

**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 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 requires metropolitan planning organizations, in cooperation with the State, to develop transportation plans and programs for urbanized areas of the State.
- B. Title 23, Section 134(e) states that “... the boundaries of a metropolitan area shall be determined 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 conform to the State Implementation Plan developed for the air basin; Title 23, Section 134(g)(3) 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, 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(d)(3) of 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 December 18, 1991, of a public agency with multimodal transportation responsibilities to:
 - (A) Develop the plans and Transportation Improvement 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

- 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.

- 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. For the purposes of the FAST Act or successor act, SACOG is the designated Metropolitan Planning 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.
- 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. 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. The County of El Dorado and the City of Placerville are members of SACOG and have representatives on EDCTC.
- N. Nothing in the MOU is intended to affect the existing relationship between SACOG and its member jurisdictions or between EDCTC and its member jurisdictions in El Dorado County.
- 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 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, the long range transportation plan adopted by SACOG pursuant to the FAST Act or successor act and the Federal Clean Air Act and the long range transportation plan adopted by SACOG pursuant to State law 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.

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.

A. Federal

For the purposes of developing and adopting the Metropolitan Transportation Plan and the Metropolitan TIP under The FAST Act or successor act, 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 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. 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 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 Regional Transportation Plan (RTP) and the Regional Transportation Improvement Program (RTIP) 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 RTP and an RTIP for Sacramento, Sutter, Yolo, and Yuba counties. SACOG's MTP serves as the RTP for Sacramento, Sutter, Yolo, and Yuba counties.

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.
3. In developing and adopting the State RTP and the 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.

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 Metropolitan Transportation Plans 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.

B. Planning Process within Metropolitan Area after 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.
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.
3. At the commencement of each plan revision, SACOG shall consult with the EDCTC and other transportation entities and stakeholders on the schedule SACOG 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 and EDCTC shall agree 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.

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.
6. The procedure for adopting a Metropolitan Transportation Plan shall:
 - a. Include the EDCTC in any review of the Metropolitan Transportation Plan by any 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 in advance of any formal review by SACOG or by any committee, to identify or resolve potential conflicts between the EDCTC RTP and SACOG MTP.
 - 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 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.
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.

4. 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. Prior to excluding any EDCTC project, SACOG shall consult with EDCTC and attempt to develop mitigation actions.
 5. 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) and the Congestion Mitigation and Air Quality Program (CMAQ) shall be as follows:
1. El Dorado County jurisdictions shall submit STBGP and CMAQ project proposals to the EDCTC.
 2. EDCTC shall screen proposed STBGP and CMAQ projects for eligibility under the requirements of the FAST Act or successor act and will transmit these findings to the SACOG as part of the programming process.
 3. EDCTC shall develop priorities for STP and CMAQ funds which will be derived from planning criteria consistent with the FAST Act or successor act requirements and EDCTC RTP.
 4. EDCTC shall approve and submit a prioritized list of projects to SACOG for 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 act.

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 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.
- 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 and the Federal Clean Air Act pursuant to this MOU, the following fees shall be paid to SACOG:

- A. 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. 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 IX: AMENDMENTS

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

SECTION X: TERM

This MOU shall become effective upon its execution by all parties. The 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 X: 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



Mike McKeever
Chief Executive Officer



Sharon Scherzinger
Executive Director

Dec. 17, 2016
Date

December 5, 2016
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.
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.

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.