

**MEMORANDUM OF UNDERSTANDING  
BETWEEN SAN DIEGO ASSOCIATION OF GOVERNMENTS  
AND THE CITY OF CHULA VISTA  
REGARDING LIGHT RAIL TROLLEY IMPROVEMENT STUDY  
SANDAG CONTRACT NUMBER 5001854**

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30<sup>th</sup> This Memorandum of Understanding ("MOU") is made and entered into effective as of this day of August, 2011, by and between the San Diego Association of Governments ("SANDAG") and the City of Chula Vista ("Chula Vista") for the purpose of working cooperatively on a Light Rail Trolley Improvement Study. Individually, SANDAG and Chula Vista may be referred to as "Party" and collectively as "Parties."

**RECITALS**

The following recitals are a substantive part of this MOU:

WHEREAS, Chula Vista has accepted a grant of \$237,500 from the Transportation, Community, and System Preservation (TCSP) Program for a Light Rail Trolley Improvement Study (Study);

WHEREAS, on October 15, 2009, the Federal Highway Administration (FHWA) reduced the TCSP grant amount to \$222,300;

WHEREAS, Chula Vista has appropriated local funding in the amount of \$127,700 for the preparation of a Light Rail Trolley Improvement Study;

WHEREAS, the Study will cost \$350,000 and will be funded with TCSP grant funds and Chula Vista local match funds;

WHEREAS, the Study is part of the Interstate 5 Multimodal Corridor Study, which is included in the Regional Transportation Improvement Program as project CHV30;

WHEREAS, the Study is of regional importance to the Metropolitan Transit System (MTS), the California Department of Transportation (Caltrans), Chula Vista, SANDAG, and the public whose implementation is expected to reduce delays attributed to traffic congestion, permit increased frequencies of the Trolley, and improve mobility, goods movement, and safety;

WHEREAS, SANDAG will be the lead agency and administer the Study in cooperation with Chula Vista, MTS, and Caltrans;

WHEREAS, SANDAG intends to utilize its on-call engineering services consultants to complete the Study as described in this MOU;

WHEREAS, funding for the Study from the federal discretionary funds will be paid to Caltrans via a Federal Fund Transfer Agreement (FFTA), and Chula Vista and Caltrans intend to enter into an agreement to authorize Chula Vista to reimburse SANDAG for all Study costs from funds provided by the FFTA; and

WHEREAS, the Parties wish to memorialize their agreement in this MOU to carry out the purposes set forth above.

## **AGREEMENT**

NOW THEREFORE, in consideration of the mutual promises set forth herein, the Parties agree as follows:

1. The purpose of the Study is to develop geometric alternatives for constructing grade separations, as well as relocating the Trolley station platforms at the E Street, H Street, and Palomar Street grade crossings. The Study report shall include considerations for at-grade, aerial, and depressed Trolley platform locations. An alternative to grade separate E, F, and H Streets as one project also will be studied and considered. Visual simulations will be prepared for each of the various alternatives. Alternative rail and street profiles, station location alternatives, preliminary station layout plans, and detailed cost estimates also will be developed. The Study report will be prepared with input from and in cooperation with the MTS, Caltrans, Chula Vista, and SANDAG.
2. The budget for the Study shall not exceed \$350,000; however, in the event that SANDAG notifies Chula Vista that this amount will be exceeded, Chula Vista will meet with SANDAG to discuss whether an amendment to this MOU is appropriate. In no event shall SANDAG have the responsibility to move forward with the Study until the Parties are able to identify sufficient funds to complete the work.
3. SANDAG shall receive an amount not to exceed \$350,000 as reimbursement for Study costs. All expenses incurred by SANDAG for the Study, including consultant costs, claims, litigation, or other liability, shall be reimbursed by Chula Vista.
4. The funds for the Study shall be expended as follows:
  - a. An amount not to exceed \$300,000 for consultant services, including SANDAG administrative costs.
  - b. An amount not to exceed \$50,000 as consultant contract contingency.
5. SANDAG shall use one or more of its existing on-call engineering consultants to perform work on the Study. Chula Vista shall pay the consultant expenses in the amount identified in Section 4 and in the manner described in Section 6.
6. SANDAG shall invoice Chula Vista no more than once per month. Chula Vista shall make payment to SANDAG within 45 days of receipt of an invoice submitted by SANDAG for Study costs. SANDAG shall have no obligation to perform under this MOU and shall not assign work to any of its consultants on the Study until after the agreement between Chula Vista and Caltrans is executed. SANDAG may terminate work on the Study if it is not reimbursed by Chula Vista within 45 days of submitting an invoice.
7. Chula Vista agrees to provide staff support and cooperation on the Study, including, but not limited to, any staff support or cooperation needed to defend any claims or litigation that may arise on the Study.
8. During the term of this MOU, the Parties shall be responsible for the storage and maintenance of their respective electronic data collected for use on the Study. The Parties shall provide a secure site to allow access to this data to selected staff who shall be designated by the respective Party. All work products resulting from this MOU and consultant deliverables shall be the joint property of Chula Vista, SANDAG, Caltrans, and MTS.

9. Neither Chula Vista nor any officer thereof is responsible for any damage or liability occurring by reason of anything done or omitted to be done by SANDAG under or in connection with any work, authority, or jurisdiction delegated to SANDAG under this MOU. It is understood and agreed that, pursuant to Government Code Section 895.4, SANDAG shall fully defend, indemnify, and save harmless Chula Vista, all officers and employees from all claims, suits, or actions of every name, kind, and description brought for or on account of injury (as defined in Government Code Section 810.8) occurring by reason of anything done or omitted to be done by SANDAG under or in connection with any work, authority, or jurisdiction delegated to SANDAG under this MOU.
10. Neither SANDAG nor any officer thereof is responsible for any damage or liability occurring by reason of anything done or omitted to be done by Chula Vista under or in connection with any work, authority, or jurisdiction delegated to SANDAG under this MOU. It is understood and agreed that, pursuant to Government Code Section 895.4, Chula Vista shall fully defend, indemnify, and save harmless SANDAG, all officers and employees from all claims, suits, or actions of every name, kind, and description brought for or on account of injury (as defined in Government Code Section 810.8) occurring by reason of anything done or omitted to be done by Chula Vista under this MOU.
11. That all obligations of SANDAG under the terms of this MOU are subject to the appropriation of the required resources by SANDAG and the approval of the SANDAG Board of Directors or Transportation Committee.
12. Any notice required or permitted under this MOU may be personally served on the other Party, by the Party giving notice, or may be served by certified mail, return receipt requested, to the following addresses:
 

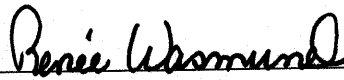
<p>For SANDAG            401 B Street, Suite 800            San Diego, CA 92101            Attn: John Dorow</p>	<p>For the City of Chula Vista            Public Works Department            276 Fourth Avenue            Chula Vista, CA 91910            Attn: Frank Rivera</p>
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13. That unless it is amended by the Parties in writing, this MOU shall terminate on September 30, 2012, or on such earlier or later date as the Parties may agree to in writing.
14. The indemnification provisions of this MOU shall survive termination of the MOU.
15. This MOU shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this MOU, the action shall be brought in a state or federal court situated in the County of San Diego, State of California.
16. All terms, conditions, and provisions hereof shall inure to and shall bind each of the Parties hereto and each of their respective heirs, executors, administrators, successors, and assigns.
17. For purposes of this MOU, 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.
18. No alteration or variation of the terms of this MOU shall be valid unless made in writing and signed by the Parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on any of the Parties hereto.

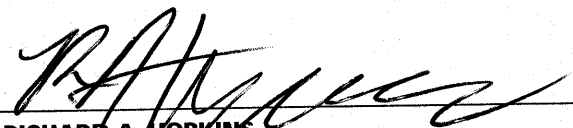
19. Nothing in the provisions of this MOU is intended to create duties or obligations to or rights in third-parties to this MOU or affect the legal liability of the Parties to this MOU to third-parties.
20. This MOU may be executed in any number of identical counterparts, each of which shall be deemed to be an original, and all of which together shall be deemed to be one and the same instrument when each Party has signed one such counterpart.
21. This Agreement shall be deemed executed on the date on which the last Party signs this MOU.

IN WITNESS WHEREOF, the Parties hereto have executed this MOU effective on the day and year first above written.

SAN DIEGO ASSOCIATION OF GOVERNMENTS

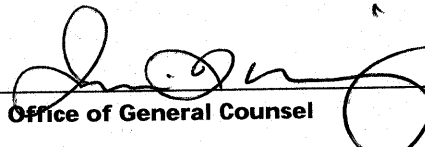
CITY OF CHULA VISTA

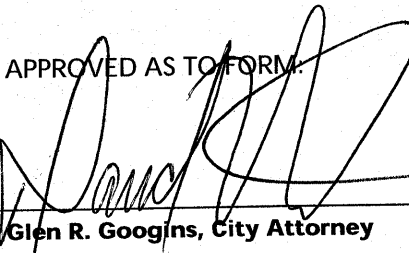
*for*   
GARY L. GALLEGOS  
Executive Director

  
RICHARD A. HOPKINS  
Director of Public Works/City Engineer

APPROVED AS TO FORM:

APPROVED AS TO FORM:

  
Office of General Counsel

  
Glen R. Googins, City Attorney