Funding application for the Project.

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, including, but not limited to, the Grantee's grant application, progress reports and invoices.

Section 4. 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 SGIP Funding awarded for the Project may be made by SANDAG's Project Manager consistent with applicable laws, regulations, and policies. Prior written SANDAG Project Manager approval is required for transfers of funds between Approved Project Budget line items.

Section 5. Payments

A. **Funding Commitment.** The Grantee agrees that SANDAG's maximum commitment for Project Costs will not exceed the Maximum SANDAG Contribution of $___. SANDAG's responsibility to the County of San Diego to make payments under this Agreement is limited to the amounts listed in the Approved Project Budget for the Project. Within 30 days of notification to the Grantee that specific amounts are owed to, or withheld by, SANDAG, whether for excess payments of SGIP Funding, Grantee's failure to comply with the Agreement, SANDAG Board Policy No. 035 (Attachment B) and any policy amendments thereto, disallowed costs, or funds recovered from third-parties or elsewhere, the Grantee agrees to remit the owed amounts to SANDAG, including applicable interest, penalties, and administrative charges.

B. **Payment by SANDAG.** Grantee is required to submit invoices no more often and no less frequently than quarterly. Invoices must be accompanied by a quarterly report (Attachment D). SANDAG will make payments for eligible amounts to Grantee within 30 days following receipt of Grantee's invoice(s) if Grantee has complied with the requirements of the Agreement, including quarterly reporting requirements, has satisfied SANDAG that the SGIP Funding requested is needed for Project purposes in that requisition period, and is making adequate progress toward Project completion consistent with SANDAG Board Policy No. 035 and any policy amendments thereto. After the Grantee has demonstrated satisfactory compliance with the preceding requirements, SANDAG will reimburse the Grantee's apparent allowable costs incurred consistent with the Approved Project Budget for the Project.

C. **Eligible Costs.** The Grantee agrees that Project costs eligible for SGIP Funding 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 Scope of Work, 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, only on a reimbursement, not advance basis, after both the Effective Date of the Agreement and following Grantee's receipt of a Notice to Proceed from SANDAG,

6. Satisfactorily documented with supporting documentation which is to be submitted with each invoice,

7. Treated consistently in accordance with generally accepted accounting principles and procedures for the Grantee and any third-party contractors and subgrantees, (see Section 6 Accounting Records), and

8. Eligible for SGIP Funding as part of the SGIP Program Claim Eligible Costs.

9. Expended allowable direct and indirect costs. Indirect costs will be reimbursed only if the Grantee has an approved indirect cost allocation plan and prior written approval has been obtained by SANDAG. The Grantee shall annually submit to SANDAG, prior to reimbursement of indirect costs, an approved indirect cost allocation plan in accordance with Office of Management and Budget (OMB), Circular A-87 Cost Principles for State, Local, And Indian Tribal Governments, which can be viewed at http://www.whitehouse.gov/omb/circulars. Indirect Costs are only allowable with either: (1) an approved indirect cost rate from a Federal Cognizant agency (or its designee) or an independent certified accounting firm; or (2) the applicant's proposed method for allocating indirect costs must be submitted in accordance with applicable OMB guidelines and approved by SANDAG. If the Grantee does not have an acceptable approved indirect cost allocation plan, then indirect costs are not eligible for reimbursement.

10. Project generated revenue realized by the Grantee shall be utilized in support of the Project. Project generated revenue and expenditures, if any, shall be reported at the end of the Agreement period.

11. In the event the Grantee receives payment from SANDAG, for which reimbursement is later deemed ineligible and disallowed by SANDAG, the Grantee shall promptly refund the disallowed amount to SANDAG on request, or SANDAG may offset the amount disallowed from any payment due to or to become due to the Grantee under this Agreement.

D. ***TransNet* Project Eligibility**

TransNet SGIP Funds may be expended for capital projects such as pedestrian improvements, bicycle and transit facilities, and other innovative smart growth supporting infrastructure, as well as planning projects such as updates to land use plans to qualify for "potential" smart growth opportunity area as "existing/planned," and other planning activities that facilitate smart growth.

E. **Excluded Costs**

1. In determining the amount of SGIP Funding SANDAG will provide for the Project, SANDAG will exclude:

   a. Any Project cost incurred by the Grantee before either the date SANDAG issues a Notice to Proceed to Grantee or the Effective Date of the Agreement or any 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;

   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, and/or Board Policy No. 035. 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 or its Independent Taxpayers' Oversight Committee (ITOC) has been completed, whichever occurs latest. If SANDAG determines that the Grantee is not entitled to receive any portion of the SGIP Funding 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, performance deficiencies, or other similar actions; 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.

F. **Maximum SANDAG Participation.** Upon receipt of an invoice from Grantee documenting Grantee's incurred and eligible expenses, SANDAG agrees to pay its Maximum Percentage/Amount of SANDAG Participation based on the invoiced amount.

Note to SANDAG Contracts Staff: If grantee did not commit matching funds In the grant application, please delete Section H. "Matching Funds" from the agreement, and re-letter following sections accordingly. Thank you.

G. **Matching Funds** Grantee has proposed matching funds for the project and therefore agrees as follows:

1. **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 and/or in-kind contributions 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 the Project. Each of Grantee's invoices must include its pro-rata matching fund contribution as reflected in the Approved Project Budget, along with supporting, descriptive and/or explanatory documentation for the matching funds provided.

2. **Prompt Payment of Matching** The Grantee agrees to provide the minimum proportionate amount of the matching funds upon submittal of reimbursement for each invoice and cumulatively over the life of the project as it incurs Projects costs. If the minimum match is not provided with each invoice submittal or cumulatively over the life of the project, the identical amount to make up the difference may be withheld as retention for each invoice until the minimum match cumulatively over the life of the project is satisfactorily provided. The retention withholding would be released upon the minimum match provided, in accordance with the invoice payment terms as stated in this Agreement.

3. **Reduction of Matching Funds** The Grantee agrees that no reduction of the amount of matching funds may be made unless, at the same time, a reduction of the proportional amount of *TransNet* Ordinance Assistance provided is made to SANDAG in order to maintain Maximum Percentage(s) of SANDAG participants. No refunds of matching funds will be made.

Section 6. 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 documentation of 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 maintain all documentation of 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 in which SANDAG has agreed to participate.

Section 7. 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.

E. **Project Closeout.** The Grantee agrees that Project closeout does not alter the reporting and record retention requirements of this Agreement.

F. **Quarterly Reports.** Grantee shall submit written quarterly reports to SANDAG detailing the progress of its work, expenditures incurred, and information regarding whether the Project is projected to be completed within the limits of the Approved Project Budget, Project Schedule, and consistent with Board Policy No. 035 and any policy amendments thereto. Grantee shall document the progress and results of work performed under this Agreement to the satisfaction of SANDAG. This includes progress and final reports, plans, specifications, estimates, and other evidence of attainment of the Agreement objectives, which are requested by SANDAG or the ITOC. Grantee may be required to attend meetings of SANDAG staff and committees, including ITOC, to report on its progress and respond to questions.

G. **Data Collection and Communities Served Report.** If requested, Grantee shall provide SANDAG with data regarding how the Project's benefits and burdens were equitably distributed among socio and economic populations in the area affected by the Project, and associated smart growth data.

Section 8. 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 final reports, as applicable. All payments made to the Grantee shall be subject to review for compliance by SANDAG with the requirements of this Agreement and shall be subject to an audit upon completion of the Project.

B. **Project Audit.** The Grantee agrees to have performed financial and compliance audits SANDAG may require consistent with the *TransNet* Extension Ordinance for *TransNet* funds. This Project's MPO ID Number is located in both Recital H, above, and on Attachment A. The Grantee agrees that Project closeout will not alter the Grantee's audit responsibilities.

C. **Project Closeout.** Project closeout occurs when SANDAG notifies the Grantee that SANDAG has closed the Project, and, if applicable, either forwards the final SGIP Funding payment and liquidates any remaining funds. 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.

D. **Project Use.** Grantee was awarded this Agreement based on representations in its grant application regarding the Project's intended use. If the Project is a capital project, Grantee hereby commits to continued use of the Project for the purposes stated in its application for a period of at least five years after completion of construction. SANDAG may require Grantee to refund SGIP funding provided for the Project in the event Grantee fails to utilize the Project for its intended purposes as stated in the grant application or for any disallowed costs.

Section 9. 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 (Attachment A), and consistent with SANDAG Board Policy No. 035 and any policy amendments thereto. If timely progress is not achieved, SANDAG may, in its sole discretion, review the status of the Project to determine if the remaining funding should be reallocated to another eligible project, as per SANDAG Board Policy No. 035. Grantee understands and agrees that any failure to make reasonable progress on the Project or violation of this Agreement and/or Board Policy NO. 035, that endangers substantial performance of the Project shall provide sufficient grounds for SANDAG, in its sole discretion, to terminate this Agreement.

B. In the event Grantee encounters difficulty in meeting the Project Schedule or anticipates difficulty in complying with the Project Schedule, the Grantee shall immediately notify the SANDAG Project Manager in writing, and shall provide pertinent details, including the reason(s) for the delay in performance and the date by which Grantee expects to complete performance or delivery. This notification shall be informational in character only and receipt of it shall not be construed as a waiver by SANDAG of a project delivery schedule or date, or any rights or remedies provided by this Agreement, including SANDAG Board Policy No. 035 requirements.

C. Upon written notice, the Grantee agrees that SANDAG may suspend or terminate all or any part of the SGIP Funding to be provided for the Project if the Grantee has violated the terms of the

Agreement, or SANDAG Board Policy No. 035, or if SANDAG determines that the purposes of the laws or policies authorizing the Project would not be adequately served by the continuation of SGIP Funding for the Project.

D. In general, termination of SGIP Funding 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 SGIP Funding by failing to make adequate progress, or failing to comply with the terms of the Agreement, SANDAG reserves the right to require the Grantee to refund to SANDAG the entire amount of SGIP Funding provided for the Project or any lesser amount as SANDAG may determine.

E. 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 Agreement in writing if the Project Schedule will not be met. An amendment to the Project Schedule may be made at SANDAG's discretion if Grantee's request is consistent with the provisions of SANDAG Board Policy No. 035.

F. Amendment of Scope. The grant was awarded based on the application submitted by Grantee with the intention that the awarded funds would be used to implement the Project as described in the Scope of Work (Included in Attachment A). Any substantive deviation from the Scope of Work must be approved by SANDAG if SGIP Funds are to be used for such changes. If Grantee believes substantive changes need to be made to the Project, Grantee will immediately notify SANDAG in writing. SANDAG will then determine whether the Project is still consistent with the overall objectives of the SGIP Program, SANDAG Board Policy 035 and that the changes would not have negatively affected the Project ranking during the competitive grant evaluation process. SANDAG reserves the right to have SGIP Funding withheld or refunded due to substantive Project changes.

Section 10. 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 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 appeal to the SANDAG Regional Planning Committee. SANDAG shall respond to a request for mediation within thirty (30) calendar days. The decision of the Regional Planning Committee shall be final.

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 11. 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

Section 12. Project Manager

The Grantee has assigned [INSERT PROJECT MANAGER NAME] as the Project Manager for the Project. Project Manager continuity and experience is deemed essential in Grantee's ability to carry out the Project in accordance with the terms of this Agreement. Grantee shall not change the Project Manager without notice to SANDAG.

Section 13. 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

1. 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.

2. 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 14. Indemnification and Duty to Defend

A. **Generally.** With regard to any claim, protest, or litigation arising from or related to the Grantee's performance in connection with or incidental to the Project or this Agreement, Grantee agrees to defend, indemnify, protect, and hold SANDAG and its agents, officers, Board members, and employees harmless from and against any and all claims, including, but not limited to prevailing wages claims against the Project, 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 15. Relationship of Parties

For purposes of this Agreement, the relationship of the parties is that of independent entities and not as agents of each other or as joint venturers or partners. The parties shall maintain sole and exclusive control over their personnel, agents, consultants, and operations. 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 16. Severability and Integration

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. 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 17. 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: Heather Cooper

Grantee:
City of National City
1243 National City Boulevard
National City, CA 91950
Attn: Stephen Manganiello

and shall be effective upon receipt thereof.

Contracts Staff: After receiving this original agreement back from the Grantee and before routing the original agreement for final SANDAG "wet" signatures, please confirm with SANDAG Finance and Planning staff that the applicable RTIP has been approved. Thank you.

Section 18. 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 NATIONAL CITY
GARY L. GALLEGOS **Executive Director**	**[Full Name]** **[Title]**
APPROVED AS TO FORM:	APPROVED AS TO FORM
Associate General Counsel	**[Full Name]** **[Title]**

ATTACHMENT A

SCOPE OF WORK, SCHEDULE, AND APPROVED PROJECT BUDGET

Project Location
(SPECIFIC PROJECT LOCATION INCLUDING JURISDICTION, COMMUNITY, NEIGHBORHOOD, CORRIDORS, AND INTERSECTIONS)

Project Description
[PROJECT TYPE (DESIGN AND/OR CONSTRUCTION, MASTER PLAN, ETC.), TYPES OF IMPROVEMENTS/RECOMMENDATIONS, PROJECT GOALS]

(INSERT SCOPE, SCHEDULE AND APPROVED PROJECT BUDGET)

TransNet MPO ID NO._____

ATTACHMENT B

BOARD POLICY NO. 035

COMPETITIVE GRANT PROGRAM PROCEDURES

Applicability and Purpose of Policy

This Policy applies to the following grant programs administered through SANDAG, whether from *TransNet* or another source: Smart Growth Incentive Program, Environmental Mitigation Program, Bike and Pedestrian Program, Senior Mini Grant Program, Job Access Reverse Commute, New Freedom, and Section 5310 Elderly & Persons with Disabilities Transportation Program.

Nothing in this Policy is intended to supersede federal or state grant rules, regulations, statutes, or contract documents that conflict with the requirements in this Policy. There are never enough government grant funds to pay for all of the projects worthy of funding in the San Diego region. For this reason, SANDAG awards grant funds on a competitive basis that takes the grantees' ability to perform their proposed project on a timely basis into account. SANDAG intends to hold grantees accountable to the project schedules they have proposed in order to ensure fairness in the competitive process and encourage grantees to get their projects implemented quickly so that the public can benefit from the project deliverables as soon as possible.

Procedures

1. Project Milestone and Completion Deadlines

1.1. When signing a grant agreement for a competitive program funded and/or administered by SANDAG, grant recipients must agree to the project delivery objectives and schedules in the agreement. In addition, a grantee's proposal must contain a schedule that falls within the following deadlines. Failure to meet the deadlines below may result in revocation of all grant funds not already expended. The final invoice for capital, planning, or operations grants must be submitted prior to the applicable deadline.

1.1.1. Funding for Capital Projects. If the grant will fund a capital project, the project must be completed according to the schedule provided in the grant agreement, but at the latest, any necessary construction contract must be awarded within two years following execution of the grant agreement, and construction must be completed within eighteen months following award of the construction contract. Completion of construction for purposes of this policy shall be when the prime construction contractor is relieved from its maintenance responsibilities. If no construction contract award is necessary, the construction project must be complete within eighteen months following execution of the grant agreement.

1.1.2. Funding for Planning Grants. If the grant will fund planning, the project must be completed according to the schedule provided in the grant agreement, but at the latest, any necessary consultant contract must be awarded within one year following execution

of the grant agreement, and the planning project must be complete within two years following award of the consultant contract. Completion of planning for purposes of this policy shall be when grantee approves the final planning project deliverable. If no consultant contract award is necessary, the planning project must be complete within two years of execution of the grant agreement.

1.1.3 Funding for Operations Grants. If the grant will fund operations, the project must be completed according to the schedule provided in the grant agreement, but at the latest, any necessary services contract for operations must be awarded within one year following execution of the grant agreement, and the operations must commence within six months following award of the operations contract. If no services contract for operations is necessary, the operations project must commence within one year of execution of the grant agreement.

1.1.4 Funding for Equipment or Vehicles Grants. If the grant will fund equipment or vehicles, the project must be completed according to the schedule provided in the grant agreement, but at the latest, any necessary purchase contracts for equipment or vehicles must be awarded within one year following execution of the grant agreement, and use of the equipment or vehicles for the benefit of the public must commence within six months following award of the purchase contract.

2. Project Milestone and Completion Deadline Extensions

2.1. Schedules within grant agreements may include project scopes and schedules that will identify interim milestones in addition to those described in Section 1 of this Policy. Grant recipients may receive extensions on their project schedules of up to six months for good cause. Extensions of up to six months aggregate that would not cause the project to miss a completion deadline in Section 1 may be approved by the SANDAG Executive Director. Extensions beyond six months aggregate or that would cause the project to miss a completion deadline in Section 1 must be approved by the Policy Advisory Committee that has been delegated the necessary authority by the Board. For an extension to be granted under this Section 2, the following conditions must be met:

2.1.1. For extension requests of up to six months, the grantee must request the extension in writing to the SANDAG Program Manager at least two weeks prior to the earliest project schedule milestone deadline for which an extension is being requested. The Executive Director or designee will determine whether the extension should be granted. The Executive Director's action will be reported out to the Board in following month's report of delegated actions.

2.1.2. A grantee seeking an extension must document previous efforts undertaken to maintain the project schedule, explain the reasons for the delay, explain why the delay is unavoidable, and demonstrate an ability to succeed in the extended time frame the grantee proposes.

2.1.3. If the Executive Director denies an extension request under this Section 2, the grantee may appeal within ten business days of receiving the Executive Director's response to the responsible Policy Advisory Committee by sending the appeal to the SANDAG Program Manager.

2.1.4. Extension requests that are rejected by the Policy Advisory Committee will result in termination of the grant agreement and obligation by the grantee to return to SANDAG any unexpended funds within 30 days. Unexpended funds are funds for project costs not incurred prior to rejection of the extension request by the Policy Advisory Committee.

3. Project Delays and Extensions in Excess of Six Months

3.1. Requests for extensions in excess of six months, or that will cause a project to miss a completion deadline in Section 1 (including those projects that were already granted extensions by the Executive Director and are again falling behind schedule), will be considered by the Policy Advisory Committee upon request to the SANDAG Program Manager.

3.2 A grantee seeking an extension must document previous efforts undertaken to maintain the project schedule, explain the reasons for the delay, explain why the delay is unavoidable, and demonstrate an ability to succeed in the extended time frame the grantee proposes. The grantee must provide the necessary information to SANDAG staff to place in a report to the Policy Advisory Committee. If sufficient time is available, and the grant utilized *TransNet* funds, the request will first be taken to the Independent Taxpayer Advisory Committee (ITOC) for a recommendation. The grantee should make a representative available at the meeting to present the information to, and/or answer questions from, the ITOC and Policy Advisory Committee.

3.3 The Policy Advisory Committee will only grant an extension under this Section 3 for extenuating circumstances that the grantee could not have reasonably foreseen.

4. Resolution and Execution of the Grant Agreement

4.1 Two weeks prior to the review by the Policy Advisory Committee of the proposed grants, prospective grantees must submit a resolution from their authorized governing body that includes the provisions in this Subsection 4.1. Failure to provide a resolution that meets the requirements in this Subsection 4.1 will result in rejection of the application and the application will be dropped from consideration with funding going to the next project as scored by the evaluation committee. In order to assist grantees in meeting this resolution deadline, when SANDAG issues the call for projects it will allow at least 90 days for grant application submission.

4.1.1 Grantee governing body commits to providing the amount of matching funds set forth in the grant application.

4.1.2 Grantee governing body authorizes staff to accept the grant funding and execute a grant agreement if an award is made by SANDAG.

4.2 Grantee's authorized representative must execute the grant agreement within 45 days from the date SANDAG presents the grant agreement to the prospective grantee for execution. Failure to meet the requirements in this Subsection 4.2 may result in revocation of the grant award.

5. Increased Availability of Funding Under this Policy

5.1. Grant funds made available as a result of the procedures in this Policy may be awarded to the next project on the recommended project priority list from the most recent project selection process, or may be added to the funds available for the next project funding cycle, at the responsible Policy Advisory Committee's discretion. Any project that loses funding due to failure

to meet the deadlines specified in this Policy may be resubmitted to compete for funding in a future call for grant applications.

Adopted: January 2010

ATTACHMENT C
PROJECT IMPLEMENTATION AND OVERSIGHT REQUIREMENTS

Capital Grants

1. **Contact Information**: Grantee must provide SANDAG with contact information for the project manager. Grantee must provide SANDAG with updated contact information in a timely manner if there are any changes to staff assigned.

2. **Design Development Meetings**: Grantee must provide SANDAG with advance notice (preferably within two weeks) and agendas of all design development meetings, and a meeting summary following the meeting. SANDAG staff may attend any meetings as appropriate.

3. **Plan Review**: Grantee must submit project design drawings and cost estimates (if available) to SANDAG for review and comment at 30 percent, 60 percent, 90 percent, and 100 percent. SANDAG staff may meet with the grantee to comment on submitted plans and assure substantial conformance. SANDAG may comment on submitted plans regarding:

- whether they are consistent with the project proposed in the original grant application, and
- consistency with accepted pedestrian/bicycle facility standards.

4. **Quarterly Reports**: Grantee must submit quarterly reports to SANDAG, detailing accomplishments in the quarter, anticipated progress next quarter, pending issues and actions toward resolution, and status of budget and schedule.

5. **Performance Monitoring**: SANDAG staff may measure performance of the constructed capital improvements against stated project objectives, and evaluate the overall SGIP. Grantee is expected to meet with SANDAG staff to identify relevant performance measures and data sources, and provide available data and feedback regarding the program as appropriate.

Planning Grants

1. **Contact Information**. Grantee must provide SANDAG with contact information for the project manager. Grantee must provide SANDAG with updated contact information in a timely manner if there are any changes to staff assigned.

2. **Stakeholder and Community Meetings**. Grantee must provide SANDAG with advance notice (preferably within two weeks) and agendas of all stakeholder and community meetings, and a meeting summary following the meeting. SANDAG staff may attend any meetings as appropriate.

3. **Request for Proposals and Consultant Selection**. Grantee must submit consultant draft Request for Proposals to SANDAG staff for review and comment. Consultant proposals must also be submitted to SANDAG for review and comment prior to consultant selection.

4. **Quarterly Reports**. Grantee must submit quarterly reports to SANDAG, detailing accomplishments in the quarter, anticipated progress next quarter, pending issues and actions toward resolution, and status of budget and schedule.

ATTACHMENT D
QUARTERLY REPORT AND INVOICE FORMS

SMART GROWTH INCENTIVE GRANT PROGRAM
QUARTERLY PROGRESS REPORT

Reporting Period	Due Date

Project Title:

Project Manager Name:

Agency:

Address:

Telephone:

Contract #:

Invoice Date:

Invoice #: Invoice Period: (from) (to)

Task 1 (Fill in each task from Scope of Work)

1. **Work Accomplished this Invoice Period**
   Add description

2. **Work Anticipated for Next Invoice Period**
   Add description

3. **Challenges or Problems Experienced and Actions Toward Resolution**
   Add description

Task 2

1. **Work Accomplished this Invoice Period**
   Add description

2. **Work Anticipated for Next Invoice Period**
   Add description

3. **Challenges or Problems Experienced and Actions Toward Resolution**
   Add description

Summary of Progress

Task	Scheduled Start Date	Scheduled Completion Date	Completed This Invoice Period? (mark x)	Start Next Invoice Period? (mark x)	Complete Next Invoice Period? (mark x)	Anticipated Completion Date (if not as scheduled)*
Task 1						
Task 2						
Task 3						

Action/s requested of SANDAG (check appropriate box/es):

☐ No action requested

☐ Amendment to*:

☐ Scope of Work

Describe:

Justification:

☐ Project Budget

Describe:

Justification:

☐ Project Schedule

Describe:

Justification:

** For any amendment requested, please describe the amendment and provide justification for why the amendment is needed.*

For Project Schedule amendment requests, explain:

- *previous efforts to maintain timely progress,*
- *reasons for the delays and why they were unavoidable, and*
- *demonstrate how the project will meet the proposed revised deadlines if the schedule amendment is approved.*

It is the Grantee's responsibility to ensure compliance with Board Policy No. 035 (Use it or Lose it) milestones and grant agreement terms and conditions. Amendment requests are subject to SANDAG approval

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*Note that any changes from scheduled start and completion dates are subject to approval by SANDAG. Please refer to Board Policy No. 35 in your grant agreement regarding milestones that fall behind schedule, and the actions required for schedule adjustments.

Smart Growth Incentive Program Invoice Template

To: **Heather Cooper**
SANDAG
401 B Street, Suite 800
San Diego, CA 92101-4231

From: **Name**

Project Name:
Contract Number:

Grant Invoice Number: #
Billing Period: FROM TO
Invoice Date: DATE

Grant Award:
Balance Remaining **$0.00**

	TASK	Previous Balance			Current MM/DD/YYYY to MM/DD/YYYY			Total Expenses	SANDAG Total	Match Spent	Balance
		Reimbursed	Match	Total	Staff Costs	Consultant or Contractor Costs	Other Costs	This Invoice	This Invoice	This Invoice	Remaining
1	Insert Task 1 Description	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00			$0.00
2		$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00			$0.00
3		$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00			$0.00
4		$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00			$0.00
5				$0.00				$0.00			$0.00
6				$0.00				$0.00			$0.00
7				$0.00				$0.00			$0.00
8				$0.00				$0.00			$0.00
9				$0.00				$0.00			$0.00
10				$0.00				$0.00			$0.00
11				$0.00				$0.00			$0.00
12				$0.00				$0.00			$0.00
13				$0.00				$0.00			$0.00
14				$0.00				$0.00			$0.00
15				$0.00				$0.00			$0.00
16				$0.00				$0.00			$0.00
17				$0.00				$0.00			$0.00
18				$0.00				$0.00			$0.00
19				$0.00				$0.00			$0.00
20				$0.00				$0.00			$0.00
21				$0.00				$0.00			$0.00
22				$0.00				$0.00			$0.00
23				$0.00				$0.00			$0.00
24				$0.00				$0.00			$0.00
25				$0.00				$0.00			$0.00
	Total	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00

Total Current Expenditures:	$0.00
Total Amount Due this Invoice:	**$0.00**
Less 10% Retention:	***$0.00***
Match % Met to Date:	0%

Other Costs (Column G)	Describe Expenses:
Task 1	
Task 2	
Task 3	
Task 4	

Project Budget	SANDAG Grant	Match	Total
Task 1	$0.00	$0.00	$0.00
Task 2	$0.00	$0.00	$0.00
Task 3	$0.00	$0.00	$0.00
Task 4	$0.00	$0.00	$0.00
Task 5	$0.00	$0.00	$0.00
Task 6	$0.00	$0.00	$0.00
	$0.00	$0.00	$0.00
	$0.00	$0.00	$0.00
	$0.00	$0.00	$0.00
	$0.00	$0.00	$0.00
	$0.00	$0.00	$0.00
	$0.00	$0.00	$0.00
	$0.00	$0.00	$0.00
	$0.00	$0.00	$0.00
	$0.00	$0.00	$0.00
	$0.00	$0.00	$0.00
	$0.00	$0.00	$0.00
	$0.00	$0.00	$0.00
	$0.00	$0.00	$0.00
	$0.00	$0.00	$0.00
	$0.00	$0.00	$0.00
	$0.00	$0.00	$0.00
	$0.00	$0.00	$0.00
TOTAL	$0.00	$0.00	$0.00
Required Match %	0.00%		

CERTIFICATION OF GRANTEE

I hereby certify that the above costs are eligible costs incurred in performance of the work required under the grant and are consistent with the amounts evidenced by the attached supporting documentation and expenditures.

Signature	Printed Name and Title	Date