

## **MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding (“MOU”) is entered into between the El Dorado County Transportation Commission (“EDCTC”) and the Sacramento Area Council of Governments (“SACOG”).

This MOU is only intended to apply within the areas under the jurisdiction of EDCTC and SACOG. References herein to the “Region” or the “area,” or to “El Dorado County,” shall be interpreted as excluding the Lake Tahoe Basin that is within the jurisdiction of the Tahoe Regional Planning Agency.

### **RECITALS**

- A. EDCTC is a Regional Transportation Planning Agency (“RTPA”) formed by Government Code Section 67950 to serve El Dorado County. EDCTC’s governing board is comprised of representatives from the El Dorado County Board of Supervisors and the City of Placerville City Council.
- B. SACOG is a joint powers authority whose members are the counties and cities within the six-county greater Sacramento Region. SACOG’s membership includes the County of El Dorado, as well as the City of Placerville.
- C. SACOG is the Metropolitan Planning Organization (“MPO”) for the Region. Among other responsibilities, SACOG prepares transportation plans for federal purposes, prepares the Metropolitan Transportation Improvement Program (“MTIP”) to program federal transportation funds, and prepares the Metropolitan Transportation Plan/ Sustainable Communities Strategy (“MTP/SCS”) as required by state law.
- D. As the RTPA, EDCTC updates and adopts a Regional Transportation Plan (RTP) consistent with the MTP/SCS and develops a Regional Transportation Improvement Program (“RTIP”) to program State Transportation Improvement Program Funding.
- E. Because SACOG and EDCTC have overlapping jurisdictions with differing but connected responsibilities, SACOG and EDCTC have entered into prior MOUs in order to define their relationship and ensure federal and state transportation planning and programming, and related requirements such as Clean Air Act conformance, are consistent with current federal and state law, regulations and guidance, and are performed through a collaborative and inclusive approach.
- F. In spring of 2021, the Federal Highway Administration (“FHWA”) and Federal Transportation Administration (“FTA”) issued a Corrective Action to the California Department of Transportation, which in turn required SACOG as the MPO to update and modify its process for programming federal funds. To respond to the Corrective Action, SACOG’s Board in February, 2023, approved a new process to select projects to fund with federal transportation funds after July 1, 2023.

G. EDCTC and SACOG therefore desire to enter into this MOU in order to:

- a. Coordinate transportation planning and programming for the purposes of the Infrastructure Investment and Jobs Act (IIJA), or any 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 EDCTC in El Dorado County.
- b. Achieve governmental efficiency by, where possible, avoiding duplication of efforts and working toward the mutual benefit of each party.
- c. Implement SACOG's adopted procedure that is necessary under the Corrective Action for allocation of federal transportation funds within the Region, including within El Dorado County.
- d. Establish areas where SACOG can provide technical support to EDCTC and develop means for mutual collaboration between the two agencies.
- e. Ensure EDCTC continues to serve as the RTPA representing El Dorado County through development of the SACOG MTP/SCS and other transportation planning activities administered by SACOG.
- f. Identify and implement measures for cooperation and coordination amongst SACOG, EDCTC, and their respective member agencies.
- g. Establish a binding mechanism for EDCTC to compensate SACOG for work that SACOG performs for the benefit of EDCTC.

## **MUTUAL UNDERSTANDINGS**

### **1. INTRODUCTORY TERMS**

1.1 Prior Memoranda of Understanding. This MOU is intended to repeal and replace the prior MOU between the Parties.

1.2 Legal Citations. Legal citations and other references to laws contained within this MOU are intended for clarity and convenience and not for limitation. To the extent referenced laws are re-codified or re-adopted or otherwise modified, the meaning and intent of this MOU shall remain the same. To the extent that new programs are adopted to which procedures set forth in this MOU would be applicable, the Parties understand that the same procedures would apply. (For example, if new federal funding sources are established by law which must follow the same selection procedures as STBG and CMAQ as set forth herein.)

1.3 Definitions. For purposes of this MOU, the capitalized terms and abbreviations used herein shall have the meanings set forth in Addendum #1. The Parties acknowledge that terms used under laws relevant to this MOU, or in common practice in the transportation planning industry, may have overlapping or interchangeable meanings. For clarity, the Parties in

this MOU are using particular terms in order to clarify their respective responsibilities and obligations.

## **2. FEDERAL AIR QUALITY STANDARDS**

2.1 Conformity. Pursuant to Section 176(c) of the Clean Air Act (42 U.S.C. § 7506(c)), federal agencies, including FHWA and FTA cannot provide financial assistance for activities that do not conform to the State Implementation Plan (“SIP”), and SACOG as the Region’s MPO cannot give its approval to any project, program, or plan which does not conform to the SIP. More specifically, SACOG cannot approve activities that will: (i) cause or contribute to any new violation of any air quality standard; (ii) increase the frequency or severity of any existing violation of any air quality standard; or (iii) delay timely attainment of any air quality standard or any required interim emission reductions or other milestones in the Region. As further set forth in this MOU, SACOG prepares its MTP and MTIP to conform to the air quality standards set forth in the SIP.

2.2 Collaborative Efforts. The Parties recognize that a failure to conform to federal Clean Air Act standards could negatively impact the Region’s ability to qualify for, or compete for, federal funding, which could result in less funding within both El Dorado County and the greater SACOG Region. The Parties intend for this MOU to ensure that the Parties will not approve projects that would impact the ability of SACOG to meet conformity requirements.

## **3. DEVELOPMENT OF SACOG’S MTP/SCS**

3.1 Responsibility. Preparation of the MTP/SCS is the sole and exclusive responsibility of SACOG. SACOG and EDCTC will coordinate and cooperate in developing the MTP/SCS as set forth in this MOU.

### **3.2 Collaborative Efforts Related to the MTP/SCS**

3.2.1 At the commencement of each plan revision, SACOG will consult with EDCTC on the schedule SACOG plans to 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 MTP will be first developed and considered. SACOG and EDCTC shall agree to a schedule which shall specify when EDCTC’s plan and program documents are to be submitted to SACOG in order to be considered pursuant to this Section.

3.2.2 SACOG will also work with EDCTC staff on the development of the Policy Element of the plan.

3.2.3 SACOG will develop a growth forecast for the six-county Region in consultation with EDCTC.

3.2.4 SACOG will coordinate public engagement and outreach activities planned for El Dorado County with EDCTC.

## **4. DEVELOPMENT OF EDCTC’S RTP**

4.1 Responsibility. Preparation of the RTP for El Dorado County is the sole and exclusive responsibility of EDCTC. In preparing the RTP, SACOG and EDCTC will coordinate and cooperate in developing the RTP and MTP/SCS as set forth in this MOU. The RTP shall be consistent with the current and subsequently adopted Caltrans RPA RTP Guidelines as well as consistent with the state and federal planning and performance standards required of the current and any subsequent MTP/SCS.

4.2 Collaborative Efforts Related to the RTP.

4.2.1 EDCTC will involve SACOG in the development of the RTP to ensure that the RTP does not impact SACOG's ability to meet federal and state requirements including but not limited to (i) greenhouse gas targets as set forth in the SIP, and (ii) the ability of SACOG to adopt an SCS and achieve the California Air Resources Board's acceptance of the adopted SCS.

4.2.2 SACOG will develop financial forecasts in consultation with EDCTC to be used for establishing the fiscal constraint of EDCTC's RTP.

4.2.3 EDCTC will include SACOG in county-level discussions for existing local and any new local revenue sources to inform SACOG forecasts.

4.2.4 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. When paying for data or tools, SACOG and EDCTC shall consider in the scope of any agreement access for the other agency. If not feasible to include at the outset, any expense associated with providing such data shall be borne by the requesting agency.

4.2.5 Transportation project/program investments, costs, and completion years will be consistent between the MTP/SCS and RTP.

4.2.6 In developing and adopting the RTP and RTIP, EDCTC shall use data and methodologies which are consistent and compatible with data and methodologies used by SACOG in the development of the MTP/SCS.

4.2.7 In developing the RTP, EDCTC shall consider the factors specified in Title 23 of the United States Code.

## **5. FEDERAL FUNDING PROGRAM**

5.1 MTIP. SACOG is responsible for preparing and adopting the MTIP every two years, or as otherwise necessary, which will program funds for transportation projects in the Region. The MTIP will list the projects in the MTP that are programmed for funding and intend to begin work. SACOG will initiate public outreach for the MTIP, perform the financial analysis required by law, and perform the air quality conformity analysis. EDCTC will acknowledge the

process set forth in this agreement for federal funding allocations and work collaboratively with SACOG through that process.

5.2 Acknowledgment of Corrective Action. SACOG and EDCTC acknowledge and understand that, as a result of the Corrective Action, (i) SACOG cannot suballocate funds by mode or population to cities or counties, (ii) SACOG must be directly involved in the eligibility screening prior to project selection, and (iii) SACOG must select and approve projects for funding. SACOG shall continue to coordinate and collaborate with EDCTC, as the state designated RTPA for El Dorado County, to the extent allowed by FHWA, FTA and the relevant federal transportation funding programs and implementing regulations. The procedures within this section are as adopted by SACOG in order to comply with the Corrective Action and continue receiving and programming CMAQ and STBG funds within the Region, including within El Dorado County.

5.3 Procedure For Highway Funding Allocations. SACOG's board has adopted the procedure set forth in Addendum #2 to this MOU, which FHWA has confirmed is in compliance with FHWA's requirements. EDCTC acknowledges this procedure and agrees to coordinate with SACOG for programming of federal funds in the Region, including El Dorado County, through utilization of this procedure.

5.4 Federal Transit Funding Under Title 49. As the MPO, SACOG receives federal transit funds by formula for urbanized areas. This includes areas within El Dorado County. SACOG provides grants to eligible recipients consistent with the requirements of each program. These funds are awarded by SACOG on a six-county basis, except that some funds have a specific purpose (i.e., fixed guideway transportation or rural transportation) that may limit the geographic areas eligible to receive these funds.

## **6. STATE/LOCAL FUNDING PROGRAM**

6.1 RTIP. EDCTC is responsible for preparing the RTIP and for programming STIP and rural STBG Exchange funding in El Dorado County. EDCTC will submit all Non-Exempt Projects to SACOG for air quality conformity analysis before being funded through the RTIP.

## **7. SACOG TECHNICAL SUPPORT**

7.1 Technical Support to RTPA. EDCTC's use of SACOG's travel demand model, related analytical software tools and parametric data shall remain subject to existing agreements or such future agreements as may be negotiated between SACOG and EDCTC.

## **8. COOPERATION**

8.1 Additional Efforts. SACOG and EDCTC will:

8.1.1 Meet at least quarterly to coordinate on the issues covered in this MOU and any other work between the Parties;

8.1.2 Cooperate on establishment of regional priorities;

8.1.3 Coordinate annually on the development of the Parties' respective Overall Work Plans;

8.1.4 Participate on committees/technical advisory committees/stakeholder groups/steering committees as necessary or convenient to carry out the Parties' missions; and

8.1.5 Engage in such other cooperative efforts to further effective and efficient transportation planning, seek and program transportation funding, achievement of air quality conformity, and other planning and programming tasks.

## **9. COMPENSATION TO SACOG**

9.1 Purpose. The Parties acknowledge that all jurisdictions within the Region should share equitably 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 Region that are not members of SACOG.

9.2 Method. To compensate SACOG for performing the transportation planning and programming responsibilities required under Title 23 and Title 49 and the Clean Air Act, EDCTC shall make payments to SACOG in accordance with the following:

9.2.1 EDCTC shall annually contribute to SACOG from EDCTC's annual work program, in consideration for SACOG's federal planning and programming effort, in the amount of \$100,000 starting July 1, 2024, and increasing annually based on the California Consumer Price Index (CA CPI). The CA CPI is defined as the "California CPI for all Urban Consumers" as measured by the California Department of Industrial Relations for the 12-month period ending in the December immediately preceding the fiscal year. For example, CA CPI for July 1, 2025, will be the CA CPI for the period from December 2023 – December 2024. This information is typically published mid-February which should provide sufficient time to confirm the amount before either EDCTC or SACOG adopts its final budget. In the event that the Transportation Development Act/Local Transportation Fund (TDA/LTF) funding EDCTC relies on to pay SACOG drops below a five year average of EDCTC's TDA/LTF funding, the contribution from EDCTC to SACOG will stay at the contribution level from the year prior until the five year average returns, at which time the aforementioned CPI adjustments will resume.

9.2.2 SACOG shall be paid once the TDA/LTF funds are available at or near the beginning of each fiscal year contingent upon cash flow considerations.

9.2.3 Funds paid to SACOG shall be unrestricted local funds unless mutually agreed to by SACOG and EDCTC.

9.2.4 The contribution to SACOG may be modified through mutual written agreement, including arrangements for one-time costs for special plans or projects identified by SACOG and EDCTC as part of developing their annual OWPs. Any ongoing 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.

## **10. MISCELLANEOUS**

10.1 Addenda. This MOU is inclusive of Addendum # 1, Definitions, and Addendum #2, Federal Highways Funding Process.

10.2 Amendments. This MOU shall only be amended in writing.

10.3 Term. This MOU shall become effective upon its approval by all Parties. It shall remain in effect until terminated by one of the Parties after 60 days' written notice to the other Party.

10.4 Counterparts. This MOU may be executed in counterparts, any of which may be used as the original.

10.5 Member Jurisdictions. Nothing herein is intended to limit either Party from working directly with its respective member jurisdictions.

The governing board of each Party has approved this MOU and authorized its execution by the undersigned officers.

EL DORADO COUNTY  
TRANSPORTATION COMMISSION

SACRAMENTO AREA  
COUNCIL OF GOVERNMENTS

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Woodrow Deloria  
Executive Director

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James Corless  
Executive Director

## **ADDENDUM #1**

### **DEFINITIONS**

*ALUC.* Airport Land Use Commission, which is another function of SACOG and EDCTC separate from their responsibilities addressed in this MOU.

*COG.* Council of Governments, which is another function of SACOG separate from its responsibilities addressed in this MOU.

*Clean Air Act.* Chapter 85 of Title 42 of the United States Code.

*Corrective Action.* The corrective action issued by the FHWA and FTA to the California Department of Transportation as part of the certification of the 2021 Federal Statewide Transportation Improvement Program regarding suballocation and administration of STBG and CMAQ funds, which is applicable to SACOG as the MPO for programming these funds.

*CMAQ or Congestion Mitigation and Air Quality Improvement Program.* The federal transportation funding program set forth at 23 U.S.C. Section 149.

*El Dorado County.* For purposes of this MOU, references to El Dorado County exclude the geographical area in the County that are within the Tahoe Basin and under the jurisdiction of TRPA.

*MPA or Metropolitan Planning Area.* The geographic area determined by agreement between the metropolitan planning organization for the area and the Governor under 23 U.S.C Section 134.

*MPO or Metropolitan Planning Organization.* The policy board of an organization established as a result of the designation process as defined in 23 U.S.C Section 134. SACOG is the MPO for the Region, including for El Dorado County.

*MTP/SCS.* SACOG's plan that contains both the MTP and SCS, which SACOG also refers to as the "Blueprint".

*MTIP or Metropolitan Transportation Improvement Program.* A transportation improvement program developed by a metropolitan planning organization under 23 U.S.C Section 134; specifically, the MTIP that SACOG prepares for the purpose of programming federal funds.

*MTP or Metropolitan Transportation Plan.* The long-range transportation plan that is required under federal law pursuant to 23 U.S.C Section 134.

*Non-Exempt Project.* A capacity-increasing project that is not identified in SACOG's MTP/SCS.

*Region.* The six-county greater Sacramento region that includes El Dorado, Sacramento, Yolo, Yuba, Sutter and Placer Counties, except for the portions of El Dorado County and Placer County that are in the Tahoe Basin and within the jurisdiction of TRPA.

*RTIP or Regional Transportation Improvement Program.* EDCTC's programming of county shares of state STIP funds.

*RTP or Regional Transportation Plan.* The regional transportation plan that is required under state law pursuant to Government Code section 65080, which together with Government Code section 29532.1 designates EDCTC as the agency to prepare the RTP for El Dorado County.

*RTPA or Regional Transportation Planning Agency.* The agency designated under Government Code section 29532 or 29532.1 for regional transportation planning. EDCTC is the RTPA for El Dorado County; SACOG is the RTPA for Sacramento, Yolo, Yuba and Sutter Counties.

*SCS or Sustainable Communities Strategy.* The growth strategy that each MPO in California is required to develop as part of an RTP pursuant to California Government Code Section 65080. As the MPO for the Region, SACOG is required to prepare the SCS, including the SCS as it relates to El Dorado County.

*SIP or State Implementation Plan.* The plan (or plans, inclusive) that CARB develops pursuant to the federal Clean Air Act to attain national ambient air quality standards by specified dates.

*STBG or Surface Transportation Block Grant Program.* The federal transportation funding program set forth at 23 U.S.C. Section 133.

*STIP or State Transportation Improvement Program.* The biennial five-year plan adopted by the CTC for future allocations of certain state transportation funds for state highway improvements, intercity rail, and regional highway and transit improvements.

*Title 23.* Refers to Title 23, "Highways," of the United States Code.

*Title 49.* Refers to Title 49, "Transportation," of the United State Code.

*TRPA or Tahoe Regional Planning Agency.* The agency designated by Title 23 as the MPO for the Tahoe region and designated by California Government Code Section 67000 et seq. as the RTPA for the Tahoe region. The boundaries of the TRPA area are defined by Government Code Section 67021.

## **ADDENDUM #2**

### **FEDERAL HIGHWAYS FUNDING PROCESS**

#### **A. Target Setting Process**

1. *Federal Funds Available to California by Federal Formula:* States receive a set amount of STBG and CMAQ funds based on formulas established in federal transportation law. The Bipartisan Infrastructure Law, enacted in 2021, set funding levels for five years.
2. *Federal Funds Available to MPOs by State Formula:* Caltrans then sub-allocates a portion to regions and retains a portion for statewide programs or other distributions. Each year, the Caltrans Division of Financial Programming publishes estimated and final amounts for these funds for each federal fiscal year (October 1-September 30).
3. *SACOG Funding Round Federal Funding Estimate:* SACOG will utilize the Caltrans Division of Financial Programming information and its own analysis to estimate the available funding in advance of any given funding round.
4. *SACOG Board Sets Regional Performance Target Criteria and Weighting, Defines Priority Programs:* After the available funds are estimated, SACOG staff will coordinate with EDCTC staff to review available data on performance measurement and make recommendations to the SACOG board on strategic investments to make progress toward these policy goals. Additionally, SACOG staff will recommend priority programs that may be separate from the competitive funding round.
5. *Performance-Based Funding Targets:* With SACOG board direction, staff will calculate targets for all six counties and, if applicable, for the priority programs.
6. *Individual Targets for Six Counties:* SACOG will publish a target for each county. The target will be a range of the potential amount of federal transportation funding available for each county for that funding round and will not be tied to a set amount of STBG or CMAQ funds for each county.
7. *Priority Programs (Without County-Level Targets):* SACOG's board may establish a set-aside of funds or unique competitive funding programs that would not have county-level targets. SACOG has funded several programs over the last several decades to help achieve regional goals. Key examples are Transportation Demand Management, Sacramento Emergency Clean Air & Transportation Grant Program, and Spare the Air. In recent years, new programs such as Engage, Empower Implement have been funded through a set-aside, or a separate competitive funding program, such as Green Region, that has had different criteria from the primary funding round programs.

## **B. Project Selection Process**

1. *Regional call for projects with approved regional performance criteria:* SACOG will issue a single regional call for projects with unified criteria for all applications for STBG and CMAQ funds.
2. *Project sponsor coordination:* For El Dorado County, project sponsors will coordinate with EDCTC regarding the potential project scopes and benefits, and EDCTC together with project sponsors will ensure that projects are consistent with the RTP. Because EDCTC is the RTPA for El Dorado County, EDCTC will assist project sponsors to prepare and submit projects for consideration throughout the process.
3. *Project performance assessment tool:* SACOG will utilize its Project Performance Assessment Tool to generate data about project benefits that can be compared to other projects in the Region. At the outset of the process, SACOG, in cooperation with EDCTC, may also identify other technical tools and data to be used to evaluate projects.
4. *Prioritized lists submitted to SACOG:* Projects sponsors from all six counties will submit applications to SACOG. In El Dorado County, EDCTC will submit a prioritized list to SACOG on behalf of all applicants in the County.
5. *SACOG reviews eligibility, consistency with MTP goals:* SACOG will work with EDCTC to review all projects for eligibility and consistency with MTP goals before sending them to the review panel. Projects will be reviewed by a six-county committee consisting of technical experts from SACOG, EDCTC, PCTPA, local transportation departments, and other transportation professionals.
6. *Projects prioritized across all six counties by review committee:* Using the criteria established by the SACOG Board of Directors at the beginning of the funding round cycle, the technical experts will score and prioritize projects throughout the Region.
7. *SACOG staff reviews recommendations and ensures all projects are scored using regional performance criteria:* SACOG staff sets final regional list of priorities recommended to the SACOG board.
8. *SACOG Transportation Committee reviews and recommends:* As the policy committee charged with reviewing funding, SACOG's Transportation Committee will review the staff recommendation and make a recommendation to the full SACOG board.
9. *SACOG Board selects projects:* Through its final action on the funding round recommendations, the SACOG board may modify the recommendations and therefore retain the ultimate authority to select all projects that are consistent with board policy and applicable state and federal requirements.

10. *SACOG staff recommends programming projects with STBG and CMAQ.* After projects are selected through the funding round, projects must be assigned either STBG or CMAQ funds based on their eligibility, the anticipated year of construction, and other factors. SACOG works with project sponsors after they are selected in each funding round to recommend the best fit of projects based on board priorities and project timing.
11. *SACOG Board adopts MTIP:* As the final action in this process, the SACOG board will formally adopt or amend the MTIP, formally assigning federal funding to specific projects or programs.