

For Information Only Do Not Fill Out**TransNet Environmental Mitigation Program Cycle 10
Sample Grant Agreement Agreement Number Between the
San Diego Association of Governments
and Name Regarding Description**

THIS GRANT AGREEMENT ("Agreement") is made and entered into effective as of the last signature date, by and between the San Diego Association of Governments ("SANDAG"), 401 B Street, Suite 800, San Diego, California, and Land Management Organization, ("Grantee"), Address. This Agreement expires on Month and Day, Year, unless amended in writing by mutual agreement of the parties.

The following recitals are a substantive part of this Agreement:

- A.** The *TransNet* Extension Ordinance, which became effective April 1, 2008, contains provisions for the creation of an Environmental Mitigation Program (EMP).
- B.** The Board of Directors has allocated EMP monies to a Regional Habitat Conservation Fund and awards these monies through a competitive grant process to provide funding for regional habitat management and monitoring activities.
- C.** On Month and Day, Year, SANDAG issued a call for projects from entities wishing to apply for a portion of the *TransNet* EMP Regional Habitat Conservation funds for use on environmental land management grant projects meeting certain criteria.
- D.** On October 23, 2019, and October 25, 2020, the Board approved the award of \$2.4 million in *TransNet* EMP Regional Habitat Conservation funds for the Cycle 10 program.
- E.** Grantee successfully applied for EMP Regional Habitat Conservation funds for the following project: Project Name ("Project").
- F.** The purpose of this Agreement is to establish the terms and conditions for SANDAG to provide Grantee with funding to implement the Project ("*TransNet* Ordinance Assistance"). The Project will be carried out as described in the Scope of Work and the Performance Measures, which are attachments to this AGREEMENT.
- G.** Although SANDAG will be providing financial assistance to Grantee to support the Project, SANDAG will not take an active role in managing the Project or retain substantial control over any portion of the Project. Therefore, this Agreement is characterized as a funding agreement rather than a cooperative agreement.
- H.** In January 2010, the Board approved Board Policy No. 035, Competitive Grant Program Procedures ("Board Policy No. 035"), which is included as Exhibit E. This grant award, Agreement and the Grantee's performance thereunder is subject to Board Policy No. 035.

NOW, THEREFORE, it is agreed as follows:

I. 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. Agreement** means this grant agreement, together with all attachments hereto, which are hereby incorporated into this Agreement and which contain additional terms and conditions that are binding upon the parties.

- C. 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 this 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. (See also Notice to Proceed, below at Paragraph G in this Section)
- D. 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.
- E. Grantee** means that, even if a single organization or division 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 the Project.

Note to SANDAG Contracts Staff: Please select the applicable paragraph for Section F. "Maximum Percentage of SANDAG Participation" depending on whether grantee committed matching funds in its grant application. If grantee did not commit matching funds in its application, chose the section option and delete the first one.

F. 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 percent, or \$ of the Approved Project Budget as matching funds from resources other than the EMP Regional Habitat Conservation funds.

The maximum amount that SANDAG will pay Grantee for amounts invoiced under this Agreement is percent or \$ of the Approved Project Budget, whichever is the lesser of these two amounts.

OR

The maximum percentage that SANDAG will pay Grantee for allowable amounts invoiced under this Agreement is 100% of the Approved Project Budget, up to the total grant award of \$.

- G. 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.
- H. Subgrantee** means any contractor or consultant, at any tier, paid directly or indirectly with funds flowing from this Agreement for the Project.

II. 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 on which this Agreement is fully executed. The Grantee agrees to undertake Project work promptly after receiving a Notice to Proceed.

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 *TransNet* Ordinance.

4. Project Schedule

The Grantee agrees to complete the Project in a timely manner. Nevertheless, 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. Changes to Exhibit C or any other exhibit to the Agreement, shall require written approval from SANDAG and compliance with Board Policy No. 035.

5. Competitive Grant Program Procedures

Grantee agrees to comply with Board Policy No. 035, attached hereto as Exhibit E. The Project is subject to any amendments to Board Policy No. 035 occurring after the execution of the Agreement, which are incorporated herein by reference.

6. Media and Community Outreach Coordination

The Grantee agrees to notify SANDAG regarding any media and community outreach efforts, including presentations to community groups, other agencies, and elected officials. The Grantee agrees to assist SANDAG with media or community events related to the grant-funded project, such as ground breakings, ribbon cuttings, and community workshops. Press materials shall be provided to SANDAG staff for review before they are distributed. SANDAG, *TransNet* and any other project logos should be included in press materials and other project signage and collateral but may never be included in such documents without advance approval from SANDAG. Use of the SANDAG logo should follow all provided guidelines and should always be reviewed by a member of SANDAG Strategic Communications staff prior to publication.

As part of the quarterly reports submitted to SANDAG, the Grantee agrees to provide project milestone information to support media and communications efforts. This includes before and after photos, project milestone photos, and photos taken throughout different planning or construction phases and throughout the length of the project. The photos should be high resolution (at least 4 inches by 6 inches with a minimum of 300 pixels per inch) and contain captions with project descriptions, dates, locations, and the names of those featured and photo release forms, if appropriate. Before and after photos should be taken from similar angles to showcase how a particular area has been transformed over time, or photos of plans (for planning projects) should be provided from various angles. SANDAG reserves the right to use the information and media provided by the Grantee for any combination of the following: social media posts, online photo albums, videos, press releases, PowerPoint presentations, web updates, newsletters, and testimonials. The Grantee agrees to release the rights to these photos to SANDAG.

B. Performance Monitoring and Compliance

Grantee's performance shall be monitored for consistency with the Scope of Work. SANDAG will utilize the SANDAG Grant Monitoring Checklist and Performance Measures, in substantially the same form as attached, to document compliance with this Agreement. Grantee's performance will be measured against the Performance Measures during the term of this Agreement. If the Grantee does not comply with provisions in this Agreement or achieve minimum performance requirements, SANDAG will issue Grantee a written Notice to Complete a Recovery Plan. Grantee's Recovery Plan shall include a detailed description of how Grantee intends to come into compliance with its performance measures minimums. Grantee's Recovery Plan description must include an implementation schedule that reflects achievement of its performance measure minimums within three months following the issue date of the SANDAG Notice to Complete a Recovery Plan. Grantee must submit its Recovery Plan to the SANDAG Project Manager within 30 calendar days following the issue date of the SANDAG Notice to Complete a Recovery Plan. If Grantee's performance is inconsistent with that proposed in its Recovery Plan, SANDAG in its sole discretion may terminate this Agreement.

C. 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 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 affected portions thereof expeditiously.

D. Compliance Information System (CIS)

If Grantee will utilize persons other than its own employees or volunteers to carry out work, Grantee and all subgrantees, third-party contractors, and/or subcontractors (hereinafter "subcontractors") shall report payment details using the SANDAG web-based CIS by the 15th of each month following receipt of payment by SANDAG. CIS allows SANDAG to monitor promptness of payment to subcontractors and will allow Grantee and its subcontractors to manage their own records, maintain accurate contract information, and report payment details online. CIS is mandatory for Grantee and subcontractors to use unless SANDAG instructs otherwise. A Grantee account will be created after award, which will allow Grantee to enter data into CIS via an internet browser. After execution of this Agreement, Grantee will receive instructions on how to set up its account and enter required subcontractor data into CIS via an internet browser. Grantee must require each of its subcontractors to enter required payment information into CIS. Failure of Grantee or its subcontractors to enter required information and confirm payments on a timely basis will result in delay of payment by SANDAG to Grantee.

E. Licenses and Permits

Grantee represents and warrants to SANDAG that Grantee and its subcontractors will have all necessary licenses, permits, qualifications and approvals of whatever nature that are required to legally practice its profession and/or perform services under this Agreement at all times during the term of this Agreement.

F. Registration with DIR and Prevailing Wage Requirements

All provisions of this section shall be passed through to any subcontractors performing work related to this Agreement. Failure of Grantee or its subcontractors to comply with any of these requirements will result in delay of payment by SANDAG to Grantee.

1. Payment of Prevailing Wages

Grantee acknowledges that any work that qualifies as a "public work" within the meaning of California Labor Code section 1720 shall cause Grantee and its subcontractors to comply with the provisions of California Labor Code sections 1775 et seq, which includes the payment of prevailing wages to all workers performing prevailing wage work.

2. Public Works Contractor Registration With DIR

If Grantee or its subcontractors will engage in the performance of a public work as defined by California Labor Code sections 1720 et seq. and will utilize persons who are not employees of a public entity, registration and payment of an annual registration fee to the DIR shall be required of each entity performing the work. This requirement applies to anyone affected by the public works statutes found in the California Labor Code, including but not limited to landscapers, fencers, surveyors, soil testers, dredgers, heavy equipment operators, and inspectors. Registration can be completed online at <https://www.dir.ca.gov/public-works/contractor-registration.html>

3. Subcontract Requirements

If Grantee will award any subcontracts for the performance of a public work:

- a. Grantee shall notify SANDAG 30 calendar days prior to the award of each subcontract so SANDAG can create a Project Registration Form (aka PWC-100 form) for each subcontract using the California Department of Industrial Relations (DIR) online database. Grantee will provide to SANDAG the name, DIR registration number, and contractor's license numbers of each subcontractor so SANDAG can verify, prior to Grantee's award of the subcontract for a public work, that the selected subcontractor is currently licensed and registered with the DIR. If SANDAG finds that the selected subcontractor is not licensed and registered with the DIR, SANDAG will promptly notify Grantee and Grantee will not be permitted to award the subcontract to the selected subcontractor.
- b. Grantee shall notify SANDAG ten business days prior to the subcontractor performing the prevailing wage work so SANDAG can prepare for labor compliance monitoring.
- c. If there are any changes to a subcontractor or lower-tier subcontractor, Grantee will advise SANDAG of these changes as soon as those changes are known to the Grantee.

4. Certified Payroll Reporting to DIR

Grantee and all subcontractors performing a public work pursuant to this Agreement shall use the DIR's Electronic Certified Payroll Reporting (eCPR) System, available at <https://efiling.dir.ca.gov/eCPR/pages/eCPROnlineForm.jsp>, to furnish certified payroll records to the California Labor Commissioner. Grantee and its subcontractors are required to utilize the eCPR system throughout the duration of the public work, regardless of whether SANDAG later requires the Grantee and its subcontractors to utilize the SANDAG Labor Compliance Monitoring System.

5. Retention and Inspection of Payroll Records and Employment of Registered Apprentices

Grantee agrees to comply and cause any of its applicable subcontractors to comply with Labor Code section 1776 regarding retention and inspection of payroll records and noncompliance penalties, Labor Code section 1777.5 regarding employment of registered apprentices, and Labor Code section 1813 regarding forfeiture for violations of the maximum hours per day and per week provisions contained in the same chapter. In order to ensure compliance with the Labor Code, Grantee and its subcontractors shall be subject to site visits and spot-check audits by SANDAG. During these audits and inspections, SANDAG or its designee may request Grantee or subcontractor records, including but not limited to certified payroll, apprenticeship, and other ancillary records at any time during the term of the Agreement.

If such an audit or site visit discloses that Grantee or a subcontractor has not kept complete and accurate records or complied with the requirements of the California Labor Code, the non-compliant entity performing the public work will be required to immediately stop work and DIR will be notified. Additionally, Grantee will be required to input and submit all applicable certified payrolls and accompanying documentation related to the Project, retroactive to the start of the Project, into the SANDAG Labor Compliance Monitoring System (LCMS). SANDAG will provide Grantee and any first-tier subcontractors a log-on identification and password to access the SANDAG LCMS reporting system. Grantee will be required to enter all of its second-tier and lower subcontractors' information into LCMS on an ongoing basis. In addition, the SANDAG LCMS will allow Grantee to convert certified payroll records to the XML file format for upload to the DIR system.

G. 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 compliance with this Agreement.

H. Third-Party Contracting

1. Grantee shall not award contracts over \$10,000 on the basis of a noncompetitive procurement for work to be performed under this Agreement without the prior written approval of SANDAG. Contracts awarded by Grantee, if intended as local, match credit must meet the requirements set forth in this Agreement regarding local match funds.
2. Any subagreement, lease, third-party contract or other legally binding document entered into by Grantee as a result of this Agreement shall mandate that travel and per diem reimbursements and third party contract reimbursements to subgrantees, lessees or third party contractors will be allowable as Project costs only after those costs are incurred and paid for by the subgrantee, lessee or third party contractor and only to the extent they do not exceed the rates for state employees, which can be found at:
<https://www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx>.
3. Grantee's Responsibility to Extend Agreement Requirements to Other Entities
 - a. 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.

b. Documents Affected

The applicable 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.

c. Required Clauses

The Grantee agrees to use a written document (such as a sub agreement, lease, third-party contract or other legally binding document) including all appropriate clauses stating the entity's responsibilities under applicable laws, regulations, or policies.

d. Flowdown

The Grantee agrees to include in each document (sub agreement, 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.

e. 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, sub agreement, lease, or third-party contract at any tier, SANDAG has no obligations or liabilities to any entity, including any subgrantee, lessee, or third-party contractor at any tier, other than the Grantee.

f. Equipment Purchases

Grantee shall maintain ownership of any equipment purchased using Agreement funding and shall use such equipment only for the purposes set forth in this Agreement. The parties agree to meet and confer in good faith to ensure the continued use of the equipment for the purposes intended, which may include reimbursement to SANDAG when the fair market value of the equipment at Project completion exceeds \$5,000.

SANDAG and Grantee agree that Grantee shall keep an inventory record for each piece of equipment purchased under this Agreement and maintain each piece of equipment in good operating order consistent with the purposes for which they were intended. SANDAG shall have the right to conduct periodic maintenance inspections for the purpose of confirming the existence, condition, and proper maintenance of the equipment.

I. 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, and as required by Board Policy No. 035. 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.

J. 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.

III. ETHICS [For Federal agency grantees, this section may be subject to modification]

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 sub agreements, 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 an entity competing 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 appearance of 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 sub agreement 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 a firm competing 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 sub agreement 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 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 also is 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 sub agreements. 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.

IV. Amount of Funding Assistance

Grantee agrees to complete the Project as described in the Scope of Work and in accordance with the Performance Measures using the *TransNet* funds provided under this Agreement and any matching funds committed to herein solely for the Project.

The Grantee agrees that SANDAG will provide *TransNet* Ordinance Assistance for the Project equal to the smallest of the following amounts: (a) the "Maximum SANDAG Amount Approved" of \$ _____; or (b) the amount calculated in accordance with the "Maximum Percentage(s) of SANDAG Participation," which is _____%. 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."

Note to SANDAG Contracts Staff: Choose one of the applicable statements below. If grantee did not commit matching funds in the grant application, use the first sentence and please delete the remainder of the section.

V. MATCHING FUNDS

Grantee will not be providing matching funds for the Project.

OR

Grantee has proposed to provide matching funds for the Project and therefore 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.

VI. APPROVED PROJECT BUDGET

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, unless the reallocation of funds among budget items or fiscal years does not increase the total amount of the *TransNet* Ordinance Assistance awarded for the Project, does not negatively impact the benefits obtained from the Project and is consistent with applicable laws, regulations, and policies. However, a formal amendment to the Agreement is required for all amendments to the Approved Project Budget once cumulative transfers of funds among budget items or fiscal years exceed 10% of the total budget. Prior SANDAG approval is still required for transfers of funds between non-construction and construction categories or when, in non-construction grants, cumulative transfers of funds between budget items or fiscal years amount to less than 10% of the total budget.

VII. PAYMENTS

Note to SANDAG Contracts Staff: If the Grantee did not propose matching funds, delete the first section below.

A. Grantee's Request for Payment When Matching Funds Are Required

The Grantee will demonstrate or certify that it will provide adequate matching funds such 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 matching funds for the Project, a Grantee is required under the terms of this Agreement to provide matching funds for the Project and 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 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 consistent with Board Policy No. 035. 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.

Grantee shall use the Sample Invoice Template, attached hereto as Exhibit F, when submitting invoices to SANDAG. *[For federal agency grantees, the following sentence will be removed]* SANDAG shall retain 10% from the amounts invoiced until satisfactory completion of work. SANDAG shall promptly release retention amounts to Grantee following Grantee's satisfactory completion of work, receipt of Grantee's final invoice and all required documentation.

C. Costs Reimbursed

The Grantee agrees that Project costs eligible for *TransNet* Ordinance Assistance must comply with all the following requirements, unless 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 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)
4. Incurred for work performed after the Effective Date of the Agreement, and following Grantee's receipt of a Notice to Proceed from SANDAG
5. Satisfactorily documented
6. Treated consistently in accordance with accounting principles and procedures approved by SANDAG for the Grantee, and with accounting principles and procedures approved by the Grantee for its third-party contractors and subgrantees
7. Eligible for *TransNet* Ordinance Assistance as part of the EMP

D. 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 applicable 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

- e. Any cost incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved (any indirect cost). Typical indirect costs include facilities and administration costs such as heat/air conditioning, lighting, payroll, and the entity's accounting system. Administrative costs such as clerical and support staff salaries also are most often treated as indirect costs¹⁵.
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 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 *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 to 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.

E. Federal Claims, Excess Payments, Disallowed Costs, including Interest

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 promptly remit to SANDAG the amounts owed, including applicable interest, penalties, and administrative charges.

VIII. 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.

¹⁵ National Grants Management Association *Grants Management Body of Knowledge GMBOK Guide*, 2nd Version

IX. Reporting, Record Retention, and Access

A. Types of Reports

The Grantee agrees to submit to SANDAG all reports required by law and regulation, policy, this 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. Records 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

It shall be the responsibility of Grantee to advise SANDAG on a quarterly basis of the progress of its work, expenditures incurred, and information regarding whether the Project is projected to comply with the Project Budget using the Quarterly Progress Report template provided by SANDAG. The Quarterly Progress Report shall be submitted to SANDAG within three weeks after each period close covering January 1 to March 31; April 1 to June 30; July 1 to September 30; and October 1 to December 31. Grantee shall document the progress and results of work performed under this Agreement compared to the Performance Measures to the satisfaction of SANDAG and, if applicable, to the satisfaction of any government agency as directed by SANDAG. This may include Quarterly Progress and final reports, plans, specifications, estimates, or other evidence of attainment of the Agreement objectives, which are requested by SANDAG or ITOC. Grantee may be required to attend meetings of SANDAG staff and committees, including but not limited to ITOC, the Regional Planning Committee, and the Board, to report on its progress, performance, and respond to questions.

X. PROJECT COMPLETION, AUDIT, SETTLEMENT, AND CLOSEOUT

A. Project Completion

Within 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 Grantee

The Grantee agrees to have financial and compliance audits performed as SANDAG may require. If performed, these financial and compliance audits must comply with the provisions of 2 CFR 200, 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 "Generally Accepted Government Auditing Standards." The Grantee agrees that Project closeout will not alter the Grantee's audit responsibilities. Audit costs are allowable Project costs.

C. Performance Audit

The Grantee agrees to cooperate with SANDAG or ITOC with regard to any performance audit that is performed every three to five years on the Project pursuant to the *TransNet* Ordinance.

D. 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.

XI. 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) and consistent with Board Policy No. 035. 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 this Agreement, or if SANDAG determines that the purpose 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 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 this 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 this Agreement for the Project; however, Grantee must request and SANDAG may 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, consistent with Board Policy No. 035, if Grantee provides documentation that the Project is delayed due to factors external to the control of Grantee.

XII. CIVIL RIGHTS

The Grantee agrees to comply with all applicable civil rights laws, regulations, and policies and shall include the provisions of this Section in each sub agreement, lease, third-party contract or other legally binding document to perform work funded by this Agreement. Applicable civil rights laws, regulations and policies include, but are not limited to, the following:

A. Nondiscrimination

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, notify the public of their rights under these laws, 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 and will keep a log of all such complaints. Grantee must notify SANDAG immediately if a complaint is lodged that relates to the Project or program funded by this grant.

B. Equal Employment Opportunity

During the performance of this Agreement, Grantee and all of its subcontractors, if any, shall not unlawfully discriminate, harass, or allow harassment, against any employee or applicant for employment because of race, color, religion, creed, national origin, ancestry, age (over 40), gender identity or expression, sex (including pregnancy, childbirth, breastfeeding or related medical conditions), medical condition, physical or mental disability, genetic information, sexual orientation, marital status, military or veteran status or any other category protected under federal, state or local law. Grantee and its subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Grantee and its subcontractors shall comply with the provisions of the Fair Employment and Housing Act (California Government Code Section 12900, et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0, et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing California Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by this reference and are made a part hereof as if set forth in full. Grantee and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

XIII. 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, photos, and other documents, including detailed calculations and other work product developed for the Project or services performed on the Project.

XIV. 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:

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 calendar 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 ten calendar days from the postmark date of SANDAG's reply. The Executive Director will respond to the request for reconsideration within ten working days. The written decision of the Executive Director 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.

XV. ASSIGNMENT

Grantee shall not assign, sublet, or transfer (whether by assignment or novation) this Agreement or any rights under or interest in this Agreement

XVI. 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. An insurance carrier qualified to do business in California and a policy provision for an agent for service of process in California.

Certificates of Insurance (COI) 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. Insurance policies shall not be canceled without first giving thirty 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.

E. Insurance Certificate Submittal

SANDAG will use myCOI to track and verify insurance coverage. Consultant shall include the Agreement number on all insurance-related correspondence submitted to myCOI (i.e., the insurance certificate itself).

1. Initial Certificate Submittal

Following approval of the funding recommendations by the Board, Grantee will receive an email from: certificaterequest@mycoisolution.com. Grantee shall follow the instructions contained in the email and complete the online registration. Upon completion of registration, myCOI will request proof of insurance directly from Grantee's insurance agents. SANDAG will not execute the Agreement and Grantee shall not commence work and no payments shall be made to Grantee, unless Grantee is registered with myCOI, and compliant Certificates of Insurances (COIs) and endorsements have been received, and SANDAG has deemed the Grantee as compliant with the insurance requirements.

2. Renewal Certificate Submittals

Grantee shall cause its insurance agents to comply with requests for updated information from myCOI on no less than an annual basis. Grantee is responsible for ensuring that its agents send SANDAG updated certificates of insurance throughout the term of the Agreement via myCOI. SANDAG reserves the right to terminate this Agreement or to withhold payments to Consultant if Grantee fails to maintain compliance with the insurance requirements of this Agreement, including providing current certificates of insurance and endorsements to myCOI.

[Note to Contracts staff: For federal agencies, use the following language in place of the language above:]

The name of federal agency is self-insured. Its employees are compensated for injuries on the job by the Federal Employees' Compensation Act, codified as 5 U.S.C. 8101 et seq.

XVII. 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 Board, agents, officers, and employees harmless from and against any and all claims, including, but not limited to, prevailing wages claims against the Project, asserted or established liability 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 Board, agents, officers, or employees.

B. Intellectual Property

Upon request by SANDAG, the Grantee agrees to indemnify, save, and hold harmless SANDAG and its Board, 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.

XVIII. 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 payments 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 for in this Agreement.

XIX. 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.

XX. SEVERABILITY

If any provision of this 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.

XXI. 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 Attention
Kim Smith
401 B Street, Suite 800
San Diego, CA 92101

Grantee:

Attention:

Grantee Name
Project Manager
Grantee Address
City, State, ZIP

and shall be effective upon receipt thereof.

XXII. SIGNATURES

This Agreement may be executed and delivered by electronic signature. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

The persons below assert that they are authorized to execute this Agreement, which shall be effective as of the last date a party to the Agreement provides an electronic signature below.

SAN DIEGO ASSOCIATION OF GOVERNMENTS

GRANTEE

COLEEN CLEMENTSON
Director of Regional Planning

NAME
Title

Approved as to Form:

Office of General Counsel

Exhibit A
Scope of Work

Task No.	Task Name	Task Description	Quantifiable Results / Deliverables
1.	Name of Task	Describe Task	List the quantifiable results and deliverables
2.			
3.			
4.			
5.			
....			
....	Administration		

Exhibit B Project Budget

Grantee agrees to submit invoices to SANDAG on a quarterly basis within three weeks after each period close covering January 1 to March 31; April 1 to June 30; July 1 to September 30; and October 1 to December 31; covering the costs of the work done by task during that time period. Invoices should include backup material on the matching funds and the requested *TransNet* funds.

Task No.	Task Name	Year 1 Grant Amount	Year 1 Matching Funds ¹	Year 2 Grant Amount	Year 2 Matching Funds ¹	Year 3 Grant Amount	Year 3 Matching Funds ¹	Total Grant Amount	Total Matching Funds	Total Project Cost
1.		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2.		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
3.		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
4.		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
5.		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
...		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
...		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Sub Total										
Total										
Percentage		%	%	%	%	%	%	%	%	%

¹ Throughout the Project, Matching Funds must be proportionate to Total Project Costs (Grant Request and Matching Funds combined). For example, if a proposed project Year 1 Grant Request is \$80,000 and proposed Year 1 Matching Funds are \$20,000, the Total Year 1 Project Costs are \$100,000. Therefore, the required proportionate matching funds to provide per invoice during Year 1 of the project are 20% (e.g. invoice submitted for \$8,000 grant amount reimbursement and \$2,000 matching funds submitted). However, if the Year 2 Grant Request is \$70,000 and proposed Year 2 Matching Funds are \$30,000, while the Total Year 2 Project Costs also are \$100,000, the required proportionate matching funds increases per invoice during Year 2 of the project to 30% (e.g. invoice submitted for \$7,000 grant amount reimbursement and \$3,000 matching funds submitted). Retention will be withheld beyond the ten percent (10%) retention for each invoice submittal that does not meet the proportionate matching funds requirement. These additional matching funds retained will not be released until the proportionate matching funds are reached for the project to-date.

Exhibit C Project Schedule

Task No.	Task Name	Start Date	Months Needed to Complete Task	Task End Date
1.		"n" Months from NTP	"n"	MM/DD/YYYY
2.		"n" Months from NTP	"n"	MM/DD/YYYY
3.		"n" Months from NTP	"n"	MM/DD/YYYY
4.		"n" Months from NTP	"n"	MM/DD/YYYY
5.		"n" Months from NTP	"n"	MM/DD/YYYY
...		"n" Months from NTP	"n"	MM/DD/YYYY
...	Administration	"n" Months from NTP	"n"	MM/DD/YYYY

Assumes Notice to Proceed (NTP) is fall 2022

Exhibit D

Performance Measures

All Project activities will demonstrate Grantee's performance toward maintaining the integrity of existing regional habitat preserves through enhanced land management.

[Include the relevant sections below based on the specific project to be completed. Add the specific data points from the Grantee's application.]

I. Habitat Restoration

Grantee will restore at least 90 percent of the following habitat type:

- [insert habitat type] - [insert number] acres restored

II. Sensitive Plant Species

Grantee will restore at least 90 percent of the following sensitive species:

- [insert sensitive species name] - [insert number] species restored

III. Invasive Plant Treatment/Removal

Grantee will treat or remove at least 90 percent of the following invasive plant species:

- [insert invasive plant species type] - [insert number] species treated or removed

IV. Invasive Animal Species Removal

Grantee will remove at least 90 percent of the following invasive animal species:

- [insert invasive animal species type] - [insert number] species removed

V. Fencing and Signage Repair/Installation

Grantee will repair or install at least 90 percent of the following:

- Fencing - [insert number] feet repaired or installed
- Signage - [insert number] repaired or installed

VI. Outreach Events and Volunteer Hours

Grantee will conduct at least 90 percent of the following:

- Outreach events - [insert number] events held
- Volunteer work - [insert number] hours of completed work

Exhibit E
SANDAG Board Policy No. 035



Board Policy No. 035

COMPETITIVE GRANT PROGRAM PROCEDURES

Applicability and Purpose of Policy

This Policy applies to all grant programs administered through SANDAG, whether from *TransNet* or another source, including but not limited to the Smart Growth Incentive Program, Environmental Mitigation Program, Bike and Pedestrian Program, Senior Mini Grant Program, Federal Transit Administration grant programs, and Active Transportation Grant 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
Amended: November 2014

Exhibit F Sample Invoice

TRANSNET EMP GRANT PROGRAM ITEMIZED INVOICE

To: **Kim Smith**
SANDAG
401 "B" Street, Suite 800
San Diego, CA 92101-4231

From:

Grant Number:

Project Name:

Grant Invoice Number:

Billing Period: FROM TO

Invoice Date:

	PROJECT TASK	EXPECTE D MATCHIN G FUNDS	PREVIOUS EXPENDE D MATCHIN G FUNDS	CURRENT EXPENDE D MATCHIN G FUNDS THIS	EXPENDE D MATCHIN G FUNDS TO DATE	REMAININ G MATCHIN G FUNDS	BEGINNING GRANT BALANCE	PREVIOUS GRANT EXPENDITUR ES	CURRENT GRANT EXPENDITUR ES THIS PERIOD	GRANT EXPENDITUR S TO DATE	REMAINING GRANT BALANCE
1		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
3		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
4		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
5		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
6		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
7		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
-		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Indirect Cost % (If ANY)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Total:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Total Current Expenditures:	\$ -
10% Retention Withheld	\$ -
Total Amount Due this Invoice:	\$ -

CERTIFICATION OF GRANTEE

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

Signature _____

Printed Name and Title _____

Date _____

Summary of Deliverables Provided with Invoice

Exhibit G Sample Resolution

RESOLUTION NO. NUMBER
**AUTHORIZING AN APPLICATION FOR ENVIRONMENTAL MITIGATION LAND MANAGEMENT GRANT
PROGRAM FUNDS TO THE SAN DIEGO ASSOCIATION OF GOVERNMENTS
FOR PROJECT NAME, COMMITTING TO PROVIDE MATCHING FUNDS, AND AUTHORIZING STAFF TO
ACCEPT GRANT FUNDS AND EXECUTE GRANT AGREEMENT**

WHEREAS, in November 2004, the voters of San Diego County approved SANDAG Ordinance 04-01, which extended the *TransNet* 1/2 cent sales and use tax through 2048 (*TransNet* Ordinance); and

WHEREAS, the *TransNet* Extension Ordinance contains provisions for the creation of an Environmental Mitigation Program (EMP), which began being funded by the *TransNet* Ordinance on April 1, 2008; and

WHEREAS, in Month Day, Year, SANDAG issued its Cycle 10 call for projects from entities wishing to apply for a portion of the EMP Regional Habitat Conservation grant funds for use on environmental land management projects meeting certain criteria; and

WHEREAS, Name of Organization wishes to receive EMP Regional Habitat Conservation grant funds for the following project: Project Name; and

WHEREAS, Name of Organization understands that the EMP Regional Habitat Conservation grant 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.

NOW, THEREFORE, BE IT RESOLVED by Governing Board Name that Name of Organization is authorized to submit an application to SANDAG for Name of the Grant Program EMP Regional Habitat Conservation funding for Project Name; and

BE IT FURTHER RESOLVED that, if a grant award is made by SANDAG to fund Project Name, Governing Board commits to providing matching funds and/or in-kind contributions up to the amount(s) set forth in its grant application; authorizes Name of Organization staff to accept the grant funds; and authorizes execution of the Grant Agreement included in the Cycle 10 call for projects with SANDAG without exceptions.

PASSED AND ADOPTED by Name of Organization's Governing Board this Insert Date of Insert Month and Year.

Ayes: _____

Nayes: _____

Absent/Abstention: _____

ATTEST:

Signature of Governing Board's Chair/Director

Clerk or Secretary of the Governing Board of
Name of Organization

Note to Grant Applicant: This Sample Resolution satisfies the requirements of SANDAG Board Policy No. 035, Competitive Grant Program Procedures, Sections 4.1.1 and 4.1.2. Failure to submit a resolution that includes all of the provisions above, including those from Sections 4.1.1 and 4.1.2 of SANDAG's Board Policy No. 035, 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. Board letters, minute orders, meeting minutes, or any other document that is not a resolution, will not satisfy Sections 4.1.1 and 4.1.2 of Board Policy No. 035. (Please delete the highlighted portion of this document before presenting this resolution to your governing body.)