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- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
  - San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies
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## Revised Back-Up Materials Item No. 9

### Board of Directors Meeting

**October 3, 2012**

**10:30 a.m.**

**Location:**

San Bernardino Associated Governments  
Santa Fe Depot – SANBAG Lobby 1<sup>st</sup> Floor  
1170 W. 3<sup>rd</sup> Street  
San Bernardino, CA

### CONSENT CALENDAR

**9. San Bernardino Regional Vanpool Program–Victor Valley Phase**

1. Approve Contract C13029 between San Bernardino Associated Governments (SANBAG), acting as the Commission, and Victor Valley Transit Authority (VVTA) in the total amount of \$739,312 over three years for the San Bernardino Regional Vanpool Program – Victor Valley Phase.
2. Allocate \$294,512 in Measure I Victor Valley Project Development and Traffic Management Systems (PDTMS) program funds to the San Bernardino Regional Vanpool Program – Victor Valley Phase.
3. Allocate \$78,288 in Measure I North Desert (Barstow) PDTMS program funds to the San Bernardino Regional Vanpool Program – Victor Valley Phase.
4. Approve an amendment to the SANBAG Fiscal Year 2012/2013 Budget, increasing Task No. 0310, Transit Operating, by \$154,600 using \$122,134 in Measure I Victor Valley PDTMS funds (Fund No. 4280) and \$32,466 in Measure I North Desert (Barstow) PDTMS funds (Fund No. 4380) for a new total of \$8,977,672.

*The contract that coincides with Agenda Item No. 9 had three corrections:*

- *Page 59, entitled Contract Summary Sheet, in the section that reads Overview of BOD action, the dollar amount was changed to \$739,312 to reflect the agenda and contract amounts.*
- *Page 60, the first page of the contract, Section I.B should read VVTA shall prepare and submit to SANBAG an original and two (2) copies of a progress report and invoice for tasks included in Attachment A. Progress reports and invoices shall be submitted to SANBAG no more frequently than on a monthly basis and no less than on a quarterly basis.*
- *Finally on page 61, Section II.B should read Seven Hundred Thirty-Nine Thousand Three Hundred and Twelve Dollar (\$739,312) to reflect the agenda and contract amounts.*



**COOPERATIVE AGREEMENT NO. C13029  
BETWEEN**

**SAN BERNARDINO ASSOCIATED GOVERNMENTS (SAN BERNARDINO COUNTY  
TRANSPORTATION COMMISSION)  
AND**

**VICTOR VALLEY TRANSIT AUTHORITY**

This COOPERATIVE AGREEMENT ("AGREEMENT"), is made on the "Effective Date" by and between the San Bernardino Associated Governments, a joint powers authority, acting as the San Bernardino County Transportation Commission, hereinafter referred to as "SANBAG", and the Victor Valley Transit Authority, a joint powers authority, hereinafter referred to as "VVTA" for the purpose of defining the roles and responsibilities of the two parties with respect to the receipt of Victor Valley Project Development and Traffic Management Systems (VVPDTMS), Rural Mountain/Desert Subareas Project Development and Traffic Management Systems (MDPDTMS), and State Transit Assistance (STA) funds for the purpose of funding the Victor Valley Phase of the San Bernardino Regional Vanpool Program. SANBAG and VVTA are each a "party" and collectively "Parties" as identified herein.

**RECITALS:**

**WHEREAS**, SANBAG is the San Bernardino County Transportation Commission; and

**WHEREAS**, VVTA is a provider of public transportation within the county; and,

**WHEREAS**, VVTA in conjunction with SANBAG was awarded \$1,491,200 of Federal Transportation Administration (FTA) Section 5309 Bus Livability funds for the San Bernardino Regional Vanpool Program – Victor Valley Phase hereinafter referred to as "PROJECT"; and

**NOW, THEREFORE**, it is mutually understood and agreed by the Parties as follows:

**SECTION I. RESPONSIBILITIES OF VVTA**

- A. VVTA shall provide the tasks identified in Attachment A, incorporated into this Agreement by this reference.
- B. VVTA shall prepare and submit to SANBAG an original and two (2) copies of a progress report and invoice for tasks included in Attachment A. Progress reports and invoices shall be submitted to SANBAG no more frequently than on a monthly basis and no less than on a quarterly basis.

- C. VVTA shall, upon completion of the Project, prepare and submit a Project Follow-up Report to SANBAG. The Project Follow-up Report shall include documentation that all aspects of PROJECT included in Attachment A have been completed.
- D. VVTA agrees to indemnify, defend and hold harmless SANBAG and its authorized officers, employees, and agents from any and all claims, actions, losses, damages, and/or liability ("Claims") arising out of this Agreement from any cause whatsoever, including the acts, errors, or omissions of any person and for any costs or expenses incurred by the indemnitees on account of any Claims except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees, but does not apply to the indemnitees' "sole" or "active" negligence or "willful misconduct" within the meaning of Civil Code Section 2782.
- E. VVTA agrees that any program administration funds not encumbered during the specific allocated year will be rescinded and returned to SANBAG.

## **SECTION II. RESPONSIBILITIES OF SANBAG**

- A. SANBAG shall provide technical assistance and document review to VVTA during the preparation of the Project.
- B. SANBAG's contribution to VVTA is limited to a Not-To-Exceed Amount of Seven Hundred Thirty-Nine Thousand Three Hundred and twelve Dollars (\$739,312) for the federal match and program administration for the San Bernardino Regional Vanpool Program – Victor Valley Phase.
- C. SANBAG shall reimburse VVTA for allowable Project costs within forty-five (45) calendar days after VVTA submits to SANBAG a satisfactory invoice and progress report for Project.

## **SECTION III. MUTUALLY AGREED PROVISIONS:**

- A. Term of Agreement - This Agreement shall remain in effect until October 3, 2015. The term of this Agreement may only be extended upon mutual written agreement by both Parties.
- B. Legal Authority - The signers of this Agreement represent and warrant that they are duly authorized to execute this Agreement on behalf of SANBAG and VVTA and that, by executing this Agreement, the Parties are formally bound to the provisions of this Agreement.
- C. Product Development – Any product developed during the course of the San Bernardino Regional Van Pool – Victor Valley Phase will be owned by SANBAG and VVTA for their future use and for use for other vanpool phases.

- D. Notices - Any notices, requests, or demands made between the parties pursuant to this Agreement are to be directed as follows:

**To VVTA:**

Victor Valley Transit Authority  
17150 Smoketree St.  
Hesperia, CA 92345  
Attention: **Kevin Kane**  
Position: Executive Director  
Phone No.: 760-948-4330

**To SANBAG:**

San Bernardino Associated Governments  
1170 W. Third St., 2<sup>nd</sup> Floor  
San Bernardino, CA 92401-1715  
Attention: **Mitch Alderman**  
Position: Director, Transit & Rail Programs  
Phone No.: 909-884-8276

- E. Severability - If any term, provision, covenant, or condition of this Agreement is held to be invalid, void, or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, and each term, provision, covenant or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- F. Counterparts of Agreement - This Agreement may be executed and delivered in any number of counterparts, each of which, when executed and delivered shall be deemed an original and all of which together shall constitute the same agreement. Facsimile signatures will not be permitted.
- G. Force Majeure - Either party shall be excused from performing its obligations under this Agreement during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control, including: any incidence of fire; flood; acts of God; commandeering of material, products, plants or facilities by the federal, state or local government; national fuel shortage; or a material act or omission by the other party; when satisfactory evidence of such cause is presented to the other party, and provided further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the party not performing.
- H. Assignment - Neither this Agreement, nor any of the parties' rights, obligations, duties, or authority hereunder may be assigned in whole or in part by either party without the prior written consent of the other party, which consent the other party may withhold in its sole, and absolute, discretion. Any such attempt of assignment shall be deemed void and of no force and effect. Consent to one assignment shall not be deemed consent to any subsequent assignment, nor the waiver of any right to consent to such subsequent assignment.
- I. Obligations To Comply with Law - Nothing herein shall be deemed nor construed to authorize or require any Party to issue bonds, notes, or other evidences of indebtedness under the terms, in amounts, or for purposes other than as authorized by local, state or federal law.
- J. Governing Law - The laws of the State of California and applicable local, state and federal

## ATTACHMENT A

### Project Milestones and Schedule

Project Milestone	Start Date	Completion
Task 1 – Execute FTA Funding Agreement.	Funding announcement in Federal Register	Funding announcement + 12 months (NTP)
Task 2 – Vanpool Lease - Develop Vanpool Provider Request for Proposal issue, review proposals, execute contracts.	Funding announcement in Federal Register	NTP + 10 months
Task 3 - Asset Management: a. Develop IT Request for Proposal, issue, review proposals, execute contracts. b. Develop and implement the IT System, including web-based application, database, reporting functions and NTD reporting. c. Manage the System	NTP + 9 months  NTP + 13 months  NTP + 22 months	NTP + 13 months  NTP + 22 months  Ongoing
Task 4 – Procure and implement Development and Management Program Consulting Services	NTP + 11 Months	Ongoing
Task 5 – Procure and implement Clerical and Technical Support	NTP + 15 months	Ongoing
Task 6 – Marketing: a. Develop and produce outreach materials b. Conduct outreach to employers c. Create a website d. Conduct a kickoff event	NTP + 9 months  NTP + 2 months  NTP + 9 Months NTP + 12 months	NTP + 11 months, and updates to are ongoing Ongoing  Ongoing NTP + 13 months
Task 7 – Procure and implement Clerical and Technical Support	NTP + 16 months	Ongoing
Task 8 – Printing: develop a vanpool decal and other printed materials	NTP + 9 months	Ongoing
Task 9 – Legal – Seek County Counsel assistance on relevant vanpool matters	NTP	Ongoing
Task 10 – Implementation - begin accepting vanpools	NTP + 11 months	Ongoing

## ATTACHMENT B

### San Bernardino Regional Vanpool Program – Victor Valley Phase

FTA Grant Request	FY12/13	FY13/14	FY14/15	TOTAL
Vanpool Lease	\$ 698,000	\$ 1,035,600	\$ 400	\$ 1,734,000
Asset Mngt	\$ 75,000	\$ 30,000	\$ 25,000	\$ 130,000
Grant subtotal	\$ 773,000	\$ 1,065,600	\$ 25,400	\$ 1,864,000
FTA 80%	\$ 618,400	\$ 852,480	\$ 20,320	\$ 1,491,200
Match 20%	\$ 154,600	\$ 213,120	\$ 5,080	\$ 372,800

Program Admin	FY12/13	FY13/14	FY14/15	TOTAL
Development/Management	\$ 75,062	\$ 40,000	\$ 25,000	\$ 145,062
Clerical/Technical Support		\$ 40,000	\$ 41,200	\$ 81,200
Marketing	\$ 16,250	\$ 15,000	\$ 15,000	\$ 46,250
Printing	\$ 27,500	\$ 27,500	\$ 27,500	\$ 82,500
Legal	\$ 5,000	\$ 5,500	\$ 6,000	\$ 16,500
<b>TOTAL</b>	<b>\$ 123,812</b>	<b>\$ 128,000</b>	<b>\$ 114,700</b>	<b>\$ 366,512</b>

Total Per Year – SANBAG's Obligation	\$ 278,412	\$ 341,120	\$ 119,780	\$ 739,312
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#### Funding for Match and Program Admin

	FY12/13	FY13/14	FY 14/15	TOTALS
STAF	\$ 123,812	\$ 128,000	\$ 114,700	\$ 366,512
VVPDTMS (79%)	\$ 122,134	\$ 168,365	\$ 4,013	\$ 294,512
MDPDTMS (21%)	\$ 32,466	\$ 44,755	\$ 1,067	\$ 78,288
<b>TOTAL</b>	<b>\$ 278,412</b>	<b>\$ 341,120</b>	<b>\$ 119,780</b>	<b>\$ 739,312</b>