

## **ASSET OWNERSHIP AND DISPOSITION**

### **Purpose**

This policy establishes guidelines and procedures for the ownership and disposal of SANDAG assets.

### **1. Ownership of Assets**

- 1.1 SANDAG, North San Diego County Transit Development Board (NCTD), and the Metropolitan Transit Development Board, a California Public Agency operating the Metropolitan Transit System (MTS), are parties to a Master Memorandum of Understanding (MOU), which among other things, describes the manner in which acquired real property and personal property will be owned and managed by the three agencies. This policy is consistent with the terms of the Master MOU and its addenda. In addition, from time to time, a transfer of property from SANDAG to another entity will be appropriate if that entity will operate, maintain or have liability for the property.
- 1.2 Real Property
  - 1.2.1 Real property owned by NCTD, MTS, or an owner other than SANDAG (Third Party Owner) prior to construction of a project by SANDAG shall be referred to as "Pre-Owned Property" in this Policy.
  - 1.2.2 When SANDAG constructs physical improvements on Pre-Owned Property, the real property, including the improvements constructed by SANDAG, will be owned by the Third-Party Owner, unless otherwise agreed to in writing by the parties or prohibited by an entity funding the project.
    - 1.2.2.1 To enable SANDAG to construct improvements on MTS or NCTD Pre-Owned Property, the parties will enter into one or more addenda to the Master MOU that will set forth the legal rights and remedies between or among SANDAG and the affected operating agency(ies) (Affected Parties) to enable SANDAG to construct the project and MTS and/or NCTD to continue necessary operations during construction.
    - 1.2.2.2 To convey improvements developed on Pre-Owned Property to NCTD and MTS, the Affected Parties may enter into one or more addenda to the Master MOU that will set forth the legal rights and remedies amongst the parties to make the Affected Party responsible to operate and maintain the property and allocate liability for claims involving the property.
  - 1.2.3 When SANDAG constructs physical improvements to property acquired for the purpose of a project ("Subsequently Acquired Property"), the real

property, including the improvements constructed by SANDAG, may be transferred to another entity, if permitted by the funding source of the procurement, consistent with applicable funding requirements, laws and regulations, including, but not limited to the Surplus Land Act and Eminent Domain Law, and agreed to by the parties. Notwithstanding the foregoing, the parties involved with the project may agree to have one or more other entities own Subsequently Acquired Property.

1.2.3.1 To convey the real property including improvements developed on Subsequently Acquired Property to NCTD or MTS, the Affected Parties will enter into one or more addenda to the Master MOU that will set forth the legal rights and remedies amongst the parties to make the operating agency responsible to operate and maintain the property and allocate liability for claims involving the property to the operating agency.

1.2.3.2 In the event Subsequently Acquired Property may offer the opportunity to be further developed for other public transportation uses, SANDAG will retain the appropriate real property interest to enable it to develop such public transportation projects on the property in the future.

### 1.3 Personal Property

1.3.1 All property other than real property and its associated bundle of rights will be referred to herein as “Personal Property.”

1.3.2 Personal Property procured by SANDAG for the operating purposes of a Third-Party Owner may be owned, operated and maintained by the Third-Party Owner if permitted by the funding source of the procurement, and if agreed to by the Affected Parties.

1.3.3 To the extent the funding source of the procurement of Personal Property requires SANDAG to retain ownership, SANDAG may convey possession of the Personal Property to one or more Third Party Owners pursuant to a lease which will obligate the Third-Party Owner to operate and maintain the Personal Property and account for its use and maintenance. Said lease will require the operating agency to retain full responsibility for the operation, maintenance, and liability associated with the use and possession of the Personal Property.

## 2. Disposition Procedures for Personal Property

2.1 SANDAG has Personal Property which, over time, will be deemed obsolete due to normal use and wear, or new technology, or no longer needed due to project completion, underutilization, or surplus status. Therefore, the Personal Property may be disposed of in accordance with this Policy and applicable laws, regulations, and funding requirements. Laws governing SANDAG’s purchase of Personal Property typically require the use of a competitive procurement process. Likewise, the disposal or sale of Personal Property purchased with public funds should be done in an open, competitive process, unless the property will be assigned to government

or nonprofit entities and designated for public purposes, or unless otherwise provided herein. It is SANDAG policy to capitalize Personal Property with a unit purchase value of \$5,000 or more. This policy is intended to ensure that when SANDAG disposes of the Personal Property, it will be done in a manner which is in the best interests of SANDAG, within the standards and procedures set forth herein.

- 2.2 Personal Property that is subject to an insurance settlement may be disposed of according to the terms of the settlement or consistent with the insurer's procedures.
- 2.3 Surplus Personal Property may be made available for various public purposes, including assignment or negotiated sale to state and local governments and eligible nonprofit institutions, before a competitive sale to the general public. State and local governments, eligible public institutions, and nonprofit organizations may acquire surplus Personal Property that SANDAG no longer needs on terms that SANDAG's Transportation Committee deems are in the best interest of SANDAG's goals and public need.
- 2.4 Surplus Personal Property that is not conveyed to state/local governments or other eligible recipients for public purposes may be sold to private individuals and companies by the methods described in section 2.5.
- 2.5 Methods. The method of disposal must be approved by the Transportation Committee for Personal Property with an individual or aggregate actual or depreciated value of \$100,000 or more. For Personal Property valued under \$100,000, the Chief Executive Officer or designee may authorize disposal and the method. For audit purposes, a memorandum must be filed which certifies the actual or depreciated value of the asset and indicates the method of disposal. Such methods may include, but are not limited to, the following:
  - 2.5.1 Trade-in allowance - provided that an independent appraisal is conducted to determine the value, or an analysis is conducted which certifies that the sale price is fair and reasonable.
  - 2.5.2 Use of competitive auctions, such as a government agency-sponsored auction or a competitive public auction.
  - 2.5.3 Competitive sale.
  - 2.5.4 Negotiated sale.
  - 2.5.5 Destruction
  - 2.5.6 Trash
- 2.6 Competitive Sale. Under a competitive sale, the procedures in Board Policy Nos. 023 or 024 must be followed with the exception that the award will be to the highest responsive, responsible bidder.
- 2.7 Negotiated Sale. Personal Property with an individual or aggregate value in excess of \$100,000 may be disposed of on a negotiated sale basis provided a finding by the Transportation Committee by a two-thirds vote that special circumstances exist that make it in the best interest of SANDAG. Such circumstances may include the following:

- 2.7.1 Unique item(s) may have a limited resale market.
  - 2.7.2 The financial interest of SANDAG would be best served by negotiation.
  - 2.7.3 In the case of used buses, the Transportation Committee will give specific direction on the method of disposal to be followed on a case-by-case basis considering potential financial return and available alternatives, including the sale for scrap or other nonoperating purposes to avoid use of the vehicles and resultant air pollution in California and the San Diego region. A method of disposal may be approved even though the financial benefit may be less than other methods of disposal.
  - 2.7.4 If approved, the Chief Executive Officer may be authorized to negotiate a sale price.
- 2.8 Ineligible Participants. SANDAG, NCTD, MTDB, SDTC, and SDTI employees, Board members and members of their immediate family may not participate in a competitive or negotiated sale of SANDAG Personal Property.
  - 2.9 Grant Funded Assets. Personal Property which has been purchased with state or federal capital grant funds must be disposed of in a manner consistent with, and proceeds must be distributed in accordance with, any applicable laws, regulations and grant requirements.
3. **Disposition Procedures for Real Property**
- 3.1 SANDAG owns real property which, over time, will be deemed no longer needed due to project completion, underutilization, or surplus status. Therefore, the real property may be disposed in accordance with this Policy and applicable laws, regulations, and funding requirements.
  - 3.2 Where applicable, SANDAG will follow the provisions of the California Surplus Land Act, Government Code section 54220, et. seq., and the California Eminent Domain Law, Code of Civil Procedure section 1230.010, et seq., before SANDAG takes any action to dispose of the real property.
  - 3.3 Real property may be made available for various public purposes, including assignment or negotiated sale to state and local governments and eligible nonprofit institutions, before a competitive sale to the general public. State and local governments, eligible public institutions, and nonprofit organizations may acquire real property that SANDAG no longer needs on terms that SANDAG's Board of Directors deems are in the best interest of SANDAG's goals and public need, and consistent with applicable laws, regulations and funding requirements.
  - 3.4 Real property that is not conveyed to state/local governments or other eligible recipients for public purposes may be sold to private individuals and companies by the methods described in section 3.5 below.
  - 3.5 Methods. SANDAG shall optimize the sales price of real property based on relevant factors, such as an appraisal reflecting current market value, prevailing economic conditions and market trends, and any benefits to SANDAG in the sale. The method of disposal must be approved by the Board of Directors for real property with value of \$100,000 or more. For real property valued under \$100,000, the Chief Executive Officer may authorize disposal and the method. For audit purposes, a

memorandum must be filed which certifies the value of the real property and indicates the method of disposal. Such methods may include, but are not limited to, the following:

- 3.5.1 Use of competitive auctions, such as a government agency-sponsored auction or a competitive public auction.
- 3.5.2 Competitive sale on the open market.
- 3.5.3 Negotiated sale.
- 3.6 Competitive Sale on the Open Market. SANDAG may elect to pay a real estate brokerage commission or fee for the sale of SANDAG-owned real property when it is deemed advisable by the Chief Executive Officer that the assistance of a real estate broker may cause a property to sell at a higher price or when additional expertise is needed to assist SANDAG staff in selling a property.
- 3.7 Negotiated Sale. Real property with a value in excess of \$100,000 may be disposed of on a negotiated sale basis provided a finding by the Board of Directors by a two-thirds vote that special circumstances exist that make it in the best interest of SANDAG. Such circumstances may include the following:
  - 3.7.1 The size, shape, location, or land use restrictions of a property may have limited resale market.
  - 3.7.2 The financial interest of SANDAG would be best served by negotiation.
  - 3.7.3 If approved, the Chief Executive Officer may be authorized to negotiate a sale price.
- 3.8 Ineligible Participants. SANDAG, NCTD, MTDB, SDTC, and SDTI employees, Board members and members of their immediate family may not participate in a competitive or negotiated sale of SANDAG real property.
- 3.9 Grant Funded Assets. Real property which has been purchased with state or federal capital grant funds must be disposed of in a manner consistent with, and proceeds must be distributed in accordance with, any applicable laws, regulations and grant requirements.

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