

AGREEMENT NO. 25-1003225

BETWEEN

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

AND

CITY OF NEEDLES

FOR

SENATE BILL 125 FUNDS ADMINISTRATION

This Memorandum of Understanding (MOU) is made and entered into by and between the San Bernardino County Transportation Authority ("SBCTA") and City of Needles ("AGENCY") for the purpose of defining the roles and responsibilities of the two parties with respect to the receipt of Transit and Intercity Rail Capital Program ("TIRCP") Program Funds and Zero-Emission Transit Capital Program ("ZETCP") funds allocated to SBCTA by the California State Transportation Agency (CalSTA), hereinafter referred to collectively as "SB125 Funds". SBCTA and AGENCY are each a "Party" and collectively "Parties".

RECITALS

WHEREAS, AGENCY is a public entity operating transit services; and

WHEREAS, SBCTA must serve as a direct recipient for SB125 Funds that are available to the San Bernardino region and that are allocated to AGENCY by SBCTA as defined in Section 13987(j) of the Government Code; and

WHEREAS, SBCTA desires to work as a partner with AGENCY in ensuring the execution and completion of AGENCY's projects funded by SB125 Funds and included in the SB125 Approved Project List(s) recommended by the SBCTA Board of Directors and approved by CalSTA; and

WHEREAS, this MOU addresses the roles and responsibilities for the administration of the SB125 Funds allocated to AGENCY by SBCTA; and

WHEREAS, the Parties understand that the SB125 Funds allocated to AGENCY by SBCTA will be remitted directly to SBCTA from the State; and

WHEREAS, the Parties understand that the disbursement of SB125 Funds allocated to AGENCY by SBCTA is contingent on SBCTA receiving remittance of SB125 Funds from the State; and

WHEREAS, the Parties acknowledge that certain SB125 Funds remitted to SBCTA are necessary for certain administrative and financial functions to be used for approved projects to be undertaken by AGENCY.

NOW, THEREFORE, it is mutually understood and agreed by SBCTA and AGENCY as follows:

ARTICLE I. RESPONSIBILITIES OF SBCTA AND AGENCY

A. AGENCY shall assist SBCTA in determining eligible projects to be undertaken by AGENCY and the amount of SB125 Funds required for each eligible AGENCY project.

B. The SBCTA Board of Directors shall approve the SB125 Funds apportionments and Project List(s) in accordance with SB125 Program Guidelines developed by CalSTA and in accordance with the estimated funding levels identified by SB125.

C. AGENCY will prepare, with assistance from SBCTA as needed, all documentation required to be submitted to CalSTA to receive allocations of SB125 Funds. SBCTA will submit required documents to CalSTA, in accordance with the SB125 Program Guidelines developed by CalSTA, for mutually agreed upon eligible projects.

D. For operating funds, SBCTA shall disburse SB125 Funds to AGENCY as SBCTA receives SB125 funds from CalSTA. Total disbursement amounts to AGENCY will be in accordance with AGENCY's approved operator allocations approved by the SBCTA Board of Directors.

E. For capital projects, SBCTA shall disburse SB125 Funds to AGENCY as AGENCY bills SBCTA on a cost-incurred basis. Total disbursement amounts to AGENCY will be in accordance with AGENCY's approved SB125 Fund allocation amount.

F. AGENCY shall deposit their TIRCP Funds and ZETCP Funds into interest-bearing bank accounts dedicated only to the TIRCP and ZETCP Funds for transparency of fund receipt and in accordance with the SB125 Program Guidelines developed by CalSTA. If separate accounts are not possible, AGENCY must show documents or subaccounts dedicated to TIRCP Funds and ZETCP Funds.

G. AGENCY shall document and publicize the TIRCP and ZETCP in proper context when developing press releases and board documents or in hosting public events, such as project groundbreakings, for projects awarded funding from SB125. References should be made to TIRCP, ZETCP, CalSTA as the program sponsor, and the state programs as fund sources, as applicable, to ensure transparency regarding the funding of the projects,

H. AGENCY shall prepare, with assistance from SBCTA as needed, all required reports related to receipt and expenditure of SB125 Funds, including annual reports due on October 31 of each year and close-out reports, in accordance with the SB125 Program Guidelines developed by CalSTA. SBCTA will submit the finalized reports to CalSTA on behalf of AGENCY.

I. AGENCY is responsible for ensuring the project is completed as described in the SB125 Project List(s) approved by the SBCTA Board of Directors and CalSTA.

J. AGENCY is responsible for notifying SBCTA expeditiously should any circumstances prevent AGENCY from completing the project as described in SB125 Project List(s) approved by the SBCTA Board of Directors and CalSTA. AGENCY will provide all documentation required for SBCTA to submit a modified SB125 Project List to CalSTA for approval upon approval by the SBCTA Board of Directors.

K. AGENCY acknowledges that audits and on-site monitoring can take place at any time at the discretion of CalSTA, without prior warning given to AGENCY. CalSTA has the right to audit the project records, including technical and financial data of SBCTA, AGENCY, and any consultant or sub-consultants at any time after award, during the course of the project and for three years from the date of the final closeout of the project, therefore all project records shall be maintained and made available at the time of request.

L. AGENCY acknowledges that the State may terminate the disbursement of funds if it learns of or otherwise discovers that there are allegations supported by reasonable evidence that a violation of any State or Federal law or policy by AGENCY that affects performance of this funding or any other grant agreement or contract entered into with the State. If funding disbursement is terminated, or project approval revoked, AGENCY may be required to fully or partially repay funds from the TIRCP or ZETCP.

M. In the case that expenditure deadlines are amended into the SB125 Program Guidelines developed by CalSTA, AGENCY is responsible for ensuring SB125 Funds are expended by the deadline.

ARTICLE II. GENERAL PROVISIONS

A. Term of MOU: This MOU shall be effective upon execution by SBCTA. The MOU shall remain in effect until terminated by mutual written consent of both parties.

B. Legal Authority: The signatories to this MOU warrant that they are duly authorized to execute this MOU on behalf of the Parties and that, by so executing the MOU, the Parties hereto are formally bound to the provisions of this MOU.

C. Assignment: Neither this MOU, nor any of the Parties' rights, obligations, duties, or authority under this MOU may be assigned in whole or in part by either Party without the proper written consent of the other Party in its sole and absolute discretion. Any such attempt of assignment shall be deemed void and of no force and effect. Consent to any assignment shall not be deemed consent to any subsequent assignment.

D. Governing Law: The laws of the State of California and applicable local and federal laws, regulations, and guidelines shall govern this agreement.

E. Withdrawal and Termination: Any Party may withdraw from this MOU upon thirty (30) days' written notice to the other Party, providing that the notice of withdrawal sets forth the effective date of the withdrawal and the reason for the withdrawal.

F. Notices: Any notices, requests, or demands made between the Parties pursuant to this MOU are to be directed as follows:

City of Needles
817 Third Street
Needles, CA 92363
Attn: Cheryl Sallis
Community Services Manager
csallis@cityofneedles.com

San Bernardino County Transportation Authority
1170 W Third Street, 2nd Floor
San Bernardino, CA 92410
Attn: Brianna Martinez
Management Analyst III
bmartinez@gosbcta.com

G. Severability: If any term, provision, covenant, or condition of this MOU is held to be invalid, void, or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder of this MOU shall not be affected thereby, and each term, provision, covenant, or condition of this MOU shall be valid and enforceable to the fullest extent permitted by law.

H. Counterparts of MOU: This MOU may be executed and delivered in any number of counterparts, each of which, when executed and delivered, shall be deemed an original and all of which together shall constitute the same agreement. Electronic signatures are permitted.

I. Force Majeure: Either Party shall be excused from performing its obligations under this MOU during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control, including but not limited to: any incidence of fire, flood or other natural disaster; acts of God; commandeering of material, products, plants or facilities by the federal, state or local government; national fuel shortage; or a material act or omission by the other party, when notice of such event is given within 21 calendar days of its occurrence and satisfactory evidence of such cause is presented to the other Party, and provided further that such event was unforeseeable, beyond the control of and not due to the fault of the Party seeking excuse of performance.

J. The Recitals are incorporated into and made a part of this MOU.

IN WITNESS WHEREOF, the Parties have executed this Memorandum of Understanding below.

**SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY**

CITY OF NEEDLES

Carolyn L. Schindler
Executive Director

Janet Jernigan
Mayor

Date

Date

Approved as to Form:

Approved as to Form:

Julianna K. Tillquist
SBCTA General Counsel

John Pinkney
City Attorney

Date

Date