



Government Relations & Public Affairs Committee

November 23, 2016

Updates to the Memorandum of Understanding between SACOG & El Dorado County Transportation Commission

Issue: Should the Board adopt an update to the Memorandum of Understanding (MOU) between SACOG and the El Dorado County Transportation Commission (EDCTC) to incorporate administrative updates and procedures to affirm existing coordination practices between the two agencies?

Recommendation: That the Government Relations & Public Affairs Committee recommend that the Board of Directors approve the updated MOU between SACOG and EDCTC.

Discussion: SACOG and EDCTC work together under the provisions of an MOU between the agencies that was last updated in 1994. Since that time, federal and state regulations and procedures impacting agency coordination in our region have evolved. These changes include new financial reporting requirements from Caltrans to create consistency between interagency MOUs and master fund agreements. In October, the Board adopted an update MOU between SACOG and the Placer County Transportation Planning Agency (PCTPA) to reflect the new Caltrans requirements. The EDCTC MOU update is an opportunity to incorporate similar changes that will reduce the risk of any future audit findings or unclear procedures for interagency coordination.

In reviewing the MOUs for EDCTC and PCTPA, staff at the three agencies also identified minor administrative updates that should be made to the MOUs. For the EDCTC MOU this includes updating federal statutes citations, and updating the MOU references to the current federal transportation act, Fixing America's Surface Transportation (FAST). There are no recommended policy language edits to the EDCTC MOU that would change the terms by which the two agencies work together. The attached version incorporates these additional changes.

Staff and legal counsel at SACOG and EDCTC have reviewed the recommended updates, found them to be worthwhile and consistent with agency practices, and incorporated them into the attached track-changes version of the MOU.

Approved by:

Mike McKeever
Chief Executive Officer

MM:MC:ts
Attachment

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**MEMORANDUM
OF
UNDERSTANDING**

Between

**SACRAMENTO AREA
COUNCIL OF GOVERNMENTS**

And

**EL DORADO COUNTY
TRANSPORTATION COMMISSION**

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is entered into between the ~~State of California, acting through the Secretary of Business, Transportation and Housing (the "State")~~, Sacramento Area Council of Governments (SACOG), and the El Dorado County Transportation Commission (EDCTC). EDCTC is executing this Memorandum of Understanding ("MOU") on behalf of its member agencies, with full authority for its entry into this MOU from said agencies. This MOU supersedes the MOU between SACOG and EDCTC executed June 30, 1993 and the first amendment effective April 1, 1994.

SECTION 1: RECITALS

FEDERAL PLANNING

- A. The Fixing America's Surface Transportation (FAST) Act and successor Federal transportation acts~~The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA)~~ requires metropolitan planning organizations, in cooperation with the State, to develop transportation plans and programs for urbanized areas of the State ~~in order to "encourage and promote the development of transportation systems embracing various modes of transportation in a manner which will efficiently maximize mobility of people and goods within and through urbanized areas and minimize transportation-related fuel consumption and air pollution."~~
- B. Title 23, Section 134(~~ee~~) states that "... the boundaries of a metropolitan area shall be determined by agreement between the metropolitan planning organization and the Governor..." ~~For areas designated as nonattainment areas for ozone or carbon monoxide under the Clean Air Act, the boundaries of the metropolitan area shall at least include the boundaries of the nonattainment area, except as otherwise provided by agreement between the metropolitan planning organization and the Governor."~~
- C. The Sacramento metropolitan area (Metropolitan Area) has been designated as a nonattainment area for ozone under the Clean Air Act.
- D. Title 42, Section 7506 of the Federal Clean Air Act requires metropolitan planning organizations to ensure that regional transportation plans and programs developed pursuant to the FAST Act or successor act~~ISTEA~~ conform to the State Implementation Plan developed for the air basin; Title ~~4223~~, Section 134(g)(3) ~~of the ISTEA~~ requires metropolitan planning organizations to coordinate development of the regional transportation plan with development of the transportation control measures for the State Implementation Plan required by the Clean Air Act.
- E. On July 14, ~~1991~~1992, the Governor delegated responsibility for designating metropolitan planning organizations to the Secretary of the Business, Transportation, and Housing Agency and approving transportation improvement programs developed according to U.S. Code Title 23, Section 134 to the Director of the Department of Transportation, a department within the Business, Transportation, and Housing Agency.
- F. On July 2, 2013, the Business, Transportation and Housing Agency was replaced by the California State Transportation Agency (CalSTA) which focuses on transportation.
- G. Section 134(~~bd~~)(~~33~~) of ~~ISTEA states~~title 23, United States Code states: "Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on ~~the date of the enactment of this section~~December 18, 1991, of a public agency with multimodal transportation responsibilities to:

- (A) Develop the plans and Transportation Improvement Programs~~programs~~ for adoption by a metropolitan planning organization; and
- (B) Develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State Law.”

STATE PLANNING

~~G~~H. Government Code Section 65080 et seq. requires each designated transportation planning agency to prepare and adopt a regional transportation plan and regional transportation improvement program for State purposes. The regional transportation plan is to include consideration of the factors specified in Section 134 of the FAST Act or successor act~~STE~~A.

~~H~~I. Government Code Section 65089 requires the preparation of congestion management programs in each county that includes an urbanized area. The congestion management programs are to be updated biennially and, if found to be consistent with the State regional transportation plans, are to be incorporated into the State regional transportation improvement programs.

ORGANIZATIONS

~~J~~J. For the purposes of ~~both the FAST Act or successor act~~~~STE~~~~A and the Federal Clean Air Act~~, SACOG is the designated ~~metropolitan~~Metropolitan planning~~Planning organization~~Organization (MPO) for the Metropolitan Area~~-. SACOG also has responsibility for making findings of conformity required under section 176(c) of the federal Clean Air Act within the designated Sacramento Ozone Non-attainment Area. This MOU neither extends nor retracts any state or federal planning or programming boundary. which includes the designated nonattainment area. For the purposes of State transportation planning, SACOG is the transportation Planning agency for Sacramento, Sutter, Yolo, and Yuba counties pursuant to Section 65080 of the Government Code.~~

~~K~~K. For the term of this MOU and except as specified in Section VII, this MOU establishes the procedures and basis whereby SACOG shall act as the MPO for those portions of El Dorado County which lie in the designated Ozone Non-attainment Area pursuant to the FAST Act or successor act and Federal Clean Air Act.

~~L~~L. For the purposes of State transportation planning: (1) pursuant to Section 65080 of the Government Code, SACOG is the regional transportation planning agency for Sacramento, Sutter, Yolo and Yuba counties; and (2) pursuant to Section 65080 of the Government Code, EDCTC is the regional transportation planning agency for the County of El Dorado, except for that portion of the county within the Tahoe Regional Planning Agency (“TRPA”).

~~M~~M. The County of El Dorado and the ~~city~~City of Placerville are ~~not~~ members of SACOG and have representatives on EDCTC.

~~N~~N. Nothing in the MOU is intended to affect the existing relationship between ~~either~~ SACOG and its member jurisdictions or between EDCTC and its member jurisdictions in El Dorado County.

~~O~~O. Nothing in this MOU affects EDCTC’s jurisdiction under State law, nor does it affect SACOG’s jurisdiction under State and Federal law.

P. Nothing in this MOU prejudices the negotiations for, or right to receive funds in the amount apportioned by the Department of Transportation in exchange for El Dorado County jurisdiction's entitlement to federal regional surface transportation funds pursuant to subdivision (g) of Section 182.6 of the Streets and Highway Code.

SECTION II: PURPOSE AND PRINCIPLES

The purpose of the MOU is to coordinate transportation planning and programming for the purposes of ~~ISTEA~~the FAST Act or successor act and the federal Clean Air Act, which is the responsibility of SACOG, with the transportation planning and programming for the purposes of State law, which is the responsibility of SACOG in Sacramento, Yolo, Sutter, and Yuba Counties and the responsibility of EDCTC in El Dorado County except for the portion of the County within the jurisdiction of the TRPA.

For the purposes of avoiding duplication, inconsistencies, and unnecessary expenditure of public funds, ~~to the greatest extent possible the federal regional transportation plan and transportation improvement program~~the long range transportation plan adopted by SACOG pursuant to the FAST Act or successor act~~ISTEA~~ and the Federal Clean Air Act ~~will be identical to the State regional transportation plan and transportation improvement program~~and the long range transportation plan adopted by SACOG pursuant to State law ~~(both plans and programs referred to as "Metropolitan Transportation Plan" and "Metropolitan TIP")~~for Sacramento, Yolo, Sutter, and Yuba Counties will be developed with a single planning process and contained in one document, the Metropolitan Transportation Plan (MTP).

The Metropolitan Transportation Improvement Program (TIP) adopted by SACOG pursuant to the FAST Act or successor act and the Federal Clean Air Act and the Regional Transportation Improvement Program approved by SACOG pursuant to State law will continue to remain different programs with different purposes as defined in the FAST Act or successor act and State law.

EDCTC shall, at its sole discretion, adopt a separate regional transportation plan pursuant to State law for that portion of El Dorado County outside of the jurisdiction of the TRPA. EDCTC shall continue to develop a Regional Transportation Improvement Program for that portion of El Dorado County outside of the jurisdiction of the TRPA.

~~EDCTC may, but is not required to, adopt a separate regional transportation plan and program pursuant to State law for El Dorado County, except for that portion which is within TRPA. Therefore, a specific purpose of the parties to this MOU is to establish a process which assures consistency between the Metropolitan TIP adopted by SACOG and the Regional Transportation Plan and Regional Transportation Improvement Program adopted by EDCTC~~federal transportation plans and programs adopted by SACOG and the State transportation plans and programs adopted by EDCTC.

A. Federal

For the purposes of developing and adopting the Metropolitan Transportation Plan and the Metropolitan TIP under The FAST Act or successor act~~ISTEA~~, the following principles shall govern:

1. SACOG, as the MPO, in cooperation with the State, has the responsibility for the development and adoption of the metropolitan Transportation Plan, the Metropolitan TIP

under the FAST Act or successor act~~STEAA~~ and for making the air quality conformity finding under the Federal Clean Air Act.

2. A single coordinated process for developing the Metropolitan Transportation Plan and the Metropolitan TIP should be developed and implemented throughout the Metropolitan Area.
3. All jurisdictions within the Metropolitan Area should have the same and equal opportunity to propose and advance goals, policies, objectives, programs, and projects.
4. A single set of uniform and internally consistent date for the Metropolitan Area should be used in the development of the Metropolitan Transportation Plan and the Metropolitan TIP and air conformity finding.
5. ~~The Metropolitan Transportation Plan shall be a document which integrates information, goals, policies, programs, and projects from throughout the Metropolitan Area based on subject matter.~~ All jurisdictions within the Metropolitan Area should share equitable in the costs of the development of the Metropolitan Transportation Plan and the Metropolitan TIP and air quality conformity; therefore, jurisdictions which are ~~not~~ members of SACOG should not be required to pay for the work performed by SACOG for jurisdictions within the Metropolitan Area which are not members of SACOG.

B. State

1. EDCTC has the responsibility for the development and adoption of ~~a State regional transportation plan (State RTP)~~Regional Transportation Plan (RTP) and the ~~State regional transportation improvement program (State TIP)~~Regional Transportation Improvement Program (RTIP) which incorporates the ~~State congestion management plan~~, for El Dorado County except for the portion of the County within the jurisdiction of the TRPA. SACOG has the responsibility for the development and adoption of an ~~State RTP~~ and an ~~State RTIP~~ which incorporates the ~~State congestion management plan~~ for Sacramento, Sutter, Yolo, and Yuba counties; SACOG's MTP serves as the RTP for Sacramento, Sutter, Yolo, and Yuba counties which will be identical to the Metropolitan Transportation Plan.
2. In developing and adopting the State RTP, EDCTC and SACOG are required to consider the factors specified in Section 134 of Title 23, US Code, as updated by the FAST Act or successor act.~~STEAA~~.
3. In developing and adopting the State RTP and the ~~State TIRTI~~RTIP, EDCTC shall use data and methodologies which are consistent and compatible with data and methodologies used by SACOG in the development by SACOG of both Federal and State plans and programs; ~~if SACOG is required to review, consider and comment on EDCTC submissions in accord with this MOU. This data shall be updated on a timely basis by EDCTC in coordination with SACOG.~~

SECTION III. FEDERAL REGIONAL PLAN, TRANSPORTATION IMPROVEMENT PROGRAM AND PLANNING PROCESS

A. Metropolitan Transportation Plan

The Board of Directors of SACOG as the MPO for the Metropolitan Area shall adopt a Metropolitan Transportation Plan s according to the FAST Act or successor act in accord with

Title 23, Section 134(g) and the factors specified in subdivision (f) of the FAST Act or successor act.

Bby:

~~October 1, 1993, and thereafter according to ISTEA in accord with Title 12, Section 134(g) and the factors specified in subdivision (f) of ISTEA. The Metropolitan Transportation Plan shall:~~

- ~~1. Identify transportation facilities that should function as an integrated metropolitan transportation system;~~
- ~~2. Include a financial plan that demonstrates how the Metropolitan Transportation Plan can be implemented.~~
- ~~3. Assess capital investment to ensure preservation of and make the most efficient use of existing transportation facilities; and~~
- ~~4. Indicate proposed transportation enhancement activities.~~

~~B. Planning Process within Metropolitan Area for 1993 for Metropolitan Transportation Plan~~

~~With respect to the relationship between SACOG and EDCTC, the planning process leading to the adoption of a Metropolitan Transportation Plan by October, 1993 shall be general as follows:~~

- ~~1. Due to the need to adopt a Metropolitan Transportation Plan by October, 1993, the Metropolitan Transportation Plan will be based upon the existing regional transportation plan adopted by SACOG in 1992 (Existing Plan). The revisions to the Existing Plan will concentrate on updating the Existing Plan for those areas of the Metropolitan Area which are presently included within the Existing Plan and to include within the Existing Plan those portions of El Dorado County which are in the Metropolitan Area which are not presently included.~~
- ~~2. In accord with a schedule established by SACOG, EDCTC may submit plans, goals objectives, needs, constraints, and projects for consideration by SACOG for inclusion within the draft Metropolitan Transportation Plan. SACOG shall consider this information in preparing its draft Metropolitan Transportation Plan. To the extent possible, these submissions shall be based upon data which is consistent with a database used by SACOG.~~
- ~~3. After taking into account submissions received by EDCTC, if any SACOG shall submit a proposed draft of the Metropolitan Transportation Plan or portion thereof to EDCTC for review and comment. If submissions by EDCTC are based upon data which is consistent with SACOG's, SACOG shall comment on and give the reasons in writing why proposed projects or other portions of the submittals were no included or included as revised. It is understood that the Metropolitan Transportation Plan may be more general than the documents submitted by EDCTC.~~
- ~~4. EDCTC, with other jurisdictions, shall be invited to participate in any review of a proposed draft Metropolitan Transportation Plan or portion thereof by a technical advisory committee which includes provisions which are applicable to El Dorado County of the EDCTC.~~
- ~~5. SACOG will conduct the air quality conformity analysis and environmental review on a draft Metropolitan Transportation Plan.~~

- ~~6. Prior to any public hearing on a draft Metropolitan Transportation Plan, the draft Metropolitan Transportation Plan shall be sent to EDCTC and affected local entities within El Dorado County, which shall have no less than the minimum time specified in the Federal Rule for Metropolitan Planning to review and comment on the documents.~~
- ~~7. After notice, opportunity for review and comment, the SACOG Board, after reviewing the draft metropolitan Transportation Plan and all comments, certifying the necessary environmental documentation and approving findings of air quality conformity, shall adopt a Metropolitan Transportation Plan.~~

Planning Process within Metropolitan Area after ~~1993 for~~ Metropolitan Transportation Plan

The parties agree that during the term of the MOU the specific planning process leading to the development and adoption of Metropolitan Transportation Plans will change in order to respond to changes in the law and so that the process can be improved to reflect prior experience. It is the intent of this section to establish certain principles and standards which will govern the relationship between SACOG and the EDCTC but which will enable the planning process to remain flexible.

- 1. Whenever feasible, SACOG and EDCTC shall collaborate on the collection and development of demographic and land use data required to support the planning process. Each agency shall make available to the other any such data not constrained by proprietary agreement or other legal device. Any expense associated with providing such data shall be borne by the requesting agency.
- ~~1. SACOG shall specify the database standards which it will use during the next revision of the Metropolitan Transportation Plan. These standards shall apply throughout the Metropolitan Area. Prior to specifying the database standards, SACOG and the EDCTC shall work together with the objective of agreeing upon standards which both entities can be used and which are consistent with each other. It is the desire of both SACOG and the EDCTC to use the best data available. Therefore, both SACOG and the EDCTC agree to periodically review their own database standards and information provided by each other in order to achieve this goal.~~
- ~~2. EDCTC shall use SACOG's travel demand model, related analytical software tools and parametric data as the basis for applicable planning development of the Regional Transportation Plan and programming documents.~~
- ~~2. After SACOG has specified the database standards, the EDCTC will submit its database standards which it will use in the development of a state regional transportation plan, state regional transportation improvement program, state congestion management program or other plan or program documents such as goals, objectives, needs, constraints or projects which the EDCTC may wish to submit to SACOG (EDCTC Documents) for SACOG approval of consistency.~~
- 3. At the commencement of each plan revision, SACOG shall inform consult with the EDCTC and other transportation entities and stakeholders of the on the schedule SACOG intends to should use during the planning cycle. To the extent possible, the schedule shall specify the dates at which the different draft components (policies, financial, etc.) of the draft Metropolitan Transportation Plan will be first developed and considered. SACOG, ~~after consultation with the and~~ EDCTC shall agree, shall also approve an EDCTC to a schedule which shall specify

when the EDCTC Plan and Program Documents are to be submitted to SACOG in order to be considered pursuant to this Section.

4. In accord with a schedule established by SACOG, EDCTC shall submit Plan and Program Documents for consideration by SACOG for inclusion within the draft Metropolitan Transportation Plan. At a minimum, project data submitted shall include project location, project description, completion year, total cost, and funding totals for local and non-local sources. SACOG shall review and accept this information in developing its draft Metropolitan Transportation Plan unless there are reasons why it may not meet federal standards. To the extent possible, these submissions shall be presented in a format which is consistent with a database used by SACOG. These submissions shall include all regionally significant projects which are included in the list of funding constrained projects in EDCTC's RTP. If the EDCTC submits all or a portion of EDCTC Documents in accord with the EDCTC schedule, and the EDCTC Documents are based upon a database which has been approved by SACOG for consistency, SACOG shall review and consider the EDCTC Documents in developing its draft Metropolitan Transportation Plan and comment on the EDCTC Documents prior to promulgating the initial draft of applicable component of the draft Metropolitan Transportation Plan. The comments shall include but not be limited to an explanation as to why specific projects or other portions of the EDCTC Documents are not included in the draft Metropolitan Transportation Plan. The parties agree that the Metropolitan Transportation Plan may be more general than the EDCTC Documents.

5. After taking into account the Plan and Program Documents received from EDCTC, SACOG shall submit a proposed draft of the Metropolitan Transportation Plan to EDCTC for review and comment. Prior to excluding or revising any project, SACOG shall consult with EDCTC and attempt to develop mitigation actions or to find another project to substitute, if applicable. SACOG will not substitute or revise projects in El Dorado County or the City of Placerville into the Metropolitan Transportation Plan without consulting with EDCTC.

56. The procedure for adopting a Metropolitan Transportation Plan shall:
 - a. Include the EDCTC in any review of the Metropolitan Transportation Plan by any ~~technical advisory committee, SACOG's transportation and Air Quality Committee or any similar committee~~ which has a role in resolving conflicts between projects, or recommending amendments or revisions to an existing or draft Metropolitan Transportation Plan. EDCTC shall be a member of any appropriate technical committee.
 - b. Any draft Metropolitan Transportation Plan shall be sent to the EDCTC ~~prior to~~ advance of any formal review by SACOG or by any committee, to identify or resolve potential conflicts between the EDCTC RTP and SACOG MTP of SACOG.
 - c. If any draft Metropolitan Transportation Plan is amended or revised, the amendment or revision shall be sent to the EDCTC for review and comment, unless the amendment or revision has no effect upon EDCTC or any jurisdictions which are members of the EDCTC.

- d. A Metropolitan Transportation Plan shall only be adopted by the Board of Directors of SACOG and only after a public hearing, with notice to the EDCTC, and the making of appropriate environmental and conformity findings.

SECTION IV. METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM

A. The Metropolitan TIP shall include:

1. A priority list of projects to be carried out within each ~~three~~four-year period and projects which are proposed for federal funding which are consistent with the Metropolitan Transportation Plan; and
2. A financial plan that demonstrates how the Metropolitan TIP can be implemented.

B. The process for adopting a Metropolitan TIP shall be as follows:

1. SACOG receives projects proposed to be included within the Metropolitan TIP from a variety of state and local entities, including member jurisdictions, transit operators, local and state commissions and state transportation entities.

~~—2. —At its sole discretion, EDCTC and member jurisdictions shall establish a process pursuant to which the proposed projects are reviewed for consistency with EDCTC's State RTP and State TIP, except as specified in Section VIII, prior to submittal to SACOG for inclusion in the Metropolitan TIP. EDCTC shall notify SACOG, in writing, of its review and findings.~~

~~—Prior to submittal to SACOG by member jurisdictions of the EDCTC of projects for inclusion in the Metropolitan TIP, EDCTC and those member jurisdictions may establish a process pursuant to which the proposed projects are reviewed for consistency with the State RTP and State TIP.~~3. SACOG shall include approved STIP and Surface Transportation Block Grant Program projects, and subsequent federal transportation act funding programs, applicable from EDCTC in developing its draft Metropolitan TIP and Plan unless there are reasons why these projects may not meet federal standards.

~~34. After receiving the projects for inclusion in the Metropolitan TIP, SACOG shall prepare and send to the EDCTC, as well as all affected jurisdictions, a draft Metropolitan TIP for EDCTC's and the affected jurisdictions' review and comment on those portions of the draft metropolitan TIP which affect the jurisdictions within the EDCTC. Prior to excluding any EDCTC project, SACOG shall consult with EDCTC and attempt to develop mitigation actions.~~

45. SACOG shall not adopt a Metropolitan TIP without first reviewing the comments, if any, from the EDCTC and the affected jurisdictions provided that the comments have been submitted by the EDCTC in a timely fashion.

C. The process for selecting projects for funding from Surface Transportation Block Grant Program (STBGP)~~Regional Surface Transportation Program (STP)~~ and the Congestion Mitigation and Air Quality Program (CMAQ) shall be as follows:

1. El Dorado County jurisdictions ~~will shall simultaneously~~ submit ~~STP~~STBGP and CMAQ project proposals to ~~SACOG and~~ the EDCTC.

2. ~~SACOG will~~EDCTC shall screen proposed STBGP and CMAQ projects for eligibility under the requirements of the FAST Act or successor act~~STE A legislation~~ and will transmit these findings to the ~~EDCTC-SACOG~~ as part of the programming process.
3. EDCTC ~~will~~shall develop priorities for STP and CMAQ funds which will be derived from planning criteria consistent with the FAST Act or successor act~~STE A~~ requirements and ~~SACOG-EDCTC RTP-Goals and Policies~~.
4. EDCTC ~~will~~shall approve and submit a prioritized list of projects to SACOG for ~~project selection~~consideration of programming into the Metropolitan TIP.

It is the intent of SACOG to distribute to El Dorado County jurisdictions a fair and equitable share of STP and CMAQ funds over the term of the FAST Act and successor acts~~six years of the-ISTEA~~.

SECTION V: STATE REGIONAL TRANSPORTATION PLAN, STATE REGIONAL TRANSPORTATION IMPROVEMENT PROGRAM AND PLANNING PROCESS

A. SACOG and the EDCTC are required by the provisions of Government Code Section 65080 -et seq. to prepare State RTPs ~~or~~and State TIPs for their appropriate jurisdictions. The State RTP's are required to include a consideration of the factors specified in Section 134 of Title 23 of the US Code as updated by the FAST Act or successor. Nothing in this MOU shall govern the development and adoption of State RTP's or State TIP's which shall be developed, adopted and implemented in accordance with applicable State laws.

~~portions of those documents or information derived during the development of those documents to submit to SACOG during the development of the Metropolitan Transportation Plan and Metropolitan TIP in accordance with the provisions of this MOU.~~B. The State RTP's are required to include a consideration of the factors specified in Section 134 of Title 23 of the US Code as updated by the FAST Act or successor. Nothing in this MOU shall govern the development and adoption of State RTP's or State TIP's which shall be developed, adopted and implemented in accordance with applicable State laws.

SECTION VI: CONFLICT RESOLUTION PROCESS

The process for planning and adoption of the federal Metropolitan Transportation Plans after 1993 and the Federal Metropolitan TIP's includes procedures for the exchange of information, consultation and standards for consideration and inclusion of programs and projects. SACOG and EDCTC agree that it is appropriate to include a conflict resolution process which offers both parties representation in the resolution of a dispute which results from the planning process established by this MOU and cannot be resolved through these procedures.

Prior to consideration by SACOG of the adoption of the federal Metropolitan Transportation Plan or the federal Metropolitan TIP, and at a time which will not delay approval of a federal plan or TIP or jeopardize any funding for the Metropolitan Area, either SACOG or EDCTC may request the formation of a conflict resolution committee which shall consist of two members of SACOG's governing board and two members of EDCTC's governing board. If requested by either SACOG or EDCTC, the conflict resolution committee shall meet in an attempt to resolve a disputed issue and, with the consent of the members of both entities, may designate one or more additional persons, not affiliated with either entity, to assist in the resolution of the issue.

Whether or not the conflict resolution committee reaches agreement on a particular dispute, a report of the conflict resolution committee shall be presented to the boards of both SACOG and EDCTC;

however, nothing in this section shall be deemed to require either SACOG or EDCTC to adopt a recommendation of the conflict resolution committee.

SECTION VII: FUNDING

To compensate SACOG for performing the transportation planning and programming responsibilities required under the FAST Act or successor act functions as the MPO under ISTEA and the Federal Clean Air Act pursuant to this MOU, the following fees shall be paid to SACOG ~~each year~~:

- A. ~~Beginning with fiscal year 1993/94~~ EDCTC shall annually contribute to the SACOG from EDCTC's annual work program, for the use in SACOG's federal planning and programming effort, an amount equal to 2% of the Local Transportation Fund apportionment to all El Dorado County Jurisdiction lying within the Designated Ozone Non-attainment Area, in return for which SACOG shall perform the federal transportation planning and programming responsibilities pursuant to this MOU. This amount shall be calculated after the fund has been reduced by administrative program costs determined in the final El Dorado County Transportation Commission Finding of Apportionment (e.g., EDCTC TDA Administration, El Dorado County Auditor Administrative cost, Article 3 Pedestrian and Bicycle fund not to exceed 2% and Article 4.5 community Transit Service Allocation) enabled under Section 99233.1 of Chapter 4 Article 3, of the California Public Utilities Code. SACOG shall be paid equal quarterly installments at or near the beginning of each quarter contingent upon cash flow considerations.

For the purposes of this MOU, the Designated Ozone Non-attainment area shall include all of El Dorado County except for that portion of the County within TRPA.

- B. ~~Beginning with Fiscal Year 1995-1996,~~ The contribution to SACOG for its federal programming and planning effort for El Dorado County Jurisdictions may be modified through mutual agreement. Any modifications will be based upon an analysis of both (1) the SACOG planning work program excluding activities which are primarily due to SACOG's role as an RTPA, ALUC, or COG, and (2) the cost savings to SACOG for EDCTC products provided to SACOG as part of its State designated RTPA activities.
- C. Work performed by SACOG on behalf of EDCTC as outlined in Section VII.A. will be considered as that of a contractor for the purposes of Caltrans requirements for the use of State planning funds. SACOG agrees to comply with the requirements for use of these funds as outlined in Attachment 1.

SECTION VIII: RELATIONSHIPS WITH MEMBER JURISDICTIONS

In accord with Section I.L, it is understood that during the planning and approval process of both plans and programs pursuant to both Federal and State laws, both SACOG and the EDCTC will have direct contacts with the jurisdictions which are members of both jurisdictions, and nothing in this MOU is intended to limit the full participation by member jurisdictions in either organization, including the right by a member jurisdiction to submit information, projects or plans directly to either organization or for either SACOG or the EDCTC to work directly with member jurisdictions with respect to consideration and approval of information, projects, funding, or plans.

SECTION VIII: AMENDMENTS

This ~~Agreement~~ MOU shall only be amended in writing after approval of the parties to this MOU. The parties agree to reasonably consider amendments to this ~~Agreement~~ MOU, including, but not limited to, those warranted by changes to the FAST Act, expiration of the FAST Act and its reauthorized federal legislation, ISTEA, the Clean Air Act or other relevant Federal or State laws, regulations or administrative actions.

SECTION IX: TERM

This MOU shall become effective upon its execution by all parties ~~and shall remain in effect until December 31, 1993. Thereafter, t~~he MOU shall continue to be effective until terminated by one of the parties after 60 days' written notice to each of the other parties.

SECTION XI. COUNTERPARTS

This MOU, including Attachment 1, has been executed two (2) original counterparts, one of which shall be retained by each party to this MOU (SACOG and EDCTC) and any one of which can be used as the original.

In WITNESS WHEREOF, the parties hereto have caused this memorandum of understanding to be executed by their respective officers, duly authorized.

APPROVAL RECOMMENDED:

SACRAMENTO AREA COUNCIL
OF GOVERNMENTS

EL DORADO COUNTY
TRANSPORTATION COMMISSION

CARL F. KUHN Mike McKeever
~~Deputy Executive Director~~ Chief Executive
Officer

DON FARRIMOND Sharon Scherzinger
Executive Director

Date

Date

ATTACHMENT 1

SACOG agrees to the following:

1. To use the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., (subrecipients shall refer to the Office of Management and Budget Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments) to determine the allowability of individual project cost items;
2. To comply with Federal administrative procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments;
3. To maintain all source documents, books and records connected with their performance of Overall Work Program (OWP) work initiated under the Master Fund Transfer Agreement (MFTA) and each applicable annual OWP Agreement for a minimum of three (3) years from the date of final payment of Rural Planning Assistance or other applicable funds to EDCTC, or until audit resolution is achieved for each annual OWP Agreement, whichever is later, and shall make all such supporting information available for inspection and audit by representatives of Caltrans (DOT), the Bureau of State Audits, or the Federal Government upon request. Copies will be made and furnished to EDCTC to provide to DOT upon request at no cost.
4. To establish and maintain, an accounting system conforming to Generally Accepted Accounting Principles (GAAP) to support Requests for Reimbursement which segregate and accumulate the costs of work elements by line item and produce Quarterly Reports which clearly identify reimbursable costs and other expenditures by OWP work elements.
5. To comply with the annual Federal Certifications and Assurances which are included by EDCTC in each final OWP.
6. As mandated by 49 CFR Part 26, not to discriminate on the basis of race, color, national origin, or sex in the award, administration and performance of any State or FHWA/FTA fund-assisted contract or in the administration of EDCTC's Disadvantaged Business Enterprise (DBE) program;
7. To ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment, and comply with the provisions of the Fair Employment and Housing Act (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 Government Code, Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 CFR, are incorporated into the MFTA by reference and made a part hereof as if set forth in full.
- 4-8. To give written notice of their obligations under this clause to labor organizations with which they have collective bargaining or other labor agreement. EDCTC shall include the non-discrimination and compliance provisions hereof in all contracts and subcontracts to perform work under the MFTA.

2-9. To include language of this certification in any subcontracts funded wholly or in part by any fund sources provided by EDCTC that exceed \$100,000 and that all such sub recipients shall certify and disclose accordingly;

10. In accordance with Title 49, CFR, Part 18, Section 18.37 and state law and procedures, to assure that any subcontracts containing Federal and State planning funds be competitively bid and awarded consistent with LPP-005 or successors thereto.