

**TransNet ACTIVE TRANSPORTATION GRANT PROGRAM**  
**GRANT AGREEMENT 5004634 BETWEEN**  
**THE SAN DIEGO ASSOCIATION OF GOVERNMENTS AND**  
**THE CITY OF CHULA VISTA**  
**REGARDING ITS F STREET PROMENADE STREETScape MASTER PLAN**

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THIS GRANT AGREEMENT 5004634 (Agreement) is made this 14 day of August, 2015, by and between the San Diego Association of Governments, 401 B Street, Suite 800, San Diego, California, hereinafter referred to as SANDAG, and the City of Chula Vista, 276 4<sup>th</sup> Avenue, Chula Vista, CA 91910, hereinafter referred to as Grantee. This agreement expires on August 14, 2018.

The following recitals are a substantive part of this Agreement:

- A. On September 26, 2013, Governor Brown signed legislation creating the Active Transportation Program (ATP) (Senate Bill 99 and Assembly Bill 101) to encourage increased use of active modes of transportation such as bicycling and walking.
- B. ATP funding is awarded through a competitive process that consists of two stages: a statewide competition facilitated by the California Transportation Commission (CTC), followed by a regional competition facilitated by SANDAG.
- C. The regional competition for Cycle 1 ATP funds was conducted in 2014 and resulted in a list of 10 projects to be funded through the ATP in the amount of \$13.41 million. On September 26, 2014, the Board of Directors recommended the final list of ranked projects to the CTC for funding allocation. Of the 10 recommended projects, 7 were from local jurisdictions with a cumulative award amount of \$5.99 million, while the three remaining projects were SANDAG projects.
- D. The SANDAG Board of Directors allocates funds under the *TransNet* local sales tax program to support local bicycle and pedestrian transportation projects in the San Diego region through a competitive process.
- E. The *TransNet* Extension Ordinance contains provisions to fund the Bicycle, Pedestrian, and Neighborhood Safety Program (BPNSP), which encompasses bicycle and pedestrian travel projects. The *TransNet* BPNSP is commonly referred to as the SANDAG Active Transportation Grant Program (ATGP).
- F. Section 7 of the *TransNet* Extension Ordinance allows for the exchange of federal, state, or other local funds for *TransNet* funds to maximize effectiveness in the use of revenues.
- G. On November 21, 2014, the SANDAG Board of Directors approved the exchange of ATP funding for *TransNet* funding for the 7 local jurisdiction projects selected in the regional ATP competition by Resolution Number RTC 2015-02.
- H. Grantee successfully applied for ATP funding for its F Street Promenade Streetscape Master Plan (Project), as described in Grantee's grant application. The Scope of Work, Project Schedule, and Approved Project Budget are included as Attachment A.

- I. Grantee's Project is funded with \$491,000 in ATGP funds. The *TransNet* Metropolitan Planning Organization identification for the Project is CHV76.
- J. The purpose of this Agreement is to establish the terms and conditions for SANDAG to provide Grantee with funding to implement the Project.
- K. Although SANDAG will be providing financial assistance to Grantee to support the Project, SANDAG will not take an active role or retain substantial control of the Project. Therefore, this Agreement is characterized as a funding agreement rather than a cooperative agreement.
- L. Grantee understands that *TransNet* funds derive from retail transactions and use tax revenues which fluctuate. SANDAG's funding commitment to ATGP projects, including this Project, is subject to these fluctuations, which may impact funding availability for this Project.
- M. Grantee further understands that this Grant Award, Agreement and the Grantee's performance thereunder are subject to Board Policy No. 035, which includes multiple "use it or lose it" provisions.

NOW, THEREFORE, it is agreed as follows:

**I. DEFINITIONS**

- A. **Application.** The signed and dated grant application, including any amendment thereto, with all explanatory, supporting, and supplementary documents filed with SANDAG by or on behalf of the Grantee and accepted or approved by SANDAG. All of Grantee's application materials, not in conflict with this Agreement, are hereby incorporated into this Agreement as though fully set forth herein.
- B. **Approval, Authorization, Concurrence, Waiver.** A written statement (transmitted in typewritten hard copy or electronically) of a SANDAG official authorized to permit the Grantee to take or omit an action required by this Agreement, which action may not be taken or omitted without such written permission. Except to the extent that SANDAG determines otherwise in writing, such approval, authorization, concurrence, or waiver permitting the performance or omission of a specific action does not constitute permission to perform or omit other similar actions. An oral permission or interpretation has no legal force or effect.
- C. **Approved Project Budget.** The most recent statement of the costs of the Project, the maximum amount of assistance from SANDAG for which the Grantee is currently eligible, the specific tasks (including specific contingencies) covered, and the estimated cost of each task, that has been approved by SANDAG. The Approved Project Budget is included in Attachment A.
- D. **ATGP Funds and Funding.** Funding from the *TransNet* BPNSP.
- E. **Grantee.** The local jurisdiction that is the recipient of ATGP funding under this Agreement.
- F. **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.

- G. Subgrantee.** 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 included as Attachment A.
2. **Effective Date.** The effective date of this Agreement or any amendment hereto is the date on which this Agreement or an amendment is fully executed. The Grantee agrees to undertake Project work promptly after receiving a Notice to Proceed from SANDAG.
3. **Grantee's Capacity.** The Grantee agrees to maintain or acquire sufficient legal, financial, technical, and managerial capacity to: (a) plan, manage, and complete the Project and provide for the use of any Project property; (b) carry out the safety and security aspects of the Project; and (c) comply with the terms of the Agreement and all applicable laws, regulations, and policies pertaining to the Project and the Grantee, including but not limited to the *TransNet* Extension Ordinance and Board Policy No. 035.
4. **Project Schedule.** The Grantee agrees to complete the Project according to the Project Schedule included in Attachment A and in compliance with Board Policy No. 035, as amended, and included as Attachment B.
5. **Project Implementation and Oversight.** Grantee agrees to comply with the Project Implementation and Oversight Requirements, included as Attachment C, and Board Policy No. 035, as amended.
6. **Changes to Project's Scope of Work.** This Agreement was awarded to Grantee based on the application submitted by Grantee, which contained representations by Grantee regarding project parameters, project proximity to transit, and other criteria relevant to evaluating and ranking the Project based on the Regional ATP scoring criteria. Any substantive deviation from Grantee's representations in the Application during project implementation may require reevaluation or result in loss of funding. If Grantee knows or should have known that substantive changes to the Project will occur or have occurred, Grantee will immediately notify SANDAG in writing. SANDAG will then determine whether the Project is still consistent with the overall objectives of the ATGP and Regional ATP and whether the changes would have negatively affected the Project ranking during the competitive grant evaluation process. SANDAG reserves the right to have ATGP Funding withheld from Grantee, or refunded to SANDAG, due to Grantee's failure to satisfactorily complete the Project or due to substantive changes to the Project.
7. **Media and Community Outreach Coordination.** The Grantee agrees notify SANDAG of 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 Project, such as ground breaking and ribbon cutting. Press materials shall be provided to SANDAG staff before

they are distributed. SANDAG logo(s) should be included in press materials and other project collateral, but may never be included in such documents without advance approval from SANDAG.

As part of the quarterly reports submitted to SANDAG, the Grantee agrees to provide project milestone information to support media and communications efforts. SANDAG reserves the right to use the information provided by the Grantee for any combination of the following, including but not limited to: social media posts, online photo albums, videos, press releases, PowerPoint presentations, web updates, newsletters, and testimonials. In submitting photos to SANDAG, the Grantee agrees to release the rights of the photos to SANDAG for its use.

8. **Project Signage and Designation of *TransNet* Funded Facilities.** Each capital project in excess of \$250,000 funded in whole or in part by revenues from the *TransNet* Extension Ordinance shall be clearly designated during its construction or implementation as being provided by revenues from the *TransNet* Extension Ordinance.

Grantee agrees to follow the Project Signage Specifications. SANDAG will provide sign specifications. Grantee agrees to follow sign specifications and submit proof files to SANDAG for approval before printing.

9. **Baseline Data Collection.** For capital projects, Grantee is required to coordinate with SANDAG staff on the development of a baseline data collection plan in accordance with the Project Implementation and Oversight Requirements.

- B. **Application of Laws.** Should a federal or state law pre-empt a local law, regulation, or the *TransNet* Extension Ordinance, the Grantee must comply with the federal or state law and implementing regulations. No provision of this Agreement requires the Grantee to observe or enforce compliance with any provision, perform any other act, or do any other task in contravention of federal, state, territorial, or local law, regulation, or ordinance. If compliance with any provision of this Agreement violates or would require the Grantee to violate any law, the Grantee agrees to notify SANDAG immediately in writing. Should this occur, SANDAG and the Grantee agree that they will make appropriate arrangements to proceed with or, if necessary, terminate the Project or affected portions thereof expeditiously.

- C. **Notice Regarding Prevailing Wages.** SANDAG's ATGP Grants are funded with *TransNet* revenues consistent with the *TransNet* Extension Ordinance adopted by the voters in November 2004 (SANDAG Ordinance 04-01). Although SANDAG Ordinance 04-01 does not require payment of prevailing wages, California law may require that Grantee's public works projects pay prevailing wages for workers. Grantee acknowledges that SANDAG has strongly encouraged Grantee to seek legal counsel regarding whether the Project will be subject to prevailing wage laws consistent with Labor Code Section 1720, et seq. This Agreement requires Grantee's compliance with all federal, state, and local laws and ordinances as applicable.

- D. **Significant Participation by a Subgrantee.** Although the Grantee may delegate any or almost all Project responsibilities to one or more subgrantees, the Grantee agrees that it,

rather than any subgrantee, is ultimately responsible for compliance with all applicable laws, regulations, and this Agreement.

- E. Third Party Contracting.** Grantee shall not award contracts over three thousand dollars (\$3,000) 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.

1. If Grantee hires a consultant to carry out professional services funded under this Agreement, Grantee shall: prepare an Independent Cost Estimate (ICE) prior to soliciting proposals; publicly advertise for competing proposals for the work; use cost as an evaluation factor in selecting the consultant; document a Record of Negotiation (RON) establishing that the amount paid by Grantee for the consultant services is fair and reasonable; and pass through the relevant obligations in this Agreement to the consultant.
2. If Grantee hires a contractor to carry out construction services funded under this Agreement, Grantee shall: prepare an ICE (e.g., a construction cost estimate) prior to soliciting bids; publicly advertise for competing bids for the work; award the work to the lowest responsive and responsible bidder; document a RON establishing that the amount paid by Grantee for the construction services is fair and reasonable; and pass through the relevant obligations in this Agreement to the contractor.

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

1. **Entities Affected.** Grantee agrees to take appropriate measures necessary to ensure that all Project participants comply with all applicable federal laws, regulations, and policies affecting Project implementation. In addition, if an entity other than the Grantee is expected to fulfill any responsibilities typically performed by the Grantee, the Grantee agrees to assure that the entity carries out the Grantee's responsibilities as set forth in this Agreement.
2. **Documents Affected.** The applicability provisions of laws, regulations, and policies determine the extent to which those provisions affect an entity (such as a subgrantee) participating in the Project through the Grantee. Thus, the Grantee agrees to use a written document to ensure that each entity participating in the Project complies with applicable laws, regulations, and policies.
3. **Flowdown.** The Grantee agrees to include in each document (subagreement, lease, third-party contract, or other) any necessary provisions requiring the Project participant (third-party contractor, subgrantee, or other) to impose applicable laws, Agreement requirements and directives on its subgrantees, lessees, third-party contractors, and other Project participants at the lowest tier necessary.

- G. No SANDAG Obligations to Third-Parties.** In connection with the Project, the Grantee agrees that SANDAG shall not be subject to any obligations or liabilities to any subgrantee, lessee, third-party contractor, or other person or entity that is not a party to the Agreement for the Project. Notwithstanding that SANDAG may have concurred in or approved any solicitation, subagreement, lease, or third-party contract at any tier, SANDAG has no

obligations or liabilities to any entity other than the Grantee, including any subgrantee, lessee, or third-party contractor at any tier.

- H. Changes in Project Performance.** The Grantee agrees to notify SANDAG immediately, in writing, of any change in local law, conditions (including its legal, financial, or technical capacity), or any other event that may adversely affect the Grantee's ability to perform the Project in accordance with the terms of the Agreement and as required by 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.
- I. Standard of Care.** The Grantee expressly warrants that the work to be performed pursuant to this Agreement shall be performed in accordance with the applicable standard of care. Where approval by SANDAG, its Executive Director, or other representative of SANDAG is indicated in the Scope of Work, it is understood to be conceptual approval only and does not relieve the Grantee of responsibility for complying with all laws, codes, industry standards, and liability for damages caused by negligent acts, errors, omissions, noncompliance with industry standards, or the willful misconduct of the Grantee or its subgrantees.

### **III. ETHICS**

- A. Grantee Code of Conduct/Standards of Conduct.** The Grantee agrees to maintain a written code of conduct or standards of conduct that shall govern the actions of its officers, employees, council or board members, or agents engaged in the award or administration of subagreements, leases, or third-party contracts supported with ATGP funding. The Grantee agrees that its code of conduct or standards of conduct shall specify that its officers, employees, council or 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. The Grantee may set *de minimis* rules where the financial interest is not substantial, or the gift is an unsolicited item of nominal intrinsic value. The Grantee agrees that its code of conduct or standards of conduct shall also prohibit its officers, employees, board members, or agents from using their respective positions in a manner that presents a real or apparent personal or organizational conflict of interest or personal gain. As permitted by state or local law or regulations, the Grantee agrees that its code of conduct or standards of conduct shall include penalties, sanctions, or other disciplinary actions for violations by its officers, employees, council or board members, or their agents, or its third-party contractors or subgrantees or their agents.
- 1. Personal Conflicts of Interest.** The Grantee agrees that its code of conduct or standards of conduct shall prohibit the Grantee's employees, officers, council or board members, or agents from participating in the selection, award, or administration of any third-party contract or subagreement supported by ATGP funding if a real or apparent conflict of interest would be involved. Such a conflict would arise when an employee, officer, board member, or agent, including any member of his or her immediate family, partner, or organization that employs, or intends to employ, any of the parties listed herein has a financial interest in 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 subagreement may, without some restrictions on future activities, result in an unfair competitive advantage to the third-party contractor or subgrantee or impair its objectivity in performing the contract work.

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

#### IV. AMOUNT OF FUNDING ASSISTANCE

The Grantee agrees that SANDAG will provide ATGP Funding for the Project equal to the smaller of the following amounts: (a) the Maximum SANDAG Amount Approved of \$491,000, or (b) the amount calculated in accordance with the Maximum Percentage(s) of SANDAG Participation, which is 94.72 percent (94.72%). 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.

#### V. MATCHING FUNDS

Grantee has proposed to provide \$27,345 in 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 ATGP Funding awarded, that will assure payment of the actual cost of each Project activity covered by this Agreement. 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. Each of Grantee's invoices must include its pro-rata matching fund contribution as reflected in the Approved Project Budget, along with supporting, descriptive and/or explanatory documentation for the matching funds provided.
- 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 ATGP funding provided is made to SANDAG in order to maintain the Maximum Percentage(s) of SANDAG Participation.

#### **VI. APPROVED PROJECT BUDGET**

Except to the extent that SANDAG determines otherwise in writing, the Grantee agrees as follows: The Grantee and SANDAG have agreed to a Project budget that is designated the "Approved Project Budget." The Grantee will incur obligations and make disbursements of Project funds only as authorized by the Approved Project Budget. An amendment to the Approved Project Budget requires the issuance of a formal amendment to the Agreement, unless the re-allocation of funds among budget items or fiscal years that not increase the total amount of the ATGP funding awarded for the Project, does not negatively impact the benefits obtained from the Project, and is consistent with applicable laws, regulations, and policies. Prior written SANDAG Project Manager approval is required for transfers of funds between Approved Project Budget line items.

#### **VII. PAYMENTS**

- A. Grantee's Request for Payment When Matching Funds Are Required.** The Grantee will demonstrate or certify that it will provide adequate matching funds 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 ATGP funding 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 thirty (30) days if Grantee has complied with the requirements of the Agreement, including submission



of a Quarterly Report which is included as Attachment D, has satisfied SANDAG that the ATGP funding 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 consistent with the Approved Project Budget. SANDAG shall retain ten percent (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 and receipt of Grantee's final invoice and all required documentation.

**C. Eligible Costs.** The Grantee agrees that Project costs eligible for ATGP funding must comply with the following requirements, unless SANDAG determines otherwise in writing. To be eligible for reimbursement, Project costs must be:

1. Consistent with the Project Scope of Work, the Approved Project Budget, and other provisions of the Agreement.
2. Necessary in order to accomplish the Project.
3. Reasonable for the goods or services purchased.
4. Actual net costs to the Grantee (i.e., the price paid minus any refunds, rebates, or other items of value received by the Grantee that have the effect of reducing the cost actually incurred, excluding program income).
5. Incurred for work performed, only on a reimbursement basis, after both the Effective Date of the Agreement and following Grantee's receipt of a Notice to Proceed from SANDAG.
6. Satisfactorily documented with supporting documentation which is to be submitted with each invoice.
7. Treated consistently in accordance with generally accepted accounting principles and procedures for the Grantee and any third-party contractors and subgrantees, (see Section 8 Accounting Records).
8. Eligible for *TransNet* funding as part of the ATGP.
9. Indirect Costs are only allowable with prior SANDAG approval. Grantee must submit the following documentation as part of the grant application materials: (1) an indirect cost allocation audit approved by a qualified independent auditor or (2) the applicant's proposed method for allocating indirect costs in accordance with OMB Circular A-87 guidelines. Indirect cost allocation plans must be reviewed and renewed annually.
10. Project generated revenue realized by the Grantee shall be utilized in support of the Project. Project generated revenue and expenditures, if any, shall be reported at the end of the Agreement period.

#### **D. Excluded Costs**

1. In determining the amount of ATGP funding SANDAG will provide for the Project, SANDAG will exclude:
  - a. Any Project cost incurred by the Grantee before either the date SANDAG issues a Notice to Proceed to Grantee or the Effective Date of the Agreement or any Amendment thereto;
  - b. Any cost that is not included in the latest Approved Project Budget;
  - c. Any cost for Project property or services received in connection with a subagreement, lease, third-party contract, or other arrangement that is required to be, but has not been, concurred in or approved in writing by SANDAG; and
  - d. Any cost ineligible for SANDAG participation as provided by applicable laws, regulations, or policies.
2. Certain costs at times associated with bicycle and pedestrian projects are not eligible when the benefit provided is not the exclusive use of bicyclists or pedestrians. These instances are listed below.
  - a. Curb and gutter are part of the roadway drainage system. As such, newly installed curb and gutter cannot be considered an improvement exclusively for the benefit of the sidewalk or bike lane and are not an eligible expense.
  - b. Driveway ramps installed across sidewalks are not for the benefit of pedestrians, and in fact, degrade the pedestrian environment. Claimants may not include the cost of driveway ramps in applications for sidewalk projects. However, the distance across the driveway may be included when computing the per-square-foot cost of the sidewalk.
  - c. Where roadway design standards require a roadway shoulder width at least as wide as would be required for a standard bike lane, the cost of the shoulder construction will not be eligible. Appropriate bikeway signage is eligible.
  - d. Under some circumstances, it may be necessary to remove and replace curb and gutter, driveway ramps, drainage facilities and other existing improvements in order to construct a bikeway or sidewalk. In such cases the cost of this work is most likely eligible, but claimants should carefully document why this is so in the claim submittal.

- E. 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 or Board Policy No. 035. The Grantee acknowledges that SANDAG will not make a final determination about the allowability and eligibility of any cost until the final payment has been made on the Project or the results of an audit of the Project requested by SANDAG or its Independent Taxpayers' Oversight Committee (ITOC) has been completed, whichever occurs latest. If SANDAG determines that

the Grantee is not entitled to receive any portion of the ATGP funding requested or paid, SANDAG will notify the Grantee in writing, stating its reasons. The Grantee agrees that Project closeout will not alter the Grantee's responsibility to return any funds due to SANDAG as a result of later refunds, corrections, performance deficiencies, or other similar actions; nor will Project closeout alter SANDAG's right to disallow costs and recover funds provided for the Project on the basis of a later audit or other review. Upon notification to the Grantee that specific amounts are owed to SANDAG, whether for excess payments of ATGP funding, 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 documentation of all checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents related in whole or in part to the Project so that they may be clearly identified, readily accessible, and available to SANDAG upon request and, to the extent feasible, kept separate from documents not related to the Project.
- B. Documentation of Project Costs and Program Income.** Except to the extent that SANDAG determines otherwise, in writing, the Grantee agrees to 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 in which SANDAG has agreed to participate in based upon a payable milestone.

#### **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. Record Retention.** During the course of the Project and for three years thereafter from the date of transmission of the final expenditure report, the Grantee agrees to maintain, intact and readily accessible, all data, documents, reports, records, contracts, and supporting materials relating to the Project, as SANDAG may require.
- D. Access to Records of Grantees and Subgrantees.** The Grantee agrees to permit, and require its subgrantees to permit, SANDAG or its authorized representatives, upon request, to

inspect all Project work, materials, payrolls, and other data, and to audit the books, records, and accounts of the Grantee and its subgrantees pertaining to the Project.

- E. Project Closeout.** The Grantee agrees that Project closeout does not alter the reporting and record retention requirements of this Agreement.
- F. Quarterly Reports.** Grantee shall submit written quarterly reports to SANDAG detailing the progress of its work, expenditures incurred, and information regarding whether the Project is projected to be completed within the limits of the Approved Project Budget, Project Schedule, and consistent with Board Policy No. 035 and any policy amendments thereto. Grantee shall document the progress and results of work performed under this Agreement to the satisfaction of SANDAG. This includes progress and final reports, plans, specifications, estimates, and other evidence of attainment of the Agreement objectives, which are requested by SANDAG or ITOC. Grantee may be required to attend meetings of SANDAG staff and committees, including but not limited to ITOC, the Regional Planning Committee, the Transportation Committee, and the SANDAG Board of Directors, to report on its progress and respond to questions.
- G. Communities Served Data and Report.** If requested, Grantee shall provide SANDAG with data regarding how the Project's benefits and burdens were equitably distributed among socio and economic populations in the area affected by the Project, and associated smart growth data.
- X. Project Completion, Audit, Settlement, and Closeout**
  - A. Project Completion.** Within ninety (90) calendar days following Project completion or termination by SANDAG, the Grantee agrees to submit a final certification of Project expenses and final reports, as applicable. All payments made to the Grantee shall be subject to review for compliance by SANDAG with the requirements of this Agreement and shall be subject to an audit upon completion of the Project.
  - B. Project Audit.**

The Grantee agrees to have financial and compliance audits performed as SANDAG may require consistent with the *TransNet* Extension Ordinance. 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 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, if applicable, either forwards the final ATGP funding payment and 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.
  - E. Project Use.** Grantee was awarded this Agreement based on representations in its grant application regarding the Project's intended use. If the Project is a capital project, Grantee

hereby commits to continued use of the Project for the purposes stated in its application for a period of at least five years after completion of construction. SANDAG may require Grantee to refund ATGP funding provided for the Project in the event Grantee fails to utilize the Project for its intended purposes as stated in the grant application or for any disallowed costs.

**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, and consistent with Board Policy No. 035 and any policy amendments thereto. If timely progress is not achieved, SANDAG may, in its sole discretion, review the status of the Project to determine if the remaining funding should be reallocated to another eligible project, as per Board Policy No. 035. Grantee understands and agrees that any failure to make reasonable progress on the Project or violation of this Agreement and/or Board Policy No. 035, that endangers substantial performance of the Project shall provide sufficient grounds for SANDAG, in its sole discretion, to terminate this Agreement.
- B.** In the event Grantee encounters difficulty in meeting the Project Schedule or anticipates difficulty in complying with the Project Schedule, the Grantee shall immediately notify the SANDAG Project Manager in writing, and shall provide pertinent details, including the reason(s) for the delay in performance and the date by which Grantee expects to complete performance or delivery. This notification shall be informational in character only and receipt of it shall not be construed as a waiver by SANDAG of a project delivery schedule or date, or any rights or remedies provided by this Agreement, including Board Policy No. 035 requirements.
- C.** Upon written notice, the Grantee agrees that SANDAG may suspend or terminate all or any part of the ATGP funding to be provided for the Project if the Grantee has violated the terms of the Agreement, or Board Policy No. 035, or if SANDAG determines that the purpose of the laws or policies authorizing the Project would not be adequately served by the continuation of ATGP funding for the Project.
- D.** In general, termination of ATGP funding for the Project will not invalidate obligations properly incurred by the Grantee before the termination date to the extent those obligations cannot be canceled. If, however, SANDAG determines that the Grantee has willfully misused ATGP funding by failing to make adequate progress, or failing to comply with the terms of the Agreement, SANDAG reserves the right to require the Grantee to refund to SANDAG the entire amount of ATGP funding provided for the Project or any lesser amount as SANDAG may determine.
- E.** Expiration of any Project time period established in the Project Schedule will not, by itself, automatically constitute an expiration or termination of the Agreement for the Project, however, Grantee must request and SANDAG may agree to amend the Agreement in writing if the Project Schedule will not be met. An amendment to the Project Schedule may be made at SANDAG's discretion if Grantee's request is consistent with the provisions of Board Policy No. 035.

## **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 12 in each subagreement, 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 sex, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, denial of family and medical care leave, denial of pregnancy disability leave, veteran status, or sexual orientation. 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:

1. Grantee shall submit a statement of the grounds for the dispute, including all pertinent dates, names of persons involved, and supporting documentation, to SANDAG's Project Manager. The Project Manager and other appropriate SANDAG staff will review the documentation in a timely manner and reply to Grantee within twenty (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 (10) calendar days from the postmark date of SANDAG's reply. The Executive Director will respond to the request for reconsideration within ten (10) working days. The decision of the Executive Director will be in writing.
  2. If Grantee is dissatisfied with the results following exhaustion of the above dispute resolution procedures, Grantee shall make a written request to SANDAG for appeal to the SANDAG Transportation Committee. SANDAG shall respond to a request for mediation within thirty (30) calendar days. The decision of the Transportation Committee shall be final.
- C. Venue.** If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of San Diego, State of California. In the event of any such litigation between the parties, the prevailing party shall be entitled to recover all reasonable costs incurred, including reasonable attorney's fees, litigation and collection expenses, witness fees, and court costs as determined by the court.

#### **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 twelve (12) months following completion, policies of insurance from insurance companies authorized to do business in the State of California or the equivalent types and amounts of self-insurance, as follows:

- A. General Liability.** Combined single limit of \$1,000,000 per occurrence and \$2,000,000 general aggregate for personal and bodily injury, including death, and broad form property damage. The policy must include an acceptable "Waiver of Transfer Rights of Recovery Against Others Endorsement." The policy must name SANDAG as an additional insured in the endorsement. A deductible or retention may be utilized, subject to approval by SANDAG.
- B. Automobile Liability.** For personal and bodily injury, including death, and property damage in an amount not less than \$1,000,000.
- C. Workers' Compensation and Employer's Liability.** Policy must comply with the laws of the State of California. The policy must include an acceptable "Waiver of Right to Recover From Others Endorsement" naming SANDAG as an additional insured.

- D. Other Requirements.** Grantee shall furnish satisfactory proof by one or more certificates (original copies) that it has the foregoing insurance. The insurance shall be provided by an acceptable insurance provider, as determined by SANDAG, which satisfies the following minimum requirements:
1. An insurance carrier qualified to do business in California and maintaining an agent for service of process within the state. Such insurance carrier shall maintain a current A.M. Best rating classification of "A-" or better, and a financial size of "\$10 million to \$24 million (Class V) or better," or
  2. A Lloyds of London program provided by syndicates of Lloyds of London and other London insurance carriers, providing all participants are qualified to do business in California and the policy provides for an agent for service of process in California.
- E.** Certificates of insurance shall be filed with SANDAG. These policies shall be primary insurance as to SANDAG so that any other coverage held by SANDAG shall not contribute to any loss under Grantee's insurance. Insurance policies shall not be canceled without first giving thirty (30) days advance written notice to SANDAG. For purposes of this notice requirement, any material change in the policy prior to its expiration shall be considered a cancellation.

## **XVII. INDEMNIFICATION AND HOLD HARMLESS**

- A. Generally.** With regard to any claim, protest, or litigation arising from or related to the Grantee's performance in connection with or incidental to the Project or this Agreement, Grantee agrees to defend, indemnify, protect, and hold SANDAG and its agents, officers, Board members, and employees harmless from and against any and all claims, including, but not limited to prevailing wage 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 of Directors, agents, officers, or employees.
- B. Intellectual Property.** Upon request by SANDAG, the Grantee agrees to indemnify, save, and hold harmless SANDAG and its Board of Directors, 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. SEVERABILITY AND INTEGRATION**

If any provision of the Agreement is determined invalid, the remainder of that Agreement shall not be affected if that remainder would continue to conform to the requirements of applicable laws or regulations. This Agreement represents the entire understanding of SANDAG and Grantee as to those matters contained in it. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing, signed by SANDAG and the Grantee.

## **XX. PROJECT MANAGER**

The Grantee has assigned David Taylor as the Project Manager for the Project. Project Manager continuity and experience is deemed essential in Grantee's ability to carry out the Project in accordance with the terms of this Agreement. Grantee shall not change the Project Manager without first providing written notice to SANDAG.

## **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  
401 B Street, Suite 800  
San Diego, CA 92101  
Attn: Susan Baldwin / Suchi Mukherjee

Grantee:  
City of Chula Vista  
276 4<sup>th</sup> Avenue  
Chula Vista, CA 91910  
Attn: David Taylor

Notice shall be effective upon receipt thereof.

## XXII. SIGNATURES

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

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

SAN DIEGO ASSOCIATION OF GOVERNMENTS

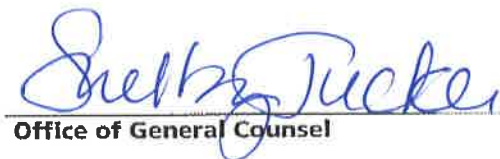
CITY OF CHULA VISTA

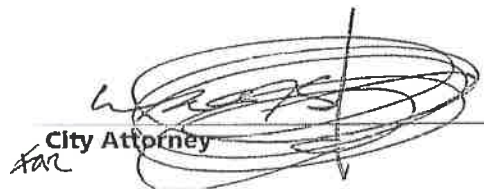
  
GARY L. GALLEGOS  
Executive Director or designee

  
GARY HALBERT  
City Manager

APPROVED AS TO FORM:

APPROVED AS TO FORM:

  
Office of General Counsel

  
City Attorney

## ATTACHMENT A

### SCOPE OF WORK, SCHEDULE, AND APPROVED PROJECT BUDGET

PLANNING/NON-CAPITAL PROJECTS: SCOPE OF WORK, SCHEDULE, AND BUDGET
<b>PART I: PROJECT OVERVIEW</b>
<b>PROJECT TITLE:</b> F Street Promenade Streetscape Master Plan
<b>PROJECT LIMITS:</b> The project location is an approximately 1.25 mile long segment of F Street from Third Avenue to Bay Boulevard in the northwest area of the City of Chula Vista.
<b>PROJECT SUMMARY:</b> <p>The City of Chula Vista will prepare a Streetscape Master Plan and preliminary design drawings for a 1.25 mile long segment of F Street. The proposed "Promenade" extends from the downtown Village district westward to the City's up and coming Bayfront, home of an existing National Wildlife Refuge and future master planned urban community. The proximity between the downtown Village district and the Bayfront provides an opportunity to create synergy to these two distinct areas of the City and create better access for residents. The Promenade will be designed using the principles of "complete streets" making the corridor accessible to all users regardless of age and ability and whether they are walking, bicycling, taking the shuttle, or driving. The project intends to fully engage the community with workshops and fun interactive exercises planned at key points throughout the process. In addition to the Streetscape Master Plan, the effort will include the preparation of preliminary construction drawings which would lead to future implementation of the complete street through a capital improvement project (the CIP is not part of this application).</p> <p>The project's impact would beautify an existing blighted area designated as an area of low-moderate income concentration through the provision of sustainable design elements including: landscaped parkways; bulb outs at intersections; decorative pavers at pedestrian crossings; marked bicycle routes; consistent travel lanes; cool paving elements; street furnishings; landscaping and new street trees. Currently, there are no Class II bikeways. The Streetscape Master Plan will address deficiencies and plan for Class II bikeways. In addition, the Urban Core Specific Plan (UCSP) identifies a "West Side Shuttle" to link the downtown Village with the Bayfront. The shuttle would loop between Third Avenue and the Bayfront using F Street and H Street as the east-west links. The Streetscape Master Plan would identify potential transit stop locations along F Street at Fifth Avenue and Broadway as well as the E Street transit station. The freeway crossing of Interstate 5 and parallel adjacent train overcrossing will be evaluated to accommodate enhanced and inviting entryways into the Bayfront. Existing mature healthy trees from Third Avenue to Bay Boulevard would be evaluated for preservation and incorporated into the streetscape theme. Overhead utility lines would be proposed to be placed underground to free up the streetscape for other design elements. The exact location and configuration of sidewalks, bikeways, parkways, transit stops, lane configurations, and other streetscape amenities will be detailed by the Streetscape Master Plan. The multi-modal enhancements will create greater synergy between the downtown Village and Bayfront, provide opportunities to stroll, bicycle, or take the local shuttle from one destination to the other, and improve accessibility for local residents and school children.</p>

PART II: SCOPE OF WORK, SCHEDULE, AND BUDGET <sup>1</sup>						
Propose tasks, deliverables, a timeframe, and a budget for implementing the project. The project schedule must be based on "Months from Notice to Proceed."						
TASK NO.	TASK DESCRIPTION	DELIVERABLES:	START DATE:	COMPLETION DATE:	DURATION:	TOTAL PROJECT COSTS:
1	Project Initiation	See 1A-C	Notice to Proceed (NTP) Month 1	Month 12	12 Months	\$ 12,292.00
1A	Project Orientation/Kick-off Meeting	Meeting Notes				
1B**	Consultant Selection Process	Consultant Contract				\$ -
1C	Staff Coordination Meeting	Meeting Notes				\$ -
2	Site Analysis	See 2A-B	Month 13	Month 15	3 Months	\$ 93,855.00
2A	Existing Conditions/Data Collection	Existing Conditions and Site Analysis Report				\$ -
2B	First Community Workshop	Workshop Summary Notes; PowerPoint; Handouts				\$ -
3	Conceptual Design	See 3A-E	Month 16	Month 22	7 Months	\$ 156,019.00
3A	Develop Streetscape Concepts and Design Alternatives	Conceptual Design; Alternative Design Sketches; Photo Essay				\$ -
3B	Second Community Workshop	Workshop Summary Notes; PowerPoint; Handouts				\$ -
3C	Bicycle Advisory Committee Meeting	Meeting Notes				\$ -
3D	Refine Streetscape Concepts and Design Alternatives	Refined Conceptual Design; Design Sketches				\$ -
3E	Third Community Workshop	Workshop Summary Notes; PowerPoint; Handouts				\$ -

4	Streetscape Master Plan	See 4A-E	Month 23	Month 30	8 Months	\$ 95,586.00
4A	Develop Draft Streetscape Master Plan	Draft Streetscape Master Plan and Narrative				\$ -
4B	Fourth Community Workshop	Workshop Summary Notes; PowerPoint; Handouts				\$ -
4C	Planning Commission Presentation	Planning Commission Report; PowerPoint				\$ -
4D	Final Graphic Plan and Narrative	Final Streetscape Master Plan				\$ -
4E	Council Adoption of Streetscape Master Plan	Council Report and Resolution; Copy of Final Plan				\$ -
5	Preliminary Construction Drawings	See 5A-C	Month 31	Month 36	6 Months	\$ 107,648.00
5A	Drainage Study	Drainage Study				\$ -
5B	Real Property Survey	Survey Report				\$ -
5C	Preliminary Construction Drawings	Preliminary Construction Drawings (including Hardscape, Planting, and Irrigation Plans)				\$ -

6	Project Oversight	See 6A-C	Month 1	Month 36	36 Months	\$ 25,600.00
6A	Project Management: Monthly Staff Project Accounting and Invoicing	Monthly Meeting Notes; Project Accounting Reports to be Attached to Standard Invoices				\$ -
6B	Quarterly Reports to SANDAG	Quarterly Reports				\$ -
6C**	Project Close-out	Final Project Close-out Summary Report				\$ -
		DURATION	NTP			\$ -
				TOTAL	36 Months	\$ 491,000.00

\*Start and Completion dates shall be tracked using "Months from Notice to Proceed (NTP)"

\*\*Indicates SANDAG Board Policy No. 035 Milestone

<sup>1</sup> Task Detail, also attached, includes descriptions for each task. As a result of the ATP-TransNet funding swap, references to CALTRANS should be understood as references to SANDAG. Task detail for 6B should be understood as quarterly progress reports to SANDAG.

#### PART III: FUNDING SOURCES

TOTAL PROJECT COST:	\$ 518,345.00
TOTAL GRANT AMOUNT REQUESTED FROM SANDAG:	\$ 491,000.00
TOTAL MATCH AMOUNT THAT WILL BE CONTRIBUTED:	\$ 27,345.00
SANDAG % CONTRIBUTION:	95%
MATCH % CONTRIBUTION:	5%

## ATTACHMENT B



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

## ATTACHMENT C

### PROJECT IMPLEMENTATION AND OVERSIGHT REQUIREMENTS

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#### Capital Grants

1. **Contact Information:** Grantee must provide SANDAG with contact information for the project manager. Grantee must provide SANDAG with updated contact information in a timely manner if there are any changes to staff assigned.
2. **Baseline Data Collection:** Prior to the construction of grant-funded improvements, the Grantee is responsible for developing a baseline data collection plan with SANDAG to gather information on pedestrian and bicyclist activity. At a minimum, data should be collected for observed bicycle and pedestrian volumes, behavior, and attitudes in the project area. Once the data collection plan is approved by SANDAG staff, the Grantee is responsible for carrying out the plan and returning collected data to SANDAG as a deliverable. Standardized forms required for data collection will be provided by SANDAG.

Grantees are encouraged to use the National Bicycle and Pedestrian Documentation Project methodology and plan for the following:

- Conduct counts prior to project construction, during National Documentation Days in the second week of September. Supplementary counts and surveys can be conducted during January, May, and July to provide seasonal data, if desired.
- Conduct counts for two hours, at peak times relative to the facility. For example, facilities attracting utilitarian trips should be counted on a Tuesday, Wednesday, or Thursday from 5 to 7 p.m., whereas facilities attracting recreational trips should be counted on a Saturday, from 9 to 11 a.m.

In the case that the above timeframes are deemed infeasible due to the project schedule, the Grantee and SANDAG will collaborate on an alternative data collection methodology and procedure.

A subset of Grantees may be selected for in-depth evaluation by SANDAG, in which case, SANDAG will conduct the data collection effort with required participation from Grantee staff. Such in-depth evaluation conducted by SANDAG will take place solely for the purpose of SANDAG Active Transportation data collection and monitoring efforts, and will not impact Grantees' budgets.

Grantees should plan to budget five thousand dollars (\$5,000) for data collection. For questions or assistance with data collection, contact Christine Eary at [christine.eary@sandag.org](mailto:christine.eary@sandag.org), or (619) 699-6928.

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

4. **Plan Review:** Grantee must submit project design drawings and cost estimates (if available) to SANDAG for review and comment at 30 percent, 60 percent, 90 percent, and 100 percent. SANDAG staff may meet with the Grantee to comment on submitted plans and assure substantial conformance. SANDAG may comment on submitted plans regarding:
  - Whether they are consistent with the Project proposed in the original grant application, and
  - Consistency with accepted pedestrian/bicycle facility and smart growth design standards.
5. **Quarterly Reports and Invoices:** Grantee must submit quarterly reports and invoices to SANDAG, detailing accomplishments in the quarter, anticipated progress next quarter, pending issues and actions toward resolution, and status of budget and schedule. Furthermore, the Grantee agrees to provide project milestone information (such as presentations to community groups, other agencies, and elected officials, ground-breakings, and ribbon-cuttings) to support media and communications efforts.
6. **Media and Community Outreach Coordination:** Press materials shall be provided to SANDAG staff before they are distributed. SANDAG logo(s) should be included in press materials and other project collateral. Furthermore, the grantee agrees to provide project milestone information to support media and communications efforts.
7. **Photo Documentation:** Grantees are responsible for the following photo documentation:
  - Before and after photos, which should be taken from similar angles to showcase how a particular area has been transformed over time.
  - Project milestone photos (such as ground-breakings and ribbon-cuttings).
  - Photos taken throughout construction phases and throughout the length of the project.

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, if appropriate.
8. **Project Signage:** Each project or program in excess of \$250,000 funded in whole or in part by revenues from the *TransNet* Extension Ordinance shall be clearly designated during its construction or implementation as being provided by such revenues. SANDAG will provide sign specifications. Grantee agrees to follow sign specifications and submit proof files to SANDAG for approval before printing.
9. **Performance Monitoring:** SANDAG staff may measure performance of the constructed capital improvements against stated project objectives, and evaluate the overall grant program. Grantee is expected to meet with SANDAG staff to identify relevant performance measures and data sources, and provide available data and feedback regarding the program as appropriate.

## Planning and Non-Capital Grants

1. **Contact Information.** Grantee must provide SANDAG with contact information for the project manager. Grantee must provide SANDAG with updated contact information in a timely manner if there are any changes to staff assigned.
2. **Request for Proposals and Consultant Selection.** Upon request by SANDAG, Grantee must submit consultant draft Request for Proposals to SANDAG staff for review and comment for consistency with the agreed upon Scope of Work with SANDAG (Attachment A).
3. **Quarterly Reports.** Grantee must submit quarterly reports to SANDAG, detailing accomplishments in the quarter, anticipated progress next quarter, pending issues and actions toward resolution, and status of budget and schedule.
4. **Stakeholder and Community Meetings.** Grantee must provide SANDAG with advance notice (preferably within two weeks) and agendas of all stakeholder and community meetings, and a meeting summary following the meeting. SANDAG staff may attend any meetings as appropriate.
5. **Media and Community Outreach Coordination.** Press materials shall be provided to SANDAG staff before they are distributed. SANDAG logo(s) should be included in press materials and other project collateral. Furthermore, the Grantee agrees to provide project milestone information to support media and communications efforts.
6. **Photo Documentation.** Grantees are responsible for the following photo documentation:
  - Existing conditions photos, which should illustrate the current conditions of the project site and demonstrate the need for improved facilities
  - Project milestone photos (such as workshops, presentations to community groups, other agencies, and elected officials)

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, if appropriate.

**ATTACHMENT D**  
**QUARTERLY REPORT AND INVOICE FORMS**

***TransNet Active Transportation Grant Program***  
**Quarterly Report**

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**Report Submittal Date:** [Insert]

**Reporting Period:** [Insert - Example: FY 2014, Quarter 1]

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**PART 1: DESCRIPTION OF ACTIVITY FOR REPORTING PERIOD**

**1. Work Accomplished This Reporting Period**

[INSTRUCTIONS: Replace this text with a detailed description of work completed and underway during the reporting period. In a bullet format, reference specific tasks.]

Example:

- Task 1 - Award Consultant Contract: Issued RFP and convened a selection panel of 5 members from the City, MTS, NTC, and SANDAG to shortlist 3 of 9 firms. The panel interviewed the 3 firms and selected XYZ Group for this project. The City Council approved the consultant contract with XYZ Group on January 1, 2014. City staff held a kick-off meeting on January 10, 2014.
- Task 2 – Public Outreach: City staff and XYZ Group began organizing the first workshop for this project. The anticipated date of the first workshop will be in the February/March 2014 timeframe.
- Task 3 – Etc.
- Task 4 – Etc.

**2. Deliverables Produced This Reporting Period**

[INSTRUCTIONS: Summarize the deliverables produced during this period and indicate the date submitted to SANDAG. Deliverables can be submitted as an attachment to this report. See Item 5 for more details.]

Example:

- Final RFP – Submitted in December 2014.
- Approved Consultant Contract and Kick-Off Meeting Notes – Submitted with this report. Please see accompanying list of attachments.

### 3. Is there an accompanying invoice for this period?

[INSTRUCTIONS: Indicate YES or NO.]

### 4. Work Anticipated for the Next Reporting Period

[INSTRUCTIONS: Replace this text with a brief description of work anticipated for the next reporting period. Also note any upcoming meetings or workshops.]

### 5. List of Attachments

[INSTRUCTIONS: List any deliverables or invoice documents attached to this report. Attachments over 6MB should be sent via WeTransfer.]

WeTransfer Link: [sandag.wetransfer.com/](https://sandag.wetransfer.com/)

Example:

- Attachment 1: Consultant Contract
- Attachment 2: Kick-Off Meeting Notes
- Attachment 3: Invoice Spreadsheet
- Attachment 4: Invoice Documentation

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## PART 2: SCHEDULE AND TASK STATUS

Task	Scheduled Start Date (Per Grant Scope of Work)	Scheduled Completion Date (Per Grant Scope of Work)	Status	Timing	Anticipated Start Date (If Different from Grant Scope of Work)	Anticipated Completion (If Different from Grant Scope of Work)
NTP Date						
Task 1	[mm/dd/yy]	[mm/dd/yy]	[In Progress/ Completed/ Not Started]	[On Time/ Delayed]	[mm/dd/yy]	[mm/dd/yy]
Task 2: Policy No. 035 Milestone	[mm/dd/yy]	[mm/dd/yy]	[In Progress/ Completed/ Not Started]	[On Time/ Delayed]	[mm/dd/yy]	[mm/dd/yy]
Task 3: Policy No. 035 Milestone	[mm/dd/yy]	[mm/dd/yy]	[In Progress/ Completed/ Not Started]	[On Time/ Delayed]	[mm/dd/yy]	[mm/dd/yy]

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### **PART 3: CHALLENGES, SCHEDULE DELAYS, AND AMENDMENT REQUESTS**

#### **Challenges and Actions Toward Resolution (If applicable)**

[INSTRUCTIONS: If you are experiencing challenges in completing project tasks, please provide information about the delay and actions taken to resolve issues. If an amendment is needed, provide justification and check the appropriate box below.]

☐ No amendment requested at this time

☐ Amendment requested to\*:

☐ Project Schedule

☐ Project Budget

☐ Scope of Work

*\*Failure to check a box in the above section assumes there is no action requested. Amendment requests are subject to SANDAG's approval. It is the Grantee's responsibility to ensure compliance with SANDAG Board Policy No. 035: Competitive Grant Program Procedures and grant agreement terms and conditions.*

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### **PART 4: PROJECT STATUS REPORT SIGNATURE**

Prepared by \_\_\_\_\_ Date: \_\_\_\_\_  
Project Manager

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#### INVOICE INSTRUCTIONS

- Step 1: Complete the Quarterly Progress Report.**  
Reimbursements cannot be made without a completed Quarterly Progress Report.
- Step 2: Gather Documentation for Staff Costs, Consultant/Contractor Costs, and Other Costs.**  
Provide SANDAG with a copy of any consultant and contractor agreements awarded through the grant.  
Staff Costs should be supported by certified payroll documentation.  
Consultant costs should be supported by the consultant invoice AND a proof of payment. The proof of payment can be either a copy of the check provided to the consultant or printout from the project's financial accounting system showing that funds were disbursed.  
Contractor costs should be supported by the contractor invoice, schedule of values, AND a proof of payment. The proof of payment can be either a copy of the check provided to the contractor or a printout from the project's financial accounting system showing that funds were disbursed.  
Other costs should be supported by either an invoice from the vendor or a receipt AND must be accompanied by a proof of payment. The proof of payment can be either a copy of the check provided to the vendor or a printout from the project's financial accounting system showing that funds were disbursed.  
Clearly identify (i.e., highlight or circle) all grant-related expenses on documents that include non-related costs.
- Step 3: Complete the Expense Summary.**  
Summarize the total Staff Costs, Consultant/Contractor Costs, and Other Costs incurred during the reporting period.  
Confirm that you have the adequate documentation.  
Break down each cost by task. This will help with the next step to complete the invoice statement.  
Double check and make sure all sub-totals have been calculated correctly.
- Step 4: Complete the Invoice Statement.**  
Enter the costs for each task (calculated in Step 3) into the appropriate cells of the Invoice Statement. The SANDAG contribution, match contribution, and retention amounts should automatically calculate.  
Enter previous costs by task into the appropriate cells of the spreadsheet. The remaining grant balance should automatically calculate.
- Step 5: Submit Quarterly Progress Report, Invoice, and Supporting Documentation to SANDAG at:**  
[sgatgrants@sandag.org](mailto:sgatgrants@sandag.org)  
Sign and scan the completed Quarterly Progress Report. Submit it in PDF form.  
Sign and scan the invoice statement. Submit it in PDF form.  
Submit supporting documentation in PDF form.  
Submit the completed Excel workbook.

Files in excess of 6MB should be submitted via:  
<https://sandag.wetransfer.com>

**PART 1: STAFF COSTS**

Personnel	Time Period	Hours	Hourly Rate	Amount	Documentation Attached?
Staff Person A	mm/dd/yy to mm/dd/yy	10	\$ 100.00	\$ 1,000.00	YES/NO
Staff Person B	mm/dd/yy to mm/dd/yy	10	\$ 100.00	\$ 1,000.00	YES/NO
Staff Person C	mm/dd/yy to mm/dd/yy	10	\$ 100.00	\$ 1,000.00	YES/NO

[INSERT ADDITIONAL LINES AS NEEDED]

**PART 2: CONSULTANT/CONTRACTOR COSTS**

Consultant/Contractor	Invoice No.	Invoice Date	Description of Costs	Amount	Documentation Attached?
Consultant XYZ	1	1/1/2014	Professional services for the month of January 2014	\$ 10,000.00	YES/NO
Consultant XYZ	2	2/1/2014	Professional services for the month of February 2014	\$ 10,000.00	YES/NO
Consultant XYZ	3	3/1/2014	Professional services for the month of March 2014	\$ 10,000.00	YES/NO
Outreach Organization ABC	1	3/1/2014	Outreach from January 2014 to March 2014	\$ 10,000.00	YES/NO

[INSERT ADDITIONAL LINES AS NEEDED]

**PART 3: OTHER COSTS**

Vendor	Invoice No.	Invoice Date	Description of Costs	Amount	Documentation Attached?
Vendor A	1	1/1/2014	Printing costs for January 2014	\$ 100.00	YES/NO
Vendor B	1	2/1/2014	News Announcement for February 2014 Workshop	\$ 100.00	YES/NO
Vendor C	1	2/28/2014	Snacks for February 2014 Workshop	\$ 100.00	YES/NO

[INSERT ADDITIONAL LINES AS NEEDED]

**TRANSNET SMART GROWTH INCENTIVE PROGRAM INVOICE**

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

**Project Name:** (PROJECT NAME)  
**Contract Number:** 600XXX

**From:** Name  
Address

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

**Grant Award:** \$0.00  
**Balance Remaining:** \$0.00

TASK	Previous Balance			Current MM/DD/YYYY to MM/DD/YYYY			Total Expenses	SANDAG Total	Match Spent
	Reimbursed to Date	Match to Date	Total to Date	Staff Costs	Consultant or Contractor Costs	Other Costs	This Invoice	This Invoice	This Invoice
1 RFP	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2 Existing Conditions Report	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
3 Public Outreach	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
4 Draft Plan	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
5 Final Plan	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Total</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
							<b>Total Current Expenditures:</b>	\$0.00	\$0.00
							<b>Total Amount Due this Invoice:</b>	\$0.00	\$0.00
							<b>Less 10% Retention:</b>	\$0.00	\$0.00
							<b>Match % Met to Date:</b>	#DIV/0!	#DIV/0!

Total Project Budget (Grant + Match)	
Task 1	\$0.00
Task 2	\$0.00
Task 3	\$0.00
Task 4	\$0.00
Task 5	\$0.00
<b>TOTAL</b>	\$0.00
<b>SANDAG Grant</b>	\$0.00
<b>Match:</b>	\$0.00
<b>SANDAG Contribution %</b>	#DIV/0!
<b>Required Match %</b>	#DIV/0!

CERTIFICATION OF GRANTEE		
I hereby certify that the above costs were incurred in performance of the work required under the grant and are consistent with the amounts evidenced by attached supporting documents and expenditures.		
Signature	Printed Name and Title	Date