Authorize Execution MOU with the SCRRA

REGIONAL COUNCIL ATTACHMENT #3.11
Thursday, June 5, 2003

MEMO

TO: Administration Committee and Regional Council

FROM: Executive Director

SUBJECT: Request Authorization to Execute MOU with the Southern California Rail Authority, Ventura County Transportation Commission and The Southern California Economic Partnership

DATE: May 22, 2003

EXECUTIVE DIRECTOR'S APPROVAL:

RECOMMENDED ACTION:

Authorize staff to execute an MOU with The Southern California Rail Authority, (SCRRA) Ventura County Transportation Commission (VCTC) and The Southern California Economic Partnership (The Partnership) whereby SCRRA and VCTC will provide funding as discussed below to operate and maintain TranStar.

BACKGROUND:

SCAG has been maintaining and operating TranStar, an automated transit itinerary system since it assumed those obligations from Commuter Transportation Services, Inc. (CTS) in 1995. Since that time, SCAG has entered into a number of agreements with various transit agencies in the region as well as entities in other areas such as the San Francisco Bay Area, Denver, New York and Jacksonville to provide a variety of TranStar related services. As a result approximately 40 million people have access to TranStar services. However, because of concerns expressed by Caltrans during the last fiscal year, SCAG committed to end its involvement by June 30, 2003, in TranStar and related fee for service agreements. However, in order to ensure the appropriate fulfillment of SCAG's outstanding contractual obligations, staff has been working to secure appropriate approvals to transition TranStar to The Partnership. The Partnership is a 501(c)(4) public purpose organization which has worked with SCAG for many years and has developed a business plan which will enable it to operate and maintain TranStar under certain conditions.

SCCRA and VCTC have requested that SCAG and/or The Partnership continue the maintenance and operation of TranStar for the remainder of this fiscal year and have also requested that TranStar be operated and maintained for their use in fiscal year 2003-2004. Under the terms of the proposed Memorandum of Understanding, SCRRA and VCTC would

each contribute $42,000 upon execution of the MOU and each would contribute $4,000.00 per month, for May and June to reimburse expenses incurred during those months. Additionally, SCRRA and VCTC would each contribute on a monthly basis $4,166.67 for the continued maintenance and operation of TranStar for fiscal year 2003-2004. Under the proposed MOU, SCRRA and VCTC could cancel the MOU upon 30 days notice. The proposed MOU recognizes that The Partnership could provide the services. It is staff's intention that The Partnership provide these services in fiscal year 2003-2004 and will continue to work with appropriate parties to effectuate that plan.

FISCAL IMPACT:

SCRRA and VCTC will provide funds in fiscal year 2002-2003 of $100,000 to operate and maintain TranStar. SCRRA and VCTC will provide funding in fiscal year 2003-2004 to The Partnership to operate and maintain TranStar. In light of the plan to transition TranStar obligations to the Partnership, no SCAG staff time is expected to be needed in fiscal year 2003-2004.

MOU #_____

DRAFT
MEMORANDUM OF UNDERSTANDING BETWEEN MTA AND SCAG FOR GROWTH VISIONING SERVICES

This Memorandum of Understanding (MOU), dated as of _____, 2003, is entered between the Los Angeles County Metropolitan Transportation Authority ("MTA") and the Southern California Association of Governments ("SCAG").

WHEREAS, SCAG has developed the Growth Visioning Process in order to focus regional attention on key land use issues, and to build a regional coalition to develop strategies for accommodating future growth;

WHEREAS, the Growth Visioning effort will span multiple years and include numerous public workshops, as part of the SCAG Regional Transportation Plan (RTP) process;

WHEREAS, in order to assist in coordinating this regional effort, SCAG has contracted for the consultant services of Fregonese Calthorpe Associates ("Consultant") to develop elements of the Growth Visioning Process, including public involvement, modeling and analysis, visioning workshops, and strategy development and implementation;

WHEREAS, MTA is developing a series of forums that will focus specifically on the Land Use-Transportation connection and will aim to identify strategies for more efficient land use as well as some near-term implementation goals;

WHEREAS, MTA seeks to coordinate the planning of its land use forums with SCAG's Growth Visioning process, in order to take advantage of partnership opportunities for developing a coalition on land use and transportation issues, and in order to efficiently utilize efforts already being made through the Growth Visioning process;

WHEREAS, the purpose of this MOU is for MTA to utilize the Consultant for the provision of services as described herein and for the Consultant to provide such services in a manner that takes advantage of partnership opportunities;

WHEREAS, SCAG agrees to modify its contract with its Consultant, in order to assign products and tasks that shall be provided to MTA, as described herein. Such efforts conducted by Consultant shall apply to and benefit SCAG's RTP; and,

WHEREAS, MTA agrees to reimburse SCAG for Consultant costs and expenses related to services provided by Consultant pursuant to this MOU.

NOW THEREFORE, for valuable consideration, the parties hereby agree as follows:

1. SCOPE OF SERVICES

Subject to the execution of a valid, enforceable amendment of the contract between SCAG and Consultant, SCAG's Consultant shall perform the Services described in the Scope of Work, Exhibit A, attached hereto and incorporated herein by this reference.

SCAG agrees to propose an amendment to its existing contract with Consultant.

SCAG and its Consultant shall perform the Services in accordance with the Budget and Schedule, Exhibit B, attached hereto and incorporated herein by this reference. SCAG shall maintain final approval of the Consultant's work products provided under this MOU.

2. TERM

This MOU shall commence on the date this MOU is fully executed and terminate on June 30, 2004. In the event this project is not approved in the SCAG Fiscal Year 2003-04 OWP, this Agreement shall terminate effective June 30, 2003.

3. PAYMENT

a. The maximum reimbursement by MTA to SCAG for services provided under this MOU is one hundred fifty thousand dollars ($150,000).

b. MTA shall reimburse SCAG on a time and materials basis for all costs and expenses incurred by Consultant related to Services provided under this MOU. SCAG shall continue to be obligated for payment of all costs to Consultant not associated with the attached Scope of Work.

c. SCAG shall invoice the MTA for eligible costs and expenses related to Services provided under this MOU, incurred on a monthly or bi-monthly basis.

d. SCAG shall provide a copy of the Consultant invoices to the MTA staff that includes name of recipient, amount approved, and a complete description of the work performed, including the following:

- Cost incurred
- Time frame
- Description of the activity

e. All invoices shall be addressed to:

LACMTA
One Gateway Plaza
Mail Stop 99-23-02
Los Angeles, CA 90012-2952
Attention: Eric Carlson

Payments shall be addressed to:

Southern California Association of Governments
818 West Seventh Street, 12th floor
Los Angeles, California 90017-3435
Attention: Finance Department

4. REMEDIES

In addition to all its remedies available at law or in equity, SCAG reserves the right to terminate this MOU in the event of MTA's breach or default of any term or condition contained in this MOU.

5. INDEMNITY

Neither SCAG nor any officer or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by MTA, its officers, agents, employees, contractors and subcontractors in connection with this MOU. MTA shall indemnify, defend and hold SCAG and its officers, agents and employers harmless from any liability and expenses, including without limitation, defense costs, any costs or liability for any claims for damages of any nature whatsoever arising out of and to the extent caused by any act or omission of MTA or its officers, agents, employees, contractors or subcontractors in connection with this MOU.

In the event any costs related to Services provided by Consultant under the contract between SCAG and its Consultant are deemed unallowable in subsequent audits, MTA agrees to reimburse SCAG for all unallowable costs and penalties incurred by SCAG.

6. TERMINATION OF MOU

a. SCAG may, by written notice to MTA, terminate the whole or any part of this MOU at any time for convenience by giving written notice to MTA of such termination, and specifying the effective date thereof, at least ten (10) days before the effective date of such termination.

b. If through any cause, MTA fails to fulfill in a timely and proper manner its obligations under this MOU, or violates any of the terms or conditions of this MOU or applicable Federal and State laws and regulations, SCAG reserves the right to terminate funding for the Services, or any portion thereof, upon written notice to MTA. Such notice shall include the effective termination date.

c. SCAG reserves the right to amend or terminate this MOU in the event that Consultant modifies the attached Scope of Work, is unable or refuses to perform the Services agreed to herein, or the amendment to the contract with Consultant is not approved by the State of California Department of Transportation (Caltrans) or any other oversight agencies.

d. MTA, in executing this MOU, shall be deemed to have waived any and all claims for damages, which may otherwise arise from SCAG's termination for convenience or cause of this MOU. MTA may not terminate this MOU except for cause.

7. MISCELLANEOUS

a. All obligations of SCAG under the terms of this MOU are subject to the approval of SCAG's Fiscal Year 2003-04 Overall Work Program (OWP) by outside agencies.

b. This MOU contains the entire understanding between the parties and supersedes any prior written or oral understandings and agreements regarding the subject matter of this MOU. There are no representations, agreements, arrangements or understandings, oral or written, between the parties relating to the subject matter of this MOU, which are not fully expressed herein.

c. This MOU shall be construed and interpreted under the laws of the State of California.

d. In the event any part of this MOU is declared by a court of competent jurisdiction to be invalid, void, or unenforceable, such part shall be deemed severed from the remainder of the MOU and the remaining provisions shall continue in full force without being impaired or invalidated in any way.

e. MTA shall not assign this MOU or any part thereof, without written consent and prior approval of the SCAG Chief Executive Officer or designee, and any assignment without said consent shall be void and unenforceable.

f. No alteration or variation of the terms of this MOU shall be valid unless made in writing and signed by authorized representatives for the parties hereto and no oral understanding or agreement not incorporated herein shall be binding on any of the parties thereto.

g. No funds of any nature are allocated or encumbered in this MOU except as provided for in Attachment B.

h. The covenants and agreements of this MOU shall inure to the benefit of, and shall be binding upon, each of the parties and their respective successors and assignees.

i. Notice will be given to the parties at the address specified in Paragraph 3 unless otherwise notified in writing of change of address.

j. Time is of the essence for each and every provision of this MOU.

k. Both parties participated in drafting this MOU.

IN WITNESS WHEREOF, the parties have caused this MOU to be executed by their duly authorized representatives as of the dates indicated below:

LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY:

By: _____
Roger Snoble
Chief Executive Officer

Date: _____

Approved as to Form:

_____
Lloyd W. Pellman
County Counsel

Attest: _____

SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS

By: _____
Lambertus H. Becker
Chief Financial Officer

Date: _____

Approved as to Legal Form:

By: _____
Karen Tachiki
SCAG Legal Counsel

Attest: _____